

EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amendment)

703 KAR 5:270. Kentucky's Accountability System.

RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, 158.649, 160.346, 20 U.S.C. 6311

STATUTORY AUTHORITY: KRS 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools, and districts; complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor; and ensures accountability. KRS 158.6455 requires the Kentucky Board of Education to create an accountability system to classify schools and districts, including a process for annual summative performance evaluations and goals for improvement. This administrative regulation establishes the statewide system of accountability, and meets requirements set forth in the federal Every Student Succeeds Act of 2015 at 20 U.S.C. 6311.

Section 1. Definitions.

- (1) "English learner progress indicator" means the combination of individual student growth for status and the difference in school performance for change of English learners toward English language proficiency. For all other indicators, English learners means students currently identified and those who continue to be monitored as English learners.
- (2) "Full academic year" means 100 or more instructional days of student enrollment within the school year.
- (3) "Grade 12 non-graduates" means all students enrolled in grade 12 at the end of the school year who do not graduate.
- (4) "Graduation rate" means the percentage of students who enter high school and receive a diploma based on their cohort in four (4) and five (5) years, adjusting for transfers in and out, émigrés, and deceased students.
- (5) "Indicator performance rating" means one (1) of five (5) colored-coded performance levels on each state indicator that is determined by combining status and change.
- (6) "Individual education program" or "IEP" means an individual education program as defined in 707 KAR 1:002.
- (7) "Local education agency" or "LEA" for the purposes of this administrative regulation shall mean a local school district as provided in KRS ~~160.010~~~~[161.010]~~ and KRS ~~160.020~~~~[161.020]~~ or a charter school board of directors as provided in KRS ~~160.1590~~~~[161.1590]~~.
- (8) "Overall performance rating" means one (1) of five (5) color-coded performance levels that aggregates all available state indicator data that is determined by combining status and change.
- (9) "Postsecondary readiness" means the attainment of the necessary knowledge, skills, and dispositions to successfully transition to the next level.
- (10) "Proficient" or "proficiency" means reaching the desired level of knowledge and skills as measured on academic assessments.
- (11) "Quality of school climate and safety indicator" means the measures of school environment.
- (12) "State assessment results for reading and mathematics indicator" means the measure of academic performance for reading and mathematics on state assessments.
- (13) "State assessment results for science, social studies, and writing indicator" means the measure of academic performance for science, social studies, and writing on state

assessments.

(14) "State indicator" means a component of the accountability system as defined in KRS 158.6455.

(15) "Value table" means a set of numbers that are used to attribute scores to different performance levels.

(16) "Writing" means the content area that includes on-demand writing, and editing and mechanics.

Section 2. Kentucky's accountability system that is used to classify schools and LEAs shall include the state indicators of: state assessment results for reading and mathematics; state assessment results for science, social studies, and writing; English learner progress; postsecondary readiness; quality of school climate and safety; and graduation rate.

(1) The state assessment results for reading and mathematics indicator shall be measured by student performance on state assessments in reading and mathematics.

(2) The state assessment results for science, social studies, and writing indicator shall be measured by student performance on state assessments in science, social studies, and writing.

(3) The English learner progress indicator shall be measured by student performance on an English proficiency test. The English learner progress indicator shall be measured based on a growth value table. Additional tables shall incorporate the federal flexibilities of age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling.

(4) The quality of school climate and safety indicator shall include perception data from surveys that measure insight to the school environment.

(5) The postsecondary readiness indicator shall be measured at high school for students meeting the following criteria:

(a) Earn a regular or alternative high school diploma plus grade 12 non-graduates; and

(b) Achieve academic readiness or career readiness.

1. A school shall receive credit for each student demonstrating academic readiness by:

a. Scoring at or above the benchmark score as determined by the Council on Postsecondary Education (CPE) on the college admissions examination or college placement examination; or

b. Completing a minimum of three (3) hours of credit in one (1){two (2)} Kentucky Department of Education approved dual credit course{courses} and receiving a grade of C or higher ~~{in each course}~~; or

c. Completing one (1){two (2)} advanced placement (AP) course{courses} and receiving a score of three (3) or higher on the{each} AP assessment; or

d. Receiving a score of five (5) or higher on one (1){two (2)} examination{examinations} for an international baccalaureate course{courses}; or

e. Scoring at or above the benchmark on one (1){two (2)} Cambridge Advanced International examination.{examinations; or

~~{f.} [Completing a combination of academic readiness indicators listed above.]~~

~~{g.} [Demonstration of academic readiness listed in paragraph 5(b)1 of this section shall include successful completion of one (1) quantitative reasoning or natural sciences course and one (1) written or oral communication course; or visual and performing arts course; or humanities course; or social and behavioral sciences learning outcomes course.]~~

