

**STATEMENT OF CONSIDERATION
RELATING TO 703 KAR 5:270**

**Kentucky Department of Education
Office of Assessment and Accountability**

Amended After Comments

1. A public hearing was held on the above regulation on October 26, 2017.
2. The following individuals attended this public hearing or submitted written or verbal comments:

<u>Name</u>	<u>Title and Affiliation</u>
Julie Anderson	Parent
Lynette Baldwin	Executive Director, Kentucky Association for Gifted Education
Rebecca Baumbach	Educator
Rayma Beal	Retired Educator
Lynne Beavers	District Assessment Coordinator
Scott Bersaglia	Educator
Joyce Biergans	Educator
Susana Bloomdahl	Not Specified
Lynette Breedlove	Western Kentucky University
Dan Brennan	Not Specified
Lauren Bridges	Educator
Justin Brogan	Not Specified
Jennifer Brogle	District Assessment Coordinator
Jana Bromley	Educator
Tanya Bromley	Kentucky Coalition for Arts Education
Jason Bromley	Educator
Vicki Brown	Parent
Logan Butler	Educator
David Carmichael	Educator
Sara Ceresa	Parent
Megan Chitwood	Educator
Shannon Chrisco	Educator
Cathy Christian	Educator
Brice Clark	Not Specified
Jeff Cloyd	Educator
Jenny Collins	Not Specified
Karen Cook	Executive Director, Kentucky Counseling Association
Royal Connell	CDR, USN-Ret, NJROTC Program Office

Greg Daugherty	Educator
Wendy Davidson	Educator
Jane Dewey	Educator
Melissa Doll	Educator
Luis Dominguez	Not Specified
Irina Dubinchik	Parent
Laura Ecken	Educator
Tracey Esters	Educator
Tonya Fox	Educator
Koree Fugate	Educator
David Gilkey	Educator
Bill Grein	District Assessment Coordinator
Karla Hall	Not Specified
Katie Hancock	Educator
Ann Harkins	Educator
Scott Harris	Head, Department of Music, Western Kentucky UniversityE
James Harrison	Educator
Diana Hart	Educator
Julie Hartman	Educator
Erica Hayes	Parent
Chris Hedges	Educator
Lynn Henderson	Educator
Lucy Heskins	Attorney Supervisor, Children and Youth Team, Kentucky Protection and Advocacy
Ashley Hogue	Parent
Richard G. Innes	Bluegrass Institute
Caitlin Jennings	Educator
Dennis Johnson	Director of Bands and Orchestra, Murray State University
David Jump	Educator
Lisa Kimbrell	Educator
Mark Krummen	Assistant Superintendent
Matthew Leedy	Educator
Linda Lemaster	Retired Educator
Megan Lenox	Educator
Glina Lentz	Not Specified
Michelle Lewis	Educator
Donna J. Lucchese	Colonel, USAF (Ret)
Julie Lucky	Not Specified
Justin Matson	Educator
Stephen Mattingly	Not Specified
Dale Mayberry	Not Specified

Elizabeth Mays	Parent
Marnie McAllister	Parent
Dawn McFarland	Educator
Jackie Melton	Educator
Leslie Merryman	Educator
Tony Metcalf	Educator
Paul Metzger	Educator
Krista Mueller	Educator
Shambra Mulder	Licensed Psychologist, Abundant Living Psychological and Coaching Services for Children and Adolescents, PLLC
Chuck Newman	Educator
Ellie Osborne	Educator
Jatin Parmar	Parent
Mark Peters	LCDR USN (Ret), SNSI Valley NJROTC
Jeremiah Pope	Parent
Joseph Prather	Educator
Michael Probus	Parent
Megan Puckett	Educator
Brigitte Blom Ramsey	Executive Director, Prichard Committee for Academic Excellence
Amy Razor	Executive Director, Northern Kentucky Cooperative for Educational Services
Charlene Revel	Educator
Kara Riffe-Styer	Not Specified
Paul Robinson	Not Specified
Justin Romney	Educator
FoxyRoo Roo	Not Specified
Sam Rouster	Educator
Ryan Rue	Educator
Stacey Russell	President of KY School Counselor Association
Dr. Brennon Sapp	Educator
Christi Shelton	Educator
Philip Shepherd	Retired Educator
Michelle Sircy	President for Kentucky Counseling Association
Pippa Soeder	Educator
Jennifer Spade	Not Specified
Michele Steiner	Educator
Kevin Stepp	Educator
John Stroube	Executive Director, Kentucky Music Educators Association
Susan Sullivan	Not Specified
Shelley Thomas	Not Specified

