

AN ACT relating to public school standards.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

*(1) Notwithstanding any statute to the contrary, the Kentucky Board of Education and the Kentucky Department of Education shall not:*

*(a) Implement the academic content standards for English language arts and mathematics developed by the Common Core Standards Initiative and copyrighted by the National Governors Association and the Council of Chief State School Officers;*

*(b) Implement the science standards developed by the Next Generation Science Standards Initiative led by the National Research Council of the National Academy of Sciences; or*

*(c) Use the Partnership for Assessment of Readiness for Colleges and Careers, the Smarter Balanced Assessment Consortium, or any other assessment based on the Common Core Standards or Next Generation Science Standards.*

*(2) Any actions taken to adopt or implement the Common Core Standards or the Next Generation Science Standards as of the effective date of this Act are void.*

*(3) (a) The state board, after consultation with the Council on Postsecondary Education, shall approve and recommend to school districts and schools academic content standards to replace the academic content standards in English language arts, mathematics, and science currently in use.*

*(b) A local board of education shall adopt for use by the school district academic content standards, including standards that differ from or exceed those approved by the state board.*

*(c) Pursuant to Section 4 of this Act, a school-based decision making council*

shall adopt curriculum policies necessary to implement the academic content standards adopted by the local board of education.

- (4) No official of the state, whether appointed or elected, shall enter into a contractual agreement on behalf of the state or a state agency with any consortium, association, or other entity if the agreement would require the state or state agency to cede control over academic content standards and assessment of the standards.
- (5) The state board shall post for a minimum of ninety (90) days public notice of any proposed revision of academic content standards on the department's Web site and shall invite comments on the proposed changes from the general public, including parents, teachers, experts on college and career readiness standards, representatives of nonpartisan institutes, and political, educational, and faith-based organizations.
- (6) The state board shall not finalize revision of any academic content standards until the board holds a public hearing in each congressional district in the state. The board shall post notice of each hearing on the department's Web site and in the newspaper with the largest circulation in the respective congressional district.
- (7) Any academic content standards approved by the state board shall be limited to the subject areas prescribed in KRS 158.6453(2)(a) and shall be developed using the process and criteria specified in KRS 158.6453(2)(b) to (f).
- (8) Notwithstanding any statute to the contrary, state funds shall not be withheld from a school district or school for failure to adopt or use the academic content standards approved by the state board. No school district or school shall be required to use any academic content standards based upon the Common Core Standards or Next Generation Science Standards previously adopted by the state board as a condition for receiving state funds.

➔Section 2. KRS 156.070 is amended to read as follows:

- (1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.
- (2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.
  - (a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.
  - (b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be

from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.

- (c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.
- (d) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced practice registered nurse, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.
- (e) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. An exception to the provisions of this paragraph shall be

made, and the student shall be eligible for high school athletics in Kentucky if the student:

1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;
  2. Was retained in the primary school program because of an ARC committee recommendation; and
  3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).
- (f)
1. The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate administrative regulations that permit a school district to employ or assign nonteaching or noncertified personnel or personnel without postsecondary education credit hours to serve in a coaching position. The administrative regulations shall give preference to the hiring or assignment of certified personnel in coaching positions.
  2. A person employed in a coaching position shall be a high school graduate and at least twenty-one (21) years of age and shall submit to a criminal background check in accordance with KRS 160.380.
  3. The administrative regulations shall specify post-hire requirements for persons employed in coaching positions.
  4. The regulations shall permit a predetermined number of hours of professional development training approved by the state board or its designated agency to be used in lieu of postsecondary education credit hour requirements.
  5. A local school board may specify post-hire requirements for personnel

employed in coaching positions in addition to those specified in subparagraph 3. of this paragraph.

- (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.
- (b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission.

The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

- (c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related

facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

- (4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.
- (5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.
- (6) If the United States Department of Education requires that a grant recipient provide personally identifiable information about students or teachers as a condition of a grant, the grant recipient shall not release personally identifiable information without the informed written consent of the student's parent or guardian or of the teacher, as appropriate.**
- (7) The state board shall ensure that access to any student or teacher information collected by the Kentucky Department of Education or by vendors contracted by the department or by local school districts shall be restricted to the fulfillment of**



contractual obligations for processing data on behalf of the school district and the schools.

(8) The state board shall require the Kentucky Department of Education and all school districts to adhere to transparency and privacy standards for outsourcing data collection and Web-based tasks to vendors, including:

(a) Identifying data and Web-based service providers on agency Web sites;

(b) Providing notice to parents of the types of student information transferred to third-party service providers; and

(c) Maintaining on file a written contractual agreement that:

1. Specifies the purpose of the agreement and the authority of the vendor to enter into an agreement;

2. Specifies the type of data to be collected and transferred;

3. Prohibits the utilization of student data for any purposes other than serving the department or the public schools;

4. Prohibits or limits redisclosure of student information;

5. Prohibits the sale or marketing of student information;

6. Specifies whether foreign or cloud storage is utilized;

7. Specifies data security and breach notification obligations and procedures consistent with KRS 61.931 to 61.934;

8. Prohibits unilateral modifications;

9. Clarifies parental access and correction capabilities; and

10. Includes the right for agency audit of vendor compliance with contractual agreements.

➔Section 3. 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.

**(k) A local board of education may supplement the academic content standards approved by the state board with higher and more rigorous academic content standards, and a school council shall use them to fulfill curriculum policy requirements pursuant to Section 4 of this Act.**

- (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) 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.
- (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.

- (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.

➔Section 4. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
- (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
  - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:
    - 1. Exclusively vocational-technical, special education, or preschool programs;
    - 2. Instructional programs operated in institutions or schools outside of the district; or
    - 3. Alternative schools designed to provide services to at-risk populations with unique needs;
  - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals

and assistant principals; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a

majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
  - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
  - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy

consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
  - (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
  - (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
  - (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
  - (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each

school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) Personnel decisions at the school level shall be as follows:

1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
2. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process. The council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal.



- The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;
3. Personnel decisions made at the school level under the authority of subparagraphs 1., 2., and 4. of this paragraph shall be binding on the superintendent who completes the hiring process;
  4. If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one-third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council;
  5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020; and
  6. Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(2)(e), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(7) **based on the academic content standards adopted by the local board of education in accordance with Sections 1 and 3 of this Act;**
  2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school;
  4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
  5. Determination of use of school space during the school day;
  6. Planning and resolution of issues regarding instructional practices;
  7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
  8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
  9. Adoption of an emergency plan as required in KRS 158.162;
  10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
  11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data as shown on state and local student assessments and program assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each

school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

- (3) The policies adopted by the local board to implement school-based decision making shall also address the following:
- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
  - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
  - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
  - (d) Professional development plans developed pursuant to KRS 156.095;
  - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
  - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
  - (g) Requirements for waiver of district policies;

- (h) Requirements for record keeping by the school council; and
  - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of

school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements

specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

- (9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
- (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
- (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
- (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of

Education takes action under KRS 160.346.

- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.