2. A school shall receive credit for each student demonstrating career readiness by:

a. Scoring at or above the benchmark on industry certifications as approved by the Kentucky Workforce Innovation Board on an annual basis; or

b. Scoring at or above the benchmark on the career and technical education end-of-program assessment for articulated credit; or

- c. Completing a minimum of three (3) hours of credit in one (1)~~two (2)~~ Kentucky Department of Education approved CTE dual credit course[s], and receiving a grade of C or higher~~in each course~~; or
 - d. Completing a Kentucky Department of Education approved or labor cabinet-approved apprenticeship; ~~or~~;
 - e. Successfully completing a cooperative or internship course that is aligned with a credential or associate degree and which provides a minimum of 300 hours of on-the-job work experience during days that school is in session within the district-approved regular school year.
3. Students participating in the alternate assessment program shall meet criteria based on academic or career alternate assessment requirements.
- (6) The graduation rate indicator shall be measured for each high school using the four (4)-year and extended five (5)-year cohort rate. The graduation rate shall be reported for all students and student groups.

Section 3. Classification of Schools and LEAs in the State Accountability System.

- (1) Data shall be included in the overall performance rating for schools and LEAs for the following state indicators:
- (a) State Assessment Results (reading and mathematics);
 - (b) State Assessment Results (science, social studies, and writing);
 - (c) English learner progress;
 - (d) Postsecondary readiness (high school);
 - (e) Quality of school climate and safety; and
 - (f) Graduation rate (high school).
- (2) Data from individual student performance on state assessments administered as required in KRS 158.6451 and KRS 158.6453 shall be included in the overall performance rating of each school and LEA. This data shall include students with disabilities with IEPs who participate in the alternate assessment program.
- (3) Data in the overall performance rating shall be attributed to grade level spans for schools and LEA as established in this subsection.
- (a) Elementary schools shall include data from: state assessment results for reading and mathematics; state assessment results for science, social studies, and writing; English learner progress; and quality of school climate and safety.
 - (b) Middle schools shall include data from: state assessment results for reading and mathematics; state assessment results for science, social studies, and writing; English learner progress; and quality of school climate and safety.
 - (c) High schools shall include data from: state assessment results for reading and mathematics; state assessment results for science, social studies, and writing; English learner progress; postsecondary readiness; graduation rate; and quality of school climate and safety.
 - (d) LEAs shall include data from: school state assessment results for reading and mathematics; state assessment results for science, social studies, and writing, English learner progress; postsecondary readiness; graduation rate; and quality of school climate and safety.

Section 4. Calculations for Reporting Categories.

- (1)
- (a) State assessment results for reading and mathematics shall be rated equally in elementary, middle and high schools and LEAs by awarding points as described in paragraph 2(b) of this section.
 - (b) State assessment results for science, social studies, and writing shall be rated equally in elementary, middle and high schools, and in LEAs by awarding points as described in paragraph 2(b) of this section.
- (2)

- (a) For any content area (reading, mathematics, science, social studies, and writing) where data are not available, the data of the remaining content areas shall be redistributed proportionally across state assessment results state indicators.
- (b) The following value table shall be used to calculate the points for state assessment results in reading and mathematics and state assessment results in science, social studies, and writing:

Proficiency Levels Points Awarded for Each Percent of Students	
Novice	0
Apprentice	.5
Proficient	1
Distinguished	1.25

(3) Progress toward achieving English proficiency by English learners shall be calculated as follows:

- (a) Individual growth shall be compared to prior year performance on an English proficiency exam.
 - (b) The exit benchmark and English learner growth value tables created involving Kentucky educators and advised by technical experts shall be utilized.
 - (c) Points for each English learner based on the English learner growth value table shall be averaged.
 - (d) The value tables shall be included in the Every Student Succeeds Act Consolidated State Plan and negotiated with the United States Department of Education.
 - (e) Kentucky shall modify the value table and its use to reflect factors that may impact English learners' progress toward language proficiency, including age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling.
- (4) The quality of school climate and safety indicator shall be rated for elementary, middle, high schools, and LEAs as established in this subsection. The Kentucky Board of Education shall approve the measures of quality of school climate and safety. Data collected for individual students shall be aggregated to calculate school and district level scores for climate, safety, and overall climate and safety indicator.
- (5) Postsecondary readiness shall be calculated by dividing the number of high school graduates plus grade 12 non-graduates who have met measures of postsecondary readiness by the total number of graduates plus grade 12 non-graduates. Credit for students obtaining an industry-recognized certification, licensure, or credential in specialized career pathways in state and regional high demand sectors as approved by Kentucky's Workforce Innovation Board is one and one-quarter (1.25) points. Credit for students obtaining all other readiness indicators is one (1.0) point.
- (6) Graduation rate is the percentage of students completing the requirements for a Kentucky high school diploma compared to the cohort of students beginning in grade 9. The accountability system shall include a four (4) year cohort rate and an extended five (5) year cohort rate. Each rate shall be weighted equally.
- (7) The indicator performance rating shall be assigned as follows:
- (a) Indicators identified in Section 3 shall have a rating of very low, low, medium, high, or very high by school and LEA for status.
 - (b) Indicators identified in Section 3 shall have a rating of declined significantly, declined, maintained, increased, or increased significantly by school and LEA for change.
 - (c) Each state indicator combines status and change and reports an indicator performance level using a color-coded table.
- (8) The indicators for each school and LEA as identified in Section 3 of this administrative regulation shall contribute to the overall performance rating of schools and LEAs.

