

AN ACT relating to student assessments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 158.6453 is amended to read as follows:

(1) As used in this section:

- (a) "Accelerated learning" means an organized way of helping students meet individual academic goals by providing direct instruction to eliminate student performance deficiencies or enable students to move more quickly through course requirements and pursue higher level skill development;
- (b) "Constructed-response items" or "performance-based items" means individual test items that require the student to create an answer rather than select a response and may include fill-in-the-blank, short-answer, extended-answer, open-response, and writing-on-demand formats;
- (c) "Criterion-referenced test" means a test that is aligned with defined academic content standards and measures an individual student's level of performance against the standards;
- (d) "End-of-course examination" means the same as defined in KRS 158.860;
- (e) "Formative assessment" means a process used by teachers and students during instruction to adjust ongoing teaching and learning to improve students' achievement of intended instructional outcomes. Formative assessments may include the use of commercial assessments, classroom observations, teacher-designed classroom tests and assessments, and other processes and assignments to gain information about individual student learning;
- (f) "Interim assessments" means assessments that are given periodically throughout the year to provide diagnostic information and to show individual student performance against content standards;
- (g) "National norm-referenced test" means a type of test interpretation in which the performance of student scores are reported by comparing performance to

- how other students in a national sample performed;
- (h) "Program audit" means a form of program review that is a systematic method of analyzing components of an instructional program, and areas for improvement that is conducted as a result of a program review that indicates a more in-depth process of analysis and assistance is needed;
 - (i) "Program review" means a systematic method of analyzing components of an instructional program, including instructional practices, aligned and enacted curriculum, student work samples, formative and summative assessments, professional development and support services, and administrative support and monitoring;
 - (j) "Summative assessment" means an assessment given at the end of the school year, semester, or other period of time to evaluate students' performance against content standards within a unit of instruction or a course; and
 - (k) "Writing" means a purposeful act of thinking and expression that uses language to explore ideas and communicate meaning to others. Writing is a complex, multifaceted act of communication.
- (2) (a) Within thirty (30) days of March 25, 2009, the Kentucky Department of Education in collaboration with the Council on Postsecondary Education shall plan and implement a comprehensive process for revising the academic content standards in reading, language arts including writing, mathematics, science, social studies, arts and humanities, and practical living skills and career studies. The revision process shall include a graduated timetable to ensure that all revisions are completed to allow as much time as possible for teachers to adjust their instruction before new assessments are administered.
- (b) The revisions to the content standards shall:
1. Focus on critical knowledge, skills, and capacities needed for success in the global economy;

2. Result in fewer but more in-depth standards to facilitate mastery learning;
 3. Communicate expectations more clearly and concisely to teachers, parents, students, and citizens;
 4. Be based on evidence-based research;
 5. Consider international benchmarks; and
 6. Ensure that the standards are aligned from elementary to high school to postsecondary education so that students can be successful at each education level.
- (c) The revision process, jointly organized by the commissioner of education and the president of the Council on Postsecondary Education, shall engage practicing teachers from elementary and secondary education in discussions and negotiations with content faculty and staff from postsecondary education institutions. The process shall also include business and industry professionals who are actively engaged in career fields that depend on the various content areas, and others as deemed appropriate by the commissioner and the president.
- (d) During the revision process, the department shall consider standards that have been adopted by national content advisory groups and professional education consortia.
- (e) Using a variety of strategies and technologies, the proposed revisions to the academic content standards shall be widely disseminated throughout the state to elementary, secondary, and postsecondary education faculty and administrators, parents, citizens, private professionals in the content areas, and others for comment and recommendations. The results of the revision process shall ensure that the specifications in paragraph (b) of this subsection are met.
- (f) The commissioner of education and the president of the Council on

Postsecondary Education shall ensure that the revised academic standards that are recommended to the Kentucky Board of Education for approval are aligned with postsecondary education course and assessment standards for the gateway areas of reading and mathematics. The council shall also review the proposed academic standards in all other content areas and provide written recommendations as needed to ensure those areas are aligned with postsecondary education requirements.

