

# **KENTUCKY DEPARTMENT OF EDUCATION**

## **STAFF NOTE**

### **Action/Discussion Item:**

703 KAR 5:070, Procedures for the Inclusion of Special Populations in State-Required Assessment and Accountability Programs (Second Reading)

### **Applicable Statute or Regulation:**

KRS 158.6451, KRS 158.6453, 703 KAR 5:070

### **Action Question:**

Should the Kentucky Board of Education (KBE) approve revisions to 703 KAR 5:070 that governs the use of accommodations during administration of state-required assessments or optional tests that are included in accountability?

### **History/Background:**

*Existing Policy.* Senate Bill 1 (SB1), passed by the 2009 Kentucky General Assembly, established multiple assessment requirements and charged the Kentucky Board of Education (KBE) to create the new accountability system to classify districts and schools. With the guidance and approval of the KBE, the new accountability model, Unbridled Learning: College- and Career-Ready for All, offers a balanced approach organized around the KBE's four strategic priorities of next-generation learners, professionals, support systems and schools/districts.

As staff in the Office of Assessment and Accountability and Office of Next-Generation Learners work on implementation of the state-required assessments, test administration procedures including accommodations permitted during testing are being examined. In October 2011, KBE began to consider significant changes, particularly in the use of readers and calculators, to this regulation. During the regulatory process, concerns were expressed by educators, stakeholders and the public, which led to KDE withdrawing the regulation from the revision process.

This current proposed revision to 703 KAR 5:070 does not request changes to the accommodations of reader and calculator but does recommend reordering the regulation and several other changes and improvements.

Reordering information in the regulation has been requested by teachers to make the document easier to use. The description of specific accommodations has been moved from the last section of the regulation and embedded within each section that discusses a specific category of students. Some sections in the original regulation have been combined. This reordering is best seen by comparing the original and proposed table of contents as reflected in the chart below.

<b>Original Table of Contents (2009)</b>	<b>Proposed Table of Contents (2013)</b>
Introduction, Background and Purpose	Introduction, Background and Purpose
Student Inclusion	Student Inclusion
Summary of the Standards for Inclusion of Special Populations	Summary of the Standards for Inclusion of Special Populations
	General Conditions for Using Accommodations
Section 1 – Inclusion of Students with Disabilities	Section 1 – Inclusion of Students with Individualized Education Programs (IEPs)
Section 2 – Inclusion of Students in Non-A1 Programs and State Agency Children	Section 2 – Inclusion of Students as English Learners (EL)
Section 3 – Inclusion of Limited English Proficiency (LEP) Students	Section 3 – Inclusion of Students with 504 Plans or Temporary Medical Conditions that Necessitate Accommodations for Participation
Section 4 – Inclusion of Students Receiving Instruction in Home/Hospital Settings	Section 4 - Inclusion of Students in Alternative Programs and State Agency Children
Section 5 – Inclusion of Students with Temporary Medical Conditions (e.g., Injury or Ailment) that Necessitate Accommodations for Participation	Section 5 – Inclusion of Students Receiving Instruction in Home/Hospital Settings
Section 6 – Conditions for Implementing Accommodations	Section 6 – Inclusion of Students in the Alternate Assessment Program

The proposed revisions can be organized into five topics: a new focus for prompting and cueing; a focus on word-to-word translations for English learners; addition of a 3x5 notecard to manipulatives; definition of extended time; and language clarification and improvements.

Since the first reading of the regulation, staff has continued to seek feedback and edit the proposed revisions. All changes made after the first reading are highlighted in yellow within the regulation.

Most of the proposed changes made since the first reading remove outdated references or unnecessary statements, create consistency within the regulation, or add language to communicate more clearly. These changes do not alter the intent or meaning of the regulation and are not listed specifically in this staff note.

Changes that more substantially enhance content are listed below.

1. Added a new General Conditions for Using Accommodations section near the beginning of the regulation, since the general conditions apply to multiple education plans. This language was removed from Section 1.
2. Under General Conditions for Using Accommodations section, added an opening statement regarding a decision-making process for accommodations.
3. Under General Conditions for Using Accommodations section, number 3 states that accommodations shall not impact the content validity being measured. Additional language clarifies that the accommodations outlined in the regulation are considered

appropriate for state-required assessment when the accommodations are administered according to the directions in this regulation.

4. Because content validity is discussed in the new General Conditions section, the phrase, “shall not impact the validity of the state-required assessment”, has been removed from each accommodation description.
5. Under Sections 1 and 3, Use of Assistive Technology shall (changed from may) be considered as an early accommodation before adult-provided accommodations, if feasible.
6. Under Section 2, B, 1. Administration Strategies, Use of a Reader, change the wording documentation of disability to documentation of English language proficiency.
7. Under Section 2, B, 1. Processing and Response Strategies, Use of a Scribe, delete the fourth paragraph regarding fading of accommodations. This concept is discussed in the General Conditions for Using Accommodations section.
8. Under Section 6, A, the title, General Conditions for Using Accommodations on Alternate Assessment, was edited, to emphasize that general conditions are listed separately for this special population.

### **Staff Recommendation and Rationale:**

Staff recommends approving the proposed revisions to 703 KAR 5:070. The revisions should enhance consistent use of accommodations during state-required test administration.

### **Impact on Getting to Proficiency:**

The new accountability system establishes how schools/districts are held responsible for ensuring Kentucky’s students are proficient and prepared for success. The revised regulation clarifies accommodation guidelines to ensure consistent test administration across the Commonwealth.

### **Groups Consulted and Brief Summary of Responses:**

The School Curriculum, Assessment and Accountability Council (SCAAC) reviewed the proposed regulation during its November meeting. To encourage feedback, All District Assessment Coordinators, Directors of Special Education, Office of Education Accountability (OEA) and State Advisory Panel for Exceptional Children were sent the regulation for review. The regulation has been discussed with low incident consultants, special education divisions of the educational cooperatives, and higher education representatives from special education programs. Feedback has been incorporated into the regulation. The District Assessment Coordinators’ advisory group as well as the Local Superintendents Advisory Council (LSAC) and other stakeholder groups will be discussing the proposed revisions. LSAC will provide its final feedback via letter prior to the December meeting. Any additional feedback that is received prior to the KBE December meeting will be shared at the meeting.

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A handwritten signature in black ink, appearing to read "Ken Draut". The signature is written in a cursive style with a large initial "K".

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**Commissioner of Education**

**Date:**

December 2013