Tom Thompson	Not Specified
Michelle Tinsley	District Assessment Coordinator
Trish Torline	Educator
Holly Trenkamp	Not Specified
Courtney Turay	Educator
Gerald Turner	Assistant Superintendent
Ashley Tyree	Educator
Bentley Utgaard	Parent
Martina Vasil	Assistant Professor, Music Education, University of Kentucky School of Music
Lederrick Wesley	Educator
Cindy Williams	Parent
Rebecca Williams	Assistant Professor of Art Education, Department of Art and Design, Murray State University
Laura Wilson	Educator
Andrew Witak	Student
Tom Wortham	Educator
Jonathan Wyatt	Not Specified
Matt Yarborough	Educator
Deneen Zimmerman	Educator

3. The following people from the promulgating administrative body attended the public hearing and/or responded to written comments:

Name and Title

Kevin Brown, General Counsel and KBE/KDE Associate Commissioner, Office of Legal, Legislative and Communication Services
 Todd Allen, Deputy General Counsel, Office of Legal, Legislative and Communication Services
 Erik Carlsen-Landy, Staff Attorney, Office of Legal, Legislative and Communication Services
 Ashley Lant, Assistant General Counsel, Office of Legal, Legislative and Communication Services
 Leslie Slaughter, Executive Director to the Kentucky Board of Education, Office of the Commissioner
 Rhonda Sims, KBE/KDE Associate Commissioner, Office of Assessment and Accountability
 Kathy Moore, Executive Advisor, Office of Assessment and Accountability
 Jennifer Stafford, KBE/KDE Division Director, Division of Assessment Support
 Michael Hackworth, Program Manager, Division of Assessment Support
 John Wickizer, Data Branch Manager, Division of Accountability Data and Analysis
 Joy Barr, Program Consultant, Division of Assessment Support
 Jennifer Larkins, Program Consultant, Division of Assessment Support
 Cindy Warren, Program Consultant, Division of Assessment Support

Summary of Comments and Responses

(1) Proficiency Indicator and Separate Academic Indicator:

(a) Comment: Comments submitted for the proficiency and separate academic indicators include a question about assessments and a request for clarity.

A commenter is concerned that certain content assessments have a greater effect on the measurement than others. Commenter believes that the number of students testing could result in a disparate application of course assignment and/or re-enrollment requirements across demographic groups.

A commenter states that the draft regulation proposes using a separate “academic indicator” for both science and social studies. This separate indicator is not clearly defined.

The people speaking or offering written comment or concern on the Proficiency and Separate Academic Indicators of Kentucky's Accountability System were: Jeremiah Pope and Richard G. Innes (Bluegrass Institute).

(b) Response: English II, Algebra II, U.S. History, and Biology are Kentucky high school graduation requirement courses. Each of these courses requires an End-of-Course (EOC) assessment. Although the number of students may vary from year-to-year over the course of four years, all students take the exams as they finish the course. Proficiency for reading/writing, mathematics, science and social studies will be rated equally in elementary, middle and high schools, and in districts. The agency determined no change should be made based on this comment.

The separate academic indicator is defined in the regulation as “Separate academic indicator for science and social studies means the measure of academic status or performance for science and social studies on state assessments.” The agency determined this definition is appropriate and no change should be made based on this comment.

For clarity, a definition for "indicator" has been added as well.

(2) Growth Indicator:

(a) Comment: Comments about the growth indicator include statements about, the "annual personal target" and complexity of the calculations, the prediction model and growth value table, the credit English learners will receive, and the impact teachers' instructional methods.

Commenters applaud the Department's effort to use predictive analytics to determine the potential for growth of Kentucky students.

Several commenters are concerned about the complexity of the growth calculation and hoped the new system would be easier to understand and explain to teachers, administrators, parents and students. Commenters question how the growth indicator could lead to better instruction.

