

1 **Education and Workforce Development Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(New administrative regulation)**

5 **703 KAR 5:250. Implementation of Intervention Options in Priority Schools and Districts**

6 RELATES TO: KRS 158.6453, 158.6455, 160.346, 158.782

7 STATUTORY AUTHORITY: KRS 156.029(7), 156.070(5), 158.6453, 158.6455,

8 160.346

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029 (7) indicates the primary  
10 function of the Kentucky Board of Education (KBE) is to adopt policies and administrative  
11 regulations by which the Kentucky Department of Education shall be governed in planning and  
12 operating programs within their jurisdiction. KRS 156.070 (5) requires the board, upon the  
13 recommendation of the Commissioner of Education, to establish policy or act on all programs,  
14 services and other matters which are within the administrative responsibility of the Department.  
15 KRS 158.6453 (3) (a) vests in the KBE the responsibility to create an assessment system that  
16 measures achievement of the state learning goals, ensures compliance with the federal No Child  
17 Left Behind Act of 2001, 20 U.S.C. secs. 6301 et. seq. (NCLB) and ensures school  
18 accountability. KRS 158.6455 requires the KBE to create an accountability system to classify  
19 schools and districts, and to establish appropriate consequences for schools failing to meet their  
20 accountability measures. KRS 160.346 requires the KBE to promulgate administrative

1 regulations to establish the process for implementing school interventions and alternate  
2 management options for schools, districts, and the state for persistently low-achieving schools,  
3 now identified as priority schools. In order to obtain approval of Kentucky's ESEA Flexibility  
4 Waiver, which allows flexibility from specific requirements of NCLB, the USDE requires the  
5 KBE to identify the state's lowest-achieving schools (formerly called persistently low-achieving  
6 schools) as priority schools, and for those priority schools to follow the requirements of 20 USC  
7 6301, Section 1003 (g) regarding school intervention options. This administrative regulation  
8 establishes the process and procedures for implementing school interventions and alternate  
9 governance options for priority schools and districts.

10 Section 1. Definitions.

11 (1) "Annual measurable objective (AMO)" is defined in 703 KAR 5:225 and means the  
12 improvement goal for each school or district calculated from the overall score.

13 (2) "District leadership review" means an assessment described in KRS 160.346 of the  
14 functioning of the school district, including for districts containing a priority school, a  
15 determination of the district's ability to manage an intervention in that school.

16 (3) "Districts that contain a priority school" means districts that have not been identified as  
17 priority districts but that have in their jurisdiction one or more priority schools.

18 (4) "Leadership review process" means the review and audit process required under KRS  
19 158.6455 and 158.346 to establish appropriate consequences for priority schools, districts  
20 containing priority schools, and priority districts as defined in 703 KAR 5:225.

21 (5) "Leadership review team" means a team approved by the Commissioner of Education to  
22 conduct a school or district leadership review required by KRS 160.346.

1 (6) “Persistently low-achieving school” is defined in KRS 160.346.

2 (7) “Priority school” is defined in 703 KAR 5:225 and means a school that has been identified as  
3 a persistently low-achieving school pursuant to KRS 160.346.

4 (8) “Priority district” is defined in 703 KAR 5:225 and means a district that has an overall score  
5 in the bottom five (5) percent of overall scores for all districts that have failed to meet the annual  
6 measurable objective for the last three consecutive years.

7 (9) “School leadership review” means an assessment described in KRS 160.346 of the  
8 functioning of the school, including a determination of the capacity of a principal or school  
9 council to lead an intervention option in a priority school, and a recommendation as to whether  
10 or not the council and principal should be replaced.

11 (10) “School intervention” is defined in KRS 160.346.

12 Section 2. Leadership review team selection and membership. (1) Members of the leadership  
13 review team shall be selected from qualified applicants approved by the Department. The team  
14 members shall complete Department-provided or -approved training in any areas needed to  
15 effectively perform their duties. Members shall hold appropriate certification or qualifications for  
16 the position being represented, and the team shall not include any members currently employed  
17 by the district or school under review.