- (g)
 1. The Kentucky Board of Education shall consider for approval the revisions to academic content standards for a content area as they are completed.
 2. The Department of Education shall disseminate the academic content standards to the schools and teacher preparation programs no later than thirty (30) days after approval by the state board.
 3. All academic content standards revisions shall be completed and approved by the state board no later than December 15, 2010, and disseminated by the Department of Education to elementary and secondary schools, postsecondary education faculty in the respective content areas, and to all teacher preparation programs no later than January 15, 2011.
- (h) The Department of Education shall provide or facilitate statewide training sessions for existing teachers and administrators on how to:
 1. Integrate the revised content standards into classroom instruction;
 2. Better integrate performance assessment of students within their instructional practices; and
 3. Help all students use higher-order thinking and communication skills.
- (i) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on Postsecondary Education

shall coordinate information and training sessions for faculty and staff in all of the teacher preparation programs in the use of the revised academic content standards. The Education Professional Standards Board shall ensure that each teacher preparation program includes use of the academic standards in the pre-service education programs and that all teacher interns after March 25, 2009, will have experience planning classroom instruction based on the revised standards.

- (j) The Council on Postsecondary Education in cooperation with the Kentucky Department of Education and the postsecondary education institutions in the state shall coordinate information sessions regarding the academic content standards for faculty who teach in the various content areas.
- (3) (a) The Kentucky Board of Education shall be responsible for creating and implementing a balanced statewide assessment program that measures the students', schools', and districts' achievement of the goals set forth in KRS 158.645 and 158.6451, to ensure compliance with the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor, and to ensure school accountability.
- (b) Using the revised academic standards developed pursuant to subsection (2) of this section, the board shall revise the annual statewide assessment program for implementation in the 2011-2012 academic year.
 - (c) The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; the Education Assessment and Accountability Review Subcommittee, and the National Technical Advisory Panel on Assessment and Accountability in the development of the assessment program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or

community.

- (4) (a) The assessment program to be implemented in the 2011-2012 academic year shall be composed of annual student assessments and state and local program reviews and audits in selected content areas.
- (b) The state student assessments may include formative and summative tests that:
1. Measure individual student achievement in the academic core content areas of language, reading, English, mathematics, science, and social studies at designated grades;
 2. Provide teachers and parents a valid and reliable comprehensive analysis of skills mastered by individual students;
 3. Provide diagnostic information that identifies strengths and academic deficiencies of individual students in the content areas;
 4. Provide comparisons with national norms for mathematics, reading, social studies, and science and, where available, comparisons to other states;
 5. Provide information to teachers that can enable them to improve instruction for current and future students;
 6. Provide longitudinal profiles for students; and
 7. Ensure school and district accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451, except the statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.
- (c) The state and local program reviews and audits shall provide annual feedback to each school relating to selected programs and serve as indicators of the quality of educational experiences available to students. Program reviews and

audits shall provide recommendations for improving program components in order to better teach and assess students within these programs. Program reviews shall ensure school and district accountability for student achievement of the capacities set forth in KRS 158.645 and the goals set forth in KRS 158.6451.

(5) The state student assessments to be implemented in the 2011-2012 academic year shall include the following components:

(a) Elementary and middle grades requirements are:

1. A criterion-referenced test in mathematics and reading in grades three (3) through eight (8) that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards, augmented with a customized or commercially available norm-referenced test to provide national profiles;
2. A criterion-referenced test in science and social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards, augmented with a customized or commercially available norm-referenced test to provide national profiles to be administered one (1) time within the elementary and middle grades, respectively;
3. An on-demand assessment of student writing to be administered one (1) time within the elementary grades and two (2) times within the middle grades;
4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the elementary and the middle grades, respectively; and
5. A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8) as provided in subsection

(11) of this section; except the readiness examination may be moved to grade nine (9) by the Kentucky Board of Education based on compelling evidence that moving the test would be in the best interests of Kentucky students;

(b) High school requirements are:

1. A criterion-referenced test in mathematics, reading, and science that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards that are not covered in the assessment under subparagraph 6. of this paragraph to be administered one (1) time within the high school grades;
2. A criterion-referenced test in social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards, augmented with a customized or commercially available norm-referenced test to provide national profiles and to be administered one (1) time within the high school grades;
3. An on-demand assessment of student writing to be administered two (2) times within the high school grades;
4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the high school grades;
5. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10) as provided in subsection (11) of this section; and
6. The ACT examination to assess English, reading, mathematics, and science in grade eleven (11) as provided in subsection (11) of this section;

(c) The Kentucky Board of Education shall add any other component necessary to

comply with the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor, as determined by the United States Department of Education;