One commenter is specifically concerned since there is no growth calculation at the high school level. The commenter also believes that if the Department really wants to know the quality of a school, then measuring growth is key.

Several commenters express concern about the prediction model, trajectory, growth table, and calculation. Several commenters wonder if a model predicts that a student will advance to distinguished level, will that automatically help the school even if the student does not hit the predicted goal of distinguished in two years. Some commenters ask if the system can accurately make these predictions and wonder what value it provides to those working with students.

Several commenters are concerned about a statement that the Department has years of data in which to base the predictions and wonder the scores will align with different vendors, tests and state standards. A commenter also wonders if the growth chart is comparable across grade levels and is concerned that certain projections do not seem likely (e.g., a Distinguished student projected to score Novice Low).

Several commenters express concern that teachers will be discouraged from working with students and students will be discouraged from working harder if they are predicted to not improve. Commenters believe the model does not take into account a student's grades, education level of the parents, income level, homelessness, transient populations, free/reduced-price lunch status, geographic location or any other factors. Commenters believe that schools should be held accountable academic performance. Another commenter believes that the model does very little to reward students who perform at the Distinguished level since there is no credit for improvement for them in the predictive model.

A commenter is concerned that the language does not specify the baseline data that will be used in operationalization. The commenter suggests that a straight-line growth-to-target approach previously used by KDE would allow many schools to meet an annual proficient/distinguished goal within a demographic group even though that demographic group is performing worse than that year's targeted support and intervention Targeted Support and Improvement (TSI) benchmarks. He believes that public reporting would be better aligned to the identification of TSI each year if the reported goal cannot be set below the TSI benchmark.

There are also concerns for the lack of specifications on the measurement of progress for English Language Learners (ELLs) toward proficiency. Several commenters are concerned with inconsistency in the regulation on inclusion of ELLs. One commenter states that, as it is written, the regulation seems to allow student scores from grades 1-8 to be included in the measure, since Kindergarten could be the prior year. The commenter states that it would be fairer to limit the ACCESS score used only from students included in that year's growth measure for reading. The commenter supports the practice of using the EL students' readiness assessments and WIDA assessments as factors in their growth calculation.

A commenter states that the fixed, step-wise table (referring to the growth value table on page 16 of the regulation) has different effects on measurement depending on the specificity of the trajectory model. The commenter questions whether this table should be less defined so it can adapt to whatever model is finally chosen. Commenter argues that if the system uses a

probabilistic trajectory process that accounts for the inherent skews of the K-PREP, then the table will seem biased to schools and families because it would include: 1) some students who are proficient in the prior and current years, but who should be projected to be non-proficient (lose points); and 2) some students who are at a lower proficiency level in the prior and current years, but will be projected to be at a higher level (get points). He also thinks that a simple linear trajectory will over-reward or over-punish students with high volatility in their assessment performance.

One commenter states that the WIDA value table that uses prior year to current year is very different in model to the growth value table and argues that the growth of a math teacher's students would be valued differently than the growth of an EL teacher's students.

A commenter states that page 5, line 11 states that the growth indicator shall be measured based on a percentage of students meeting an annual personal target. The commenter believes that this is in contradiction to Section 4(4) where it seems clear that the value table allows for multiple targets with a partial crediting system - the percentage meeting an "annual personal target."

Another commenter asks how the grade 7 and 8 tests will be used to predict two years into the future when a student in grade 7 might not take another mathematics test until Algebra II in grade 10 or 11. A commenter questions the growth chart and wonders how a student performing at Novice Low could earn 1.5 points if he/she is projected to score Distinguished. A commenter wonders if this truly ever happens where a student makes that kind of gain in two years. Additionally, the commenter asks if the growth chart is comparable across grade levels (i.e., Does the combination of prior and current scores have the same proficiency predictive values across all grades?).

Those speaking or offering written comments or concerns on the Growth Indicator of Kentucky's Accountability System were: Julie Anderson, Joyce Biergans, Irina Dubinchik, Erica Hayes, Richard G. Innes (Bluegrass Institute), Justin Matson, Elizabeth Mays, Jatin Parmar, Jeremiah Pope, Joseph Prather, Michael Probus, Dr. Brennon Sapp, Shelley Thomas and Tom Wortham.