(9) A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to recommend very low to very high performance levels for status and declined significantly to increased significantly for change on each indicator including state assessment results for reading and mathematics, state assessment results for science, social studies, and writing, English learner progress, postsecondary readiness, graduation rate, and quality of school climate and safety.

(10)

(a) An overall performance rating for elementary, middle, and high schools shall be reported using a color rating system to communicate performance of schools, with red being the lowest rating and blue being the highest rating. Color ratings shall include five (5) performance levels from highest to lowest: Blue, Green, Yellow, Orange, and Red. Performance of schools, LEAs, and state shall be reported by level (elementary, middle, and high) as applicable. The School Report Card shall display the color ratings earned for each school, LEA, and state (by level).

Overall Accountability Weights

	State Assessment Results (Reading and Mathematics)	State Assessment Results (Science, Social Studies, and Writing)	English learner progress	Quality of School Climate and Safety	Postsecondary Readiness	Graduation Rate(4 and 5 year cohort)
Elementary Schools	51	40	5	4	--	---
Middle Schools	46	45	5	4		
High Schools	45	20	5	4	20	6

(b) The performance on state indicators is combined using the amounts in the Overall Accountability Weights table to generate an overall performance.

(c) As a result of the standard setting process, the committee shall recommend the procedures for determining indicator and overall performance ratings, combining status and change and reflecting the indicator weights. The recommendation from the standards setting committee shall be approved as defined in KRS 158.6455.

(d) Kentucky shall identify schools to determine required federal designations as defined in KRS 160.346 based on the overall performance of the accountability system.

(e) If data cannot be calculated for an indicator, the weights shall be redistributed proportionally to remaining state indicators that shall be reported for the school or LEA.

(11) School accountability indicators shall be assigned as follows:

(a) Students enrolled for a full academic year shall be included in the calculations for state assessment results for reading and mathematics, state assessment results for science, social studies, and writing, English learner progress, quality of school climate and safety, and postsecondary readiness for a school and LEA.

(b) Graduation rate calculations shall be based on the students' final enrollment.

(c) Student demographic groups shall have a minimum of thirty (30) students to be included in school rating calculations.

(d) In accordance with KRS 158.6455, schools and districts shall be placed into one (1) of five (5) color ratings established by a standards-setting process utilizing results from the first operational administration of assessments. The process shall:

1. Be advised by the Kentucky Department of Education Technical Advisory Panel; the School Curriculum, Assessment and Accountability Council; Local Superintendent Advisory Council, and the Office of Education Accountability; and
2. Use accepted technical procedures and involve Kentucky school and district administrators and teachers.

Section 5. Additional Public Reporting Requirements.

- (1) The Kentucky Department of Education shall report disaggregated data for each state indicator of the state assessment and accountability system.
- (2) Progress on long-term and interim goals shall be reported publicly as required by the federal Every Student Succeeds Act and submitted in Kentucky's Consolidated State Plan. Goals shall be developed for every student group, including all students, for academic achievement in each content area of reading, mathematics, science, social studies, and writing; graduation rate based on four (4) year and five (5) year adjusted cohorts; and progress on English proficiency for English learners.
- (3) The goal for academic achievement operationalizes both the improvement of proficient and distinguished performance for all students and each student group and the reduction of achievement gaps as defined in KRS 158.649. Each student group of ten (10) or more students shall be reported on the School Report Card. The data shall be suppressed as necessary for reporting to meet the Family Educational Rights and Privacy Act (FERPA).