- (d) The criterion-referenced components required in this subsection shall be composed of constructed response items and multiple choice items and the national norm-referenced components shall be composed of multiple choice items;
 - (e) The Kentucky Board of Education may incorporate end-of-course examinations into the assessment program to be used in lieu of requirements for criterion-referenced tests required under paragraph (b) of this subsection; and
 - (f) The results of the assessment program developed under this subsection shall be used to determine appropriate instructional modifications for all students in order for students to make continuous progress, including that needed by advanced learners.
- (6) Beginning in the 2011-2012 academic year, each school district shall administer the statewide student assessment during the last fourteen (14) days of school in the district's instructional calendar. Testing shall be limited to no more than five (5) days. The Kentucky Board of Education shall promulgate administrative regulations outlining the procedures to be used during the testing process to ensure test security, including procedures for testing makeup days, and to comply with federal assessment requirements.
- (7) Beginning in the 2011-2012 academic year, the Kentucky assessment program shall include program reviews and program audits for arts and humanities, practical living skills and career studies, and the writing programs. The results of the program reviews and audits of arts and humanities, practical living skills and career studies, and writing required under this subsection shall be included in the accountability

system as required by KRS 158.6455.

(a) Arts and humanities.

1. The Kentucky Department of Education shall provide guidelines for arts and humanities programs and for integration of these within the curriculum to all schools.
2. The Kentucky Board of Education shall establish criteria to use in the program review and audit processes, and the procedures recommended for local district and department program reviews and program audits as defined in subsection (1)(h) and (i) of this section. The department shall distribute the criteria and procedures for program reviews and audits to all schools and teacher preparation programs.
3. Each local district shall do an annual program review and the Department of Education shall conduct a program review of every school's program within a two (2) year period. The frequency of program audits shall be determined by the Department of Education in compliance with the requirements established by the state board.
4. Each school-based decision making council shall analyze the findings from program reviews for its school and determine how it will address program recommendations to improve the program for students.

(b) Practical living skills and career studies.

1. The Kentucky Department of Education shall provide guidelines for practical living skills and career studies and integration of these within the curriculum to all schools and teacher preparation programs.
2. The Kentucky Board of Education shall establish criteria to use in the program review and audit processes, and the procedures recommended for local district and department program reviews and program audits as defined in subsection (1)(h) and (i) of this section. The department shall

distribute the criteria and procedures for program reviews and audits to all schools and teacher preparation programs.

3. Each local district shall do an annual program review and the Department of Education shall conduct a program review of every school's program within a two (2) year period. The frequency of program audits shall be determined by the Department of Education in compliance with the requirements established by the state board.
4. Each school-based decision making council shall analyze the findings from programs reviews for its school and determine how it will address program recommendations to improve the program for students.

(c) Writing.

1. The Kentucky Department of Education shall provide guidelines for an effective writing program and establish criteria to use in the program review and program audit process as defined in subsection (1)(h) and (i) of this section. The department shall distribute the guidelines and criteria for program reviews within the curriculum to all schools and teacher preparation programs.
2. Each school-based decision making council or, if there is no school council, a committee appointed by the principal, shall adopt policies that determine the writing program for its school and submit it to the Department of Education for review and comment. The writing program shall incorporate a variety of language resources, technological tools, and multiple opportunities for students to develop complex communication skills for a variety of purposes.
3. Writing portfolios, consisting of samples of individual student work that represent the interests and growth of the student over time, shall be a required part of any writing program in primary through grade twelve

- (12). Portfolios shall be part of the required criteria for the program review and audit process relating to the writing program under this paragraph. Individual student scores on portfolios shall not be included in the accountability system.
4. A writing portfolio shall be maintained for each student and follow each student from grade to grade and to any school in which the student may enroll.
 5. A school's policies for the writing program shall address the use of the portfolio for determining a student's performance in:
 - a. Communication;
 - b. Grading procedures and feedback to students regarding their writing and communication skills;
 - c. The responsibility for review of the portfolios and feedback to students; and
 - d. Other policies to improve the quality of an individual student's writing and communications skills.
 6. Each local district shall do an annual program review and the Department of Education shall conduct a program review of every school's program within a two (2) year period. The frequency of program audits shall be determined by the Department of Education in compliance with the requirements established by the state board.

The Department of Education shall ensure that all schools and districts understand how the results of the program reviews and audits of arts and humanities, practical living skills and career studies, and writing are included in the accountability system under KRS 158.6455 and shall provide assistance to schools to improve the quality of the programs under this subsection.

- (8) Local school districts may select and use commercial interim or formative

assessments or develop and use their own formative assessments to provide data on how well their students are growing toward mastery of Kentucky academic core content. Nothing in this section precludes teachers from using ongoing teacher-developed formative processes.