(b) Response: Growth is defined as a student's continuous improvement toward proficiency or above. Growth will be calculated using a statistical process. Using a complex statistical calculation will result in confidence in and soundness of the growth indicator. Growth is included at the elementary and middle school levels and is measured by awarding points for student performance level assigned from a growth value table based on a projection of student performance and reported using the following terms: less than catch up, catch up, keep up, and move up. The growth indicator is the student's progress toward proficiency and above rather than a comparison to others. Fluctuations occur in student performance across grades and assessments. The calculation becomes more stable as more data are collected for each individual student. Growth, under this accountability system, is not calculated at the high school level since currently there are not multiple assessments based on Kentucky standards offered. If multiple content area assessments become available at the high school level, a growth calculation could be added to the system. The agency determined no change should be made based on these comments.

Growth is affected by 1) student past performance, 2) student current performance and 3) all data available in reading and mathematics in the system. Taking these into consideration, each students' performance will be projected into the future. A trajectory is defined as a path, progression or line of development to estimate growth over a period of time. The school will be credited points based on the level where each student is on track to perform. The points are illustrated on the Growth Value Table. For growth, only novice and apprentice will be subdivided into novice high and novice low, and apprentice high and apprentice low. Growth is reported at grades 4-8 based on the state's historical data which give growth and projection data for these grades. Student growth is based on a full academic year, defined by 703 KAR 5:240 as 100 or more instructional days of enrollment within the school year. The agency determined no change should be made based on these comments.

KDE staff recommends clarification of page 5, line 11 in the regulation to remove the language of "percentage of students on track to meet their annual personal target for improvement..." The calculation will be based on a growth value table in reading and mathematics. KDE staff also recommend removing "non-English learner" from Section 4(4) and add "all."

At this time, due to the Senate Bill 1 requirement to revise standards and create new assessments, baseline years are not stated in the regulation. When assessments are field tested, student performance levels are not generated and not included in accountability. The Department will not create baseline scores from field tests. In order for baseline scores to be established, assessments must be operational. As standards are adopted and implemented, assessments will be created, field tested and operationalized. The agency determined no change should be made based on these comments.

General language was originally included in the regulation. However, there was a desire to provide more specificity in the regulation. Various value table models were considered. The value table reflects the importance of increasing and maintaining high performance. The performance levels of novice, apprentice, proficient and distinguished (NAPD) are consistent across different assessment systems. During standards setting, performance levels for specific assessments are established. The agency determined no change should be made based on these comments.

No change is recommended to the regulation regarding the interaction of achievement gap and targeted support and intervention (TSI) identification. TSI schools are identified through a normative criterion, e.g., "bottom 10% of schools." However, normative performance and reduction of achievement gaps are two separate measures and should be reported and allowed to function as specified in the accountability system without additional modifications.

To seriously consider implementing long term and conceptually deep changes in Kentucky's educational system, the accountability system must encompass multiple aspects. This accountability system reaches far beyond test scores to represent schools and districts. The interacting indicators create a portrait of each school and district. Images and/or graphics will represent the portrait of the school on a School Report Card Dashboard. The dashboard will be a simple and easy to understand representation of a multidimensional system. The agency determined no change should be made based on these comments.

Parent and teacher involvement are considered vital and critical for student success. The proposed accountability regulation does not address the specific issue of parent and teacher involvement. The agency determined no change should be made based on these comments.

Based on these comments, the agency recommends clarifying language in Sections 2 and 4 regarding the growth indicator, so that both sections will reflect a growth value table.

(3) Achievement Gap Closure Indicator:

(a) Comment: Comments regarding the Achievement Gap Closure indicator include concerns about the impact of the indicator on schools with diverse populations, gifted and talented students and the excellence gap, the metrics and calculations, need for clarification and recommendations for language additions and changes.

Commenters agree that increasing student performance in traditionally underperforming populations is important. Many commenters express that the heavy weighting of achievement gap closure indicator in the star rating system will penalize schools with highly diverse populations.

Many commenters argued that there is an advantage in the system to schools with very few gap students and a disadvantage to schools with highly diverse populations which could lead to unintended consequences.

