

**Summary and Recommendations**  
**Accountability Regulatory Review Workgroup**

**July 26, 2017**

**Purpose:** The Accountability Regulatory Review workgroup was created by Commissioner Stephen Pruitt as part of the initial development of recommendations for a new accountability system and as a result of the federal Every Student Succeeds Act (ESSA) passed by Congress in 2015 and Senate Bill 1 passed by the Kentucky General Assembly in 2017. The workgroup is part of a larger system of committees and workgroups created to provide the Commissioner with recommendations on a new accountability system that takes advantage of increased state and local control granted by ESSA and SB 1.

The task of the Regulatory Review workgroup is to review the recommendations from the other committees and determine: 1) if the proposals meet the statutory requirements of ESSA, 2) identification of any amendments to existing state statutes that may be required as a result of the proposals, and 3) to determine any required state regulatory amendments needed as a result of the recommendations. The role of the committee is not to evaluate the content of the proposals, but to place the proposals in the statutory and regulatory contexts to help inform the Commissioner's next steps with recommending final regulatory language to the Kentucky Board of Education. As a result of these tasks, the Regulatory Review workgroup consists of individuals with specific experience in education law and policy.

**Membership:**

Lisa Lang, General Counsel, EPSB

Justin Bathon, Ph.D., J.D., Assistant Professor in the Department of Educational Leadership Studies, University of Kentucky

Shelley Chatfield, General Counsel, Fayette County Public Schools

Anne Coorssen, General Counsel, Oldham County Public Schools

John Fogle, Staff Attorney, KSBA

Lucy Heskins, Staff Attorney Supervisor, Dept. of Public Advocacy

Mary Ruble, J.D., Executive Director, KEA

Lynne Slone, General Counsel, KASC

Susan Perkins Weston, Attorney and Education Consultant

Wayne Young, J.D., Executive Director, KASA

**Meeting dates:** November 15, 2016, January 6, 2017, April 11, 2017, June 6, 2017, and July 14, 2017

(All meetings were noticed via KDE press release and open to the public)

### **Recommendations:**

On July 14, 2017, the workgroup finalized the following recommendations to the proposed 703 KAR 5:270, *Kentucky's Accountability System* (July 6 version) to ensure compliance with Senate Bill 1 (2017) and the federal Every Student Succeeds Act:

1. Include “value table” for growth calculation in the body of the regulation or as a document incorporated by reference. Remove “trajectory” language and clarify language as a result of including the value table;
2. Research whether achievement gap subgroup calculations for individual subgroups is required for compliance with ESSA requirement of individual subgroup reporting;
3. Correct point allocation in gap closure analysis (p. 15, line 14-15);
4. Define the term “significantly large gap” in definition section;
5. Affirm students participating in the Alternate Assessment Program are included in all proposed indicators (i.e., academic and technical readiness within the transition indicator);
6. Clarify basis of 5-star rating including the relative weights or relationship of each component and process for standards setting;
7. Review compliance with ESSA on charter school measure compared to individual district measure and whether that conflicts with individual school measure comparability for all public schools. ESSA §1111(c)(4)(B)(v) requires indicators of school quality or student success to be “valid, reliable, comparable, and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State).”;
8. Note potential restriction of ESSA regarding reporting of whole child supports access by student group and subgroup (however the workgroup is support of the concept of whole child supports being included in the system). If ESSA does not permit the whole child supports as provided in the regulation, consider either removing the whole child support measures that cannot be reported separately by group or seeking a waiver of the group-level reporting requirement contain in ESSA §1111(c)(4)(B).;
9. Review “chronic absenteeism” definition for consistency with other statutory definitions of absenteeism and chronic absenteeism;

10. Review consistency of access to services vs. professional requirements in the listing of whole child supports (p. 6 4. (a-f));
11. Include measure of school safety as required by SB 1 that may include restraint and seclusion measures and/or measures of implementation of positive behavioral supports in schools;
12. Review graduation rate compliance with ESSA for use of both 4 year and 5 year rates. ESSA §1111(c)(4)(B) governs indicators, and subparagraph (iii) requires use of “(I) the four-year adjusted cohort graduation rate; and (II) at the State’s discretion, the extended year adjusted cohort graduation rate”;
13. Add additional clarification and language to the regulation to explain and define the basis of the “star rating” (see the matrix approach proposed on page 13 of the white paper);
14. Review “targeted support” and “additional targeted support” requirements in ESSA for compliance and inclusion of required language in regulation to reflect differences in these terms, as well as synthesizing these concepts with similar provisions in SB 1 for matching to the rating requirement. ESSA §1111(c)(4)(C)(iii) requires “differentiation of any such school in which any subgroup of students is consistently underperforming” and ESSA §1111(d)(2) requires targeted support for any school “in which any subgroup of students is consistently underperforming, as described in subsection (c)(4)(C)(iii),” requiring alignment between rating criteria and support criteria for student groups;
15. Add additional language to clarify calculation of “bottom 5%” and explain the standard setting process, inputs and the criteria for reaching this status as a school. Add language to clarify calculations that will be used to identify the lowest performing 5% of schools and identify schools where student groups have results like the lowest 5% of schools. SB1 requires identifying a school for targeted support “if the school has at least one (1) subgroup... whose performance in the state accountability system by level is at or below the summative performance of all students in a content area in any of the lowest-performing five percent (5%) of all schools.” Furthermore, SB1 requires identification for comprehensive support if a school is “in the lowest-performing five percent (5%) of all schools in its level based on the school’s performance in the state accountability system”;
16. Recommend that the Kentucky Board of Education review the long term goals required for the ESSA plan prior to the Commissioner’s submission of the ESSA plan in September; and
17. Recommend the following clarifying edits to the regulation:
  - a. Page 3, line 24, remove “at high”;
  - b. Page 22, line 2, change “very large” to “significantly large” to be consistent with same terms in Section 4 (2);

- c. Page 16, lines 8-9, place gap group name first to be consistent with remainder of subsection;
- d. Page 10, lines 6-12, clarify required scores and/or grades;
- e. Page 13, line 10, remove “receive”;
- f. Page 1, clarify definition of “consolidated student group.”