- (9) Beginning with the 2010-2011 school year, each school that enrolls primary students shall use diagnostic assessments and prompts that measure readiness in reading and mathematics for its primary students as determined by the school to be developmentally appropriate. The schools may use commercial products, use products and procedures developed by the district, or develop their own diagnostic procedures. The results shall be used to inform the teachers and parents or guardians of each student's skill level.
- (10) In revising the state assessment program for implementation in 2011-2012 academic year, the state board shall ensure that a technically sound longitudinal comparison of the assessment results for the same students shall be made available.
- (11) The following provisions shall apply to the assessment requirements for middle and high schools:
 - (a) The assessment program shall include:
 1. A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);
 2. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);
 3. The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and
 4. Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;

- (b) 1. A student whose scores on the high school readiness examination administered in grade eight (8) or as determined by the Kentucky Board of Education under subsection (5) of this section indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and
 - 2. A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes;
 - (c) The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student;
 - (d) If funds are available, the Kentucky Department of Education shall provide an ACT preparation program to all public high school juniors. The department may contract for necessary services; and
 - (e) The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (5)(a) and (b) of this section.
- (12) Students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.
- (a) The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education if funds are available for this purpose. The cost of additional WorkKeys assessments shall be the responsibility of the student.

- (b) A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.
 - (c) A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.
- (13) Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (11)(a)3. of this section shall consist of:
- (a) Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or
 - (b) Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- (14) The assessments under subsections (11) and (12) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."
- (15) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:
- (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year until the 2011-2012 academic year. The revised academic

content standards developed as required by subsection (2) of this section shall be used in the revised assessment program for implementation in the 2011-2012 academic year as required by subsection (3) of this section. Any future revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

- (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and
 - (c) Minimize the time spent by teachers and students on assessment.
- (16) (a) Through the fall of 2011, results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.
- (b) Beginning in the fall of 2012, the results from assessment under subsections (3) and (5) of this section shall be reported to the school districts and schools no later than seventy-five (75) days following the first day the assessment can be administered.
- (17) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted

to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(18) The Department of Education and the state board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

(19) *Starting in the 2017-2018 academic year, assessments authorized under subsections (5), (8), (9), (11), (12), and (18) of this section shall not collectively consume more than five percent (5%) of any student's instructional time during a student instructional year, as defined in KRS 158.070(1)(d). Nothing in this subsection precludes teachers from using ongoing teacher-developed or teacher-initiated assessments as part of regular instruction.*

(20) No later than sixty (60) days after March 25, 2009, the state board shall revise the Administration Code for Kentucky's Assessment Program to include prohibitions of inappropriate test preparation activities by school district employees charged with test administration and oversight, including but not limited to the issue of teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal work day. The revisions shall include disciplinary sanctions that may be taken toward a school or individuals.

(21)~~(20)~~ The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting

structure shall include the following components:

- (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 1. Student academic achievement, including the results from each of the assessments administered under this section;
 2. For Advanced Placement and International Baccalaureate, the courses offered, the number of students enrolled, completing, and taking the examination for each course, and the percentage of examinees receiving a score of three (3) or better on AP examinations or a score of five (5) or better on IB examinations. The data shall be disaggregated by gender, race, students with disabilities, and economic status. This data shall be included in the report card beginning with the 2009-2010 academic year;
 3. Nonacademic achievement, including the school's attendance, retention, graduation rates, and student transition to adult life; and
 4. School learning environment, including measures of parental involvement;
- (b) An individual student report to parents for each student in grades three (3) through eight (8) summarizing the student's skills in reading and mathematics. The school's staff shall develop a plan for accelerated learning for any student with identified deficiencies or strengths;
- (c) An individual report for each student who takes a high school or college readiness examination administered under subsection (11)(a) of this section that:

1. Provides the student's test scores;
 2. Provides a judgment regarding whether or not a student has met, exceeded, or failed to meet the expectations for each standard assessed; and
 3. Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and
- (d) A student's scores on the ACT examination or WorkKeys assessments administered under subsections (11) and (12) of this section and the ACT examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript.

(22)~~[(21)]~~ The Kentucky Board of Education shall conduct periodic alignment studies that compare the norm-referenced tests required under subsection (5) of this section with the standards in the different content areas to determine how well the norm-referenced tests align and adequately measure the depth of knowledge and breadth of Kentucky's academic content standards. Based on its findings from the studies, the board may decrease the number of required criterion-referenced items required under subsection (5) of this section.