A commenter is concerned that the data from the new system will "play out like national trends where success is determined by the economic status of the students," stating that every school or district is not on a level playing field and there are many barriers to overcome.

Another commenter states that once an EL student shows proficiency they are no longer identified as EL; therefore, KDE will always compare students that are showing that they are still learning the language to those that are not having language issues. Commenter suggests that other demographic groups are statistically lower than their counterpart peers as well.

One commenter is concerned that the regulation never clearly gives the families the right to choose which demographic group their child will be included in and questions what protections are in place to prevent gaming or "a negligence towards accuracy."

Multiple commenters assert that consideration for gifted and talented students was not given in development of the assessment, accountability and reporting systems. Commenters recommend always including "and beyond" or "and above" when using the word proficient, otherwise, advanced learners who could achieve at a level above proficient may not be given the opportunity. Commenters recommend adding gifted and talented students as a recognized individual group in data reporting and/or on the School Report Card Dashboard.

A commenter explained that some assessments only include one or two questions at distinguished level; thereby not providing the possibility of advanced-level students to completely demonstrate what they know and can do. The commenter believes that could lead to

the students being instructed in content already mastered or not reflecting growth that has occurred.

A commenter suggested that in addition to the gap-to-proficiency reporting, there should also be gap to distinguished reporting; otherwise, the excellence gap can be hidden within the achievement gap closure data. The commenter thinks that to adequately address the excellence gap, it is important to report proficiency separately from beyond proficiency. Commenters also recommend that the data should be further disaggregated to display racial and ethnic information. Schools need this data to make informed decisions about how address the gaps.

Many commenters are concerned with the metrics of the indicator and percentages of gap-to-group and gap-to-proficiency. Commenter argued gap-to-group was “overkill.” Commenters question the comparability of achievement gap closure indicator across schools, districts, and years.

Kentucky Protection and Advocacy comments that the stated goal for high school students with disabilities is 58.9%. Although they realize that 100% proficiency by 2030 is not a realistic goal, they encourage KDE to adopt long term goals and objectives that provide a more significant gap closure for students with disabilities.

In contrast, one commenter assumes that there would be an averaging of the points received for significant gap closure so that schools with more demographic groups are not given an advantage; however, as the regulation is written, the commenter assumes that having more groups allows for more points received. The commenter also asks if there will be any score-conditioning process for schools who have demographic groups that float above and below the 10-student requirement historically.

Commenters state that the regulation says "Achievement Gap Closure will be determined for the 'combined' areas of reading/writing, math, science and social studies," and suggest that this can hide serious gaps in a single subject area.

A commenter would like to know if the "sufficient percentage point" will be uniform across schools and LEAs in addition to demographic groups. The commenter also states that some groups, in theory, could have a Proficient/Distinguished percentage decrease from year-to-year and still get this point if they were previously a sufficient amount over their target.

One commenter states that in Section 4 (3)(b), there are inconsistent measurements of each group's results. He believes that in subparagraph 2, each performance level receives a different, specific number of points; in subparagraph 3, "percent proficient and above" implies equal weighting; and in subparagraphs 4-6, the use of "percent proficient" does not explain the measure for distinguished at all. The commenter encourages the Board to utilize a consistent measurement of each group's results.

The commenter believes that the gap to group calculation can be highly inconsistent, depending on group sizes and variances, suggesting that schools with less diversity are less likely to have significant differences. Commenter wonders how effect size is being accounted for. He asks

what "practically" means. The commenter also states that there is a danger of decreasing the gap by a lower performance of the upper group, potentially leading to bad decisions.

Commenters request clarification about which "current year's annual targets" will be used in order to make the regulation easier to understand and implement as well as state more clearly the bold ambition of Kentucky's call to narrow and eliminate achievement gaps. A commenter questions whether or not there will be a mechanism that will prevent an annual target for a school from being lower than that year's TSI benchmark rate and whether or not it will be appropriate to say a school has reduced a gap if the demographic group is TSI.

One commenter mentions that when the regulation mentions "two or more races compared to the reference group, which shall be the highest of these," that the 10% proportional threshold language was not used.

A commenter questions when KDE is going to address the inequitable funding of schools with many gap groups.