18 (2) The team shall be approved by the Commissioner or his designee and shall include the  
19 following representation:

20 (a) An experienced administrator approved by the Department to provide highly skilled  
21 education assistance as required by KRS 158.782, an experienced certified administrator member  
22 of the audit team, or a similarly qualified state-designated professional to serve as chairperson;

- 1 (b) An individual selected by the Department to provide highly skilled education assistance as
- 2 required by KRS 158.782;
- 3 (c) A teacher;
- 4 (d) A principal;
- 5 (e) A district level administrator;
- 6 (f) A parent or legal guardian who has or has had a school-aged child; and
- 7 (g) A university representative.

8 Section 3. School Leadership Review (1) Within ninety (90) days of identification as a priority  
9 school by the Department, a school leadership review shall be scheduled to review the  
10 functioning of the school council and the specific leadership capacity of the principal.

11 (2) The determination of the school council's and principal's ability to lead the intervention in  
12 the school shall be based upon an assessment of capacity in the following areas:

13 **(a) The principal demonstrates maintenance and communication of a visionary purpose**  
14 **and direction committed to high expectations for learning as well as shared values and**  
15 **beliefs about teaching and learning;**

16 **(b) The principal leads and operates the school under a governance and leadership style**  
17 **that promotes and supports student performance and system effectiveness;**

18 **(c) The principal establishes a data-driven system for curriculum, instructional design and**  
19 **delivery ensuring both teacher effectiveness and student achievement;**

20 **(d) The principal ensures that systems are in place for collection and use of data;**

21 **(e) The principal ensures that systems are in place to allocate human and fiscal resources**  
22 **to support improvement and ensure success for all students; and**

1 **(f) The principal ensures that the school implements a comprehensive assessment system**  
2 **that generates a range of data about student learning and system effectiveness and uses the**  
3 **results to guide continuous improvement.**

4 [~~(a) Purpose and direction supporting high expectations for all students;~~

5 ~~(b) Effective governance and leadership systems and processes~~

6 ~~(c) Curriculum, instructional design and delivery that ensure both teacher effectiveness and~~  
7 ~~student achievement;~~

8 ~~(d) Comprehensive, continuous assessment and data analysis processes;~~

9 ~~(e) Provision of sufficient human and fiscal resources to support improvement; and~~

10 ~~(f) Commitment to a culture of evaluation and continuous improvement.]~~

11 (3) The school leadership review shall include analysis of state and local education data, review  
12 of comprehensive school improvement plans and other planning documents; interviews with  
13 students, parents, school and district personnel and community members; direct observation;  
14 administration of teacher and principal working conditions surveys and student satisfaction  
15 surveys; administration of the “Missing Piece of the Proficiency Puzzle, June 2007” as well as  
16 other methods that may be required to obtain the necessary information.

17 (4) Following the review, a report shall be submitted to the Commissioner that specifically  
18 makes recommendations regarding whether the:

19 (a) School council has the capability and capacity to continue its roles and responsibilities  
20 established in KRS 160.345; and

1 (b) Principal has the capability and capacity to continue his or her roles and responsibilities  
2 established in KRS 160.345; whether the council shall be retained in an advisory capacity; and if  
3 retained, whether the current membership of the council shall be replaced by the Commissioner.

4 (5) A school leadership assessment shall be repeated as often as the Commissioner deems  
5 necessary, based on student achievement scores, progress on implementation of the CSIP and  
6 other factors related to student achievement.

7 (6) Pursuant to KRS 160.346 (8), the authority of the school council shall be restored if the  
8 school meets its AMO for two consecutive years.

9 (7) In order to exit priority status, the school shall meet annual measurable objective (AMO)  
10 goals for three consecutive years, no longer be identified by the applicable percent calculation of  
11 being in the lowest five (5) percent, and score at or above a seventy (70) percent graduation rate  
12 for three consecutive years.

13 Section 4. District Leadership Review. (1) Within ninety (90) days of identification by the KDE  
14 as a district containing a priority school, or as a priority district, a district leadership review shall  
15 be scheduled to review the functioning of the district administration and its specific leadership  
16 capacity related to each identified school.

17 (2) The determination of the district's ability to manage the intervention in the priority school  
18 shall be based upon an assessment of capacity in the following areas:

19 (a) Purpose and direction supporting high expectations for all students;

20 (b) Effective governance and leadership systems and processes

21 (c) Curriculum, instructional design and delivery that ensure both teacher effectiveness and  
22 student achievement;

1 (d) Comprehensive, continuous assessment and data analysis processes;

2 (e) Provision of sufficient human and fiscal resources to support improvement; and

3 (f) Commitment to a culture of evaluation and continuous improvement.