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

JASON GLASS, Ed.D., Commissioner

LU S. YOUNG, Ed.D., Chairperson

APPROVED BY AGENCY: February 8, 2023

FILED WITH LRC: February 10, 2023 at 1:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 26, 2023 at 10:00 a.m., in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes state accountability requirements for Kentucky's public local education agencies (LEAs) and schools.

(b) The necessity of this administrative regulation:

KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools and districts, complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability. KRS 158.6455 requires the Kentucky Board of Education (KBE) to create an accountability system to classify schools and districts, including a process for annual summative performance evaluations and goals for improvement.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation provides specific details for establishing the indicators and measures of the state-required accountability system for Kentucky public LEAs and schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides specific details for establishing the statewide accountability program that rates LEAs and schools based on performance of multiple indicators: state assessment results (reading and mathematics), state assessment results (science, social studies and writing), English learner progress, graduation rate (high school only), postsecondary readiness (high school only) and quality of school climate and safety. The multiple indicators incorporate the student test results and school quality measures. The regulation complies with state statute and the federal Every Student Succeeds Act of 2015 (ESSA), 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This administrative regulation establishes state accountability requirements for Kentucky's public local education agencies (LEAs) and schools. One indicator in the accountability system is Postsecondary Readiness. The regulation includes a variety of options students may use to demonstrate postsecondary readiness. Currently, many of the options students may use to demonstrate postsecondary readiness require meeting benchmarks in two learning outcomes, courses and/ or exams. The amendment to this regulation reduces the number of measures required for students to demonstrate postsecondary readiness to one measure and will add cooperative and internship measures to the system due to the passage of Senate Bill (SB) 59 (2022).

(b) The necessity of the amendment to this administrative regulation:

Due to the changes to the statute in the recently passed legislation, Senate Bill 59 (2022), it is necessary to amend the accountability regulation to align with state statute.

(c) How the amendment conforms to the content of the authorizing statutes:

This administrative regulation amendment reduces the number of measures required for students to demonstrate postsecondary readiness from two to one, as mandated in SB 59 (2022).

(d) How the amendment will assist in the effective administration of the statutes:

This administrative regulation amendment aligns details in the regulation to statute language in SB 59 (2022).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All public LEAs and schools in Kentucky with schools grade 3 or higher and supporting staff in the Kentucky Department of Education (KDE).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The regulation amendment, based on changes mandated in SB 59 (2022), reduces the number of measures required by students to demonstrate postsecondary readiness in Kentucky's accountability system from two to one, and provides a new measure of work-based learning as an additional choice on the menu of options for demonstrating career readiness.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

This change to the accountability system requires no additional direct costs to the KDE, LEAs or schools.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The regulation amendment provides an additional option for students to demonstrate career readiness in Kentucky's accountability system that is of equal rigor to other existing options. Both career and technical education (CTE) pathway students and non-CTE students will be able to pursue career readiness through a work-based learning route.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The amendment to the accountability system will require no additional cost to the KDE.

(b) On a continuing basis:

Kentucky's accountability system is required by federal and state legislation and is implemented using state and federal funds.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

State general and federal funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increased fees or funding are anticipated as a result of this regulation amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

The regulation does not establish or increase fees.

(9) TIERING: Is tiering applied?

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and LEAs.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Public Local Education Agencies (LEAs) and schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 158.6453; KRS 158.6455; 20 U.S.C. secs. 6301 et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

No revenue will be generated.

(c) How much will it cost to administer this program for the first year?

The accountability system requires no additional cost to the LEAs and schools.

(d) How much will it cost to administer this program for subsequent years?

Kentucky's accountability system is required by federal and state legislation and is implemented using state and federal funds.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):N/A

Expenditures (+/-):N/A

Other Explanation:

N/A

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

The accountability system regulation will not generate cost savings to the LEAs and schools.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

The accountability system regulation will not generate cost savings to the LEAs and schools.

(c) How much will it cost the regulated entities for the first year?

The accountability system requires no additional cost to the LEAs and schools.

(d) How much will it cost the regulated entities for subsequent years?

The accountability system requires no additional cost to the LEAs and schools.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):N/A

Expenditures (+/-):N/A

Other Explanation:

N/A

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation does not impose any required costs on regulated entities. As such, is not anticipated to have major economic impact on state or local government or regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

Every Student Succeeds Act of 2015 (ESSA), 20 U.S.C. secs. 6301 et seq.

(2) State compliance standards.

KRS 158.6453, KRS 158.6455 and 703 KAR 5:270

(3) Minimum or uniform standards contained in the federal mandate.

ESSA requires accountability systems to use multiple measures of school success, including academic outcomes, student progress, and school quality.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No. This regulation amendment will not impose stricter requirements or additional responsibilities than those required federally.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

N/A