4 (3) The district leadership review shall include analysis of state and local education data, review  
5 of comprehensive school improvement plans and other planning documents; interviews with  
6 students, parents, school and district personnel and community members; direct observation;  
7 administration of teacher and principal working conditions surveys and student satisfaction  
8 surveys; administration of the “Missing Piece of the Proficiency Puzzle, June 2007” as well as  
9 other methods that may be required to obtain the necessary information.

10 (4) Following the review, a report shall be submitted to the Commissioner that specifically  
11 makes a recommendation regarding whether the district has the capability and capacity to  
12 manage the intervention in the identified school(s).

13 (5) There shall be only one (1) district leadership review per district, per year, regardless of the  
14 number of priority schools located in the district.

15 (6) A district leadership assessment shall be repeated as often as the Commissioner deems  
16 necessary, based on student achievement scores, progress on implementation of the CDIP and  
17 other factors related to student achievement.

18 Section 5. Notification to Schools and Districts of Leadership Assessment Determination. (1)

19 After completion of the leadership reviews and within thirty (30) days of receipt of the reports,  
20 the commissioner shall notify in writing the school council, principal, superintendent, and local  
21 board of education of the determination regarding:

22 (a) School council authority;

1 (b) Principal authority; and

2 (c) District capacity.

3 (2) The notification shall include a statement of the appeal process to the KBE as required by  
4 KRS 160.346. The commissioner shall make the final report publicly available.

5 Section 6. Authority to Select an Intervention Option. (1) If the school leadership review  
6 determines that the school council has sufficient capacity to manage the recovery, and the district  
7 leadership review determines the district has the capacity to support the recovery, the school  
8 council shall, within thirty (30) days after the receipt of the Commissioner's notification, choose  
9 an intervention option pursuant to KRS 160.346 and develop an action plan. The council shall  
10 present the option and plan to the local board of education, which shall give final approval and  
11 provide the necessary support and resources for the recovery effort.

12 (2) If the school leadership review determines that the school council does not have sufficient  
13 capacity to manage the recovery and recommends the council's authority be transferred and the  
14 district leadership review finds sufficient district capacity to support the recovery and  
15 recommends the council's authority be transferred to the superintendent, the superintendent  
16 shall, within forty-five (45) days after the receipt of the Commissioner's notification or thirty  
17 (30) days after the action of the KBE if an appeal is filed, make a recommendation for an  
18 intervention option and submit the choice to the local board of education, which shall make the  
19 final determination on the intervention option.

20 (3) If the school leadership review determines that the school council has sufficient capacity to  
21 manage the recovery, and the district leadership review determines the district does not have the  
22 capacity to support the recovery, the school council shall, within thirty (30) days after the receipt

1 of the commissioner’s notification or thirty (30) days after the action of the KBE if an appeal is  
 2 filed, choose the intervention option and submit its choice to the local board of education, which  
 3 shall review the option chosen by the school council and submit the choice to the Commissioner  
 4 who shall approve the choice.

5 (4) If the school leadership review determines that the school council does not have sufficient  
 6 capacity to manage the recovery and recommends the council’s authority be transferred, and the  
 7 district leadership review finds the district lacks sufficient capacity to support the recovery and  
 8 recommends the council’s authority be transferred to the Commissioner, the Commissioner shall,  
 9 within forty-five (45) days after receipt of these determinations and in consultation with the  
 10 advisory school council, superintendent and local board of education, determine the intervention  
 11 option. The identified school and local district shall implement the intervention option with  
 12 support from the Department.

Council has capacity	District has capacity	Who selects the intervention option?
Yes	Yes	Council chooses option and develops action plan, which is submitted to board, board approves and provides necessary support.
No	Yes	Superintendent recommends to local board, board has final approval
Yes	No	Council chooses option, submits to board, board reviews and submits to commissioner of education, commissioner approves
No	No	Commissioner chooses in consultation with advisory school council, superintendent and local board. School and district implement with KDE support.

13  
 14 Section 7. Implementation of Intervention Options. (1) A school or district engaging in the Re-  
 15 staffing Option shall:

- 1 (a) Replace the principal with a certified principal who has specific training in turning around  
2 low-achieving schools and grant the new leader sufficient operational flexibility, including  
3 staffing, calendars, time, and budgeting, to fully implement a comprehensive approach in order  
4 to substantially improve student achievement outcomes and, if a high school, increase high  
5 school graduation rates. The current principal shall be eligible to remain if the school leadership  
6 review recommends and the commissioner determines the principal has the capacity to lead the  
7 recovery or if the school leadership review recommends and the Commissioner determines the  
8 current school council shall remain in an advisory capacity.
- 9 (b) Replace the school council with individuals appointed by the commissioner. The current  
10 school council shall be eligible to remain if the school leadership review recommends and the  
11 commissioner determines the school council has the capacity to lead the recovery.
- 12 (c) Use competencies adopted by the local board of education to measure the effectiveness of  
13 staff who can work within the turnaround environment to meet the needs of students to:
- 14 1. Screen all existing staff and rehire no more than fifty (50) percent; and
  - 15 2. Select new staff;
- 16 (d) Select new staff to replace those transferred or dismissed;
- 17 (e) Implement strategies designed to increase opportunities for career growth, including more  
18 flexible working conditions that are designed to recruit, place, and retain staff with the skills  
19 necessary to meet the needs of the students in the turnaround school;
- 20 (f) Provide staff with ongoing, high-quality, job-embedded professional development that is  
21 aligned with the school's comprehensive instructional program and designed with school staff to

- 1 ensure that they are equipped to facilitate effective teaching and learning and have the capacity  
2 to successfully implement school reform strategies;
- 3 (g) Adopt a new governance structure which shall include requiring the school to provide  
4 quarterly progress reports to the local board of education and the Department;
- 5 (h) Use data to identify and implement an instructional program that is research-based and  
6 vertically aligned from one (1) grade to the next as well as aligned with the required core  
7 academic standards established in 704 KAR 3:303;
- 8 (i) Promote the continuous use of student data from formative, interim, and summative  
9 assessments to inform and differentiate instruction in order to meet the academic needs of  
10 individual students;
- 11 (j) Establish schedules and implement strategies that provide increased learning time; and
- 12 (k) Provide appropriate social, emotional, and community-oriented services and supports for  
13 students.
- 14 (2) A school or district engaging in the External Management Option shall:
- 15 (a) Choose an education management organization (EMO) from a list of approved EMO's  
16 established by the KBE pursuant to this section;
- 17 (b) Contract with the EMO to provide day to day management of the school; and
- 18 (c) Provide quarterly progress reports to the local board of education and the Department.
- 19 (3) A school or district engaging in the Transformation Option shall:
- 20 (a) Replace the principal who led the school prior to commencement of the transformation model  
21 with a certified principal who has specific training in turning around low-achieving schools. The  
22 current principal shall be eligible to remain if the school leadership review recommends and the

1 Commissioner determines the principal has the capacity to lead the recovery and has specific  
2 training in turning around low-achieving schools;

3 (b) Replace the school council with individuals appointed by the Commissioner. The current  
4 school council shall be eligible to remain if the school leadership review recommends and the  
5 commissioner determines the school council has the capacity to lead the recovery or if the school  
6 leadership review recommends and the Commissioner determines the current school council  
7 shall remain in an advisory capacity.

8 (c) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

- 9 1. Take into account data on student growth as a significant factor as well as other factors such as  
10 multiple observation-based assessments of performance and ongoing collections of professional  
11 practice reflective of student achievement and increased high-school graduations rates; and  
12 2. Are designed and developed with teacher and the principal's involvement;

13 (d) Identify and provide additional leadership and compensation opportunities to school leaders,  
14 teachers, and other staff who have increased student achievement and high-school graduation  
15 rates, if applicable, and identify and remove those who, after ample opportunities have been  
16 provided for them to improve their professional practice, have not done so;

17 (e) Provide staff with ongoing, high-quality, job-embedded professional development that is  
18 aligned with the school's comprehensive instructional program and designed with school staff to  
19 ensure they are equipped to facilitate effective teaching and learning and have the capacity to  
20 successfully implement school reform strategies which shall include:

- 21 1. Subject-specific pedagogy;  
22 2. Instruction that reflects a deeper understanding of the community served by the school; and

- 1 3. Differentiated instruction;
- 2 (f) Implement strategies designed to increase opportunities for career growth which shall include
- 3 more flexible working conditions designed to recruit, place, and retain staff with the skills
- 4 necessary to meet the needs of the students in a transformation school;
- 5 (g) Use data to identify and implement an instructional program that is research-based and
- 6 vertically aligned from one (1) grade to the next as well as aligned with state academic standards;
- 7 (h) Promote the continuous use of student data from formative, interim, and summative
- 8 assessments to inform and differentiate instruction in order to meet the academic needs of
- 9 individual students;
- 10 (i) Increase learning time and create community-oriented schools that:
- 11 1. Establish schedules and implement strategies that provide increased learning time; and
- 12 2. Provide ongoing mechanisms for family and community engagement;
- 13 (j) Provide operational flexibility and sustained support that:
- 14 1. Gives the school sufficient operational flexibility, including staffing, calendar, time, and
- 15 budgeting to fully implement a comprehensive approach to substantially improve student
- 16 achievement outcomes and increase high school graduation rates; and
- 17 2. Ensures that the school participates in ongoing, intensive technical assistance and related
- 18 support from the local district and the state; and
- 19 (k) Provide quarterly progress reports to the local board of education and the Department.
- 20 (4) A school or district engaging in the School Closure Option shall develop a plan for the
- 21 closure of the school. The plan shall include:
- 22 (a) A process for the transfer of students to higher performing schools in the district;

1 (b) A determination by the local board of education regarding staff assignments and the use of  
2 the existing facility and other assets;

3 (c) A method of monitoring the progress of students in their new school environment; and

4 (d) A quarterly progress report to the local board of education and the Department.

5 Section 8. Establishment of Approved External Management Organizations. (1) The list of  
6 approved EMOs shall be created by the Commissioner following the application process  
7 established in subsection (2) of this section.

8 (2) The commissioner shall issue a request for information to solicit EMO applicants who shall  
9 detail the scope of the services they are able to provide to a persistently low-achieving school.

10 The request for information shall include the following information to solicit the EMO's  
11 qualifications:

12 (a) The ability of the EMO to staff the school with dynamic leadership with experience in turning  
13 around low-performing schools during the period of the contract;

14 (b) The ability of the EMO to conduct a needs assessment in the school and develop a plan of  
15 action based on the needs assessment;

16 (c) The ability of the EMO to deliver a comprehensive list of services designed to turnaround the  
17 school(s);

18 (d) The ability of the EMO to screen staff and make decisions on staff assignments;

19 (e) Its familiarity with Kentucky school laws and administrative regulations;

20 (f) The experience of the EMO in turning around low-achieving schools;

21 (g) References from other low-achieving schools or school districts supporting the EMO's ability  
22 to turn around low-achieving schools;

1 (h) Evidence by the EMO that its provision of services includes instructional leadership,  
2 professional learning support for teachers and other staff, and services to families and  
3 community stakeholders;

4 (i) Evidence of the EMO's financial stability, any pending or threatened litigation, and liability  
5 insurance coverage; and

6 (j) Other information required pursuant to KRS Chapter 45A.

7 (3) The Commissioner shall review all responses and determine which applicants meet the  
8 criteria in subsection (2) of this section. The qualifying applicants shall be submitted to the KBE  
9 for approval. The list of approved EMOs shall be made public upon approval by the KBE.

10 Section 9. Replacement of council members by the Commissioner of Education. (1) When the  
11 Commissioner is required to appoint advisory council members, he shall select three (3) teachers  
12 and two (2) parents from a list of nominees submitted by the superintendent.

13 (2) He shall select candidates who are capable of providing leadership in the turnaround  
14 environment of the school, and meet the requirements of KRS 160.345.

15 (3) The appointed council shall remain in advisory capacity until the school meets the  
16 requirements of KRS 160.346(8).

17 (4) The Commissioner shall fill any subsequent vacancy through this procedure, until such time  
18 as full authority is restored to the council.

19 Section 10. Incorporation by Reference. (1) "The Missing Piece of the Proficiency Puzzle, June  
20 2007", is incorporated by reference.

- 1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
- 2 the Kentucky Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky
- 3 40601, Monday through Friday, 8 a.m. to 4:30 p.m.