There are also comments about the phrase "too small to be reported individually." Commenters think it suggests that the consolidated group will change from school to school depending on how which groups meet the 10-student public reporting rule, but understand it to actually mean the unduplicated combination of all the groups listed in the definition. They recommend deleting the words "too small to be publicly reported individually."

Those speaking or offering written comments or concerns on the Achievement Gap Closure Indicator of Kentucky's Accountability System were: Julie Anderson, Lynette Baldwin (Executive Director, Kentucky Association for Gifted Education), Lynne Beavers, Lynette Breedlove (Western Kentucky University), Sara Ceresa, Erica Hays, Bill Grein, Lucy Heskins (Attorney Supervisor, Protection and Advocacy), Richard G. Innes (Bluegrass Institute), Elizabeth Mays, Shambra Mulder (Psychologist, Abundant Living Psychological and Coaching Services for Children and Adolescents), Jeremiah Pope, Joseph Prather, Michael Probus, Brigitte Blom Ramsey (Director, Pritchard Committee for Excellence) and Shelley Thomas.

(b) Response: Kentucky is committed to providing a world-class education where all students have access to rigorous academic standards, coursework and aligned assessment, regardless of skin color, heritage, language spoken, family income, zip code, or disability. It is the intent of the Achievement Gap Closure indicator to place an intentional focus on providing services for under-served populations and closing the achievement gap between student groups, not to penalize schools with diverse populations. As an educational community, members are responsible for meeting individual needs of students and preparing all students for postsecondary options. There is not an intent to provide an advantage or disadvantage to schools or LEAs. The agency determined no change should be made based on this comment.

The proposed accountability system has all students at its center and includes: personalized options for students to be transition ready with content knowledge and critical essential skills; a focus on instruction with student proficiency and growth; opportunities and access measures that go beyond tested subjects to allow for a well-rounded education and a broader picture of school

performance; data requirements that shine a light on closing the achievement gap; and an innovation pilot for a competency-based model. A well-rounded education full of rich curricula should be provided to all students, thus reducing the disparity in performance between student groups with a goal of reducing or closing the gap by moving all students to higher levels and moving those at the lowest levels more rapidly. The agency determined no change should be made based on this comment.

One requirement in the Every Student Succeed Act (ESSA) that was not required in NCLB is the inclusion of English Learners in Title I accountability. The inclusion of English proficiency in the new accountability regulation meets the ESSA requirement. ESSA allows for the inclusion of students who have exited English Learner status for up to four years. The Kentucky Department of Education intends to embrace this flexibility and includes exited English Learners in school and district accountability. The agency determined no change should be made based on this comment.

The purpose of assessment and accountability systems is much more than a student's demonstration of subject matter. Kentucky's proposed accountability system is designed to go beyond compliance with federal and state legislation (ESSA and Senate Bill 1, 2017), and focus on the student while reflecting Kentucky's values. Schools and districts must work with parents and families and vice versa to ensure a high level of achievement and expectation for students at all levels. Schools and districts must provide appropriate supports to students to reduce the disparity in performance between groups by moving all students to higher levels. One goal is to reduce gaps across the state. Schools have diverse learners with individual needs; it is the responsibility of the public school to improve the education of all its students and assist students to overcome barriers. As the proposed system emphasizes, the intent is to educate the whole child, and to go beyond test scores to ensure opportunity and access to a quality education for all. The agency determined no change should be made based on this comment.

KDE staff recommends that the wording “and above” should be included when using the word proficient as appropriate in the regulation. The agency updated the regulation based on this comment.

State-required assessments are based on the Kentucky Academic Standards (KAS). Individual items in each content area assessment are aligned to standards. The standards and aligned assessments help ensure that all students across the commonwealth are focused on rigorous standards that provide all students opportunities to learn at high levels. The KDE is mindful of the variation of student performance levels as tests are designed. Tests are challenging and few students receive perfect scores. The instructional program at the classroom level should emphasize the development of students' abilities to acquire and apply the standards and assure that appropriate accommodations are made for the diverse populations of students found within Kentucky schools. The agency determined no change should be made based on this comment.

It is important that school and districts develop a process in which they identify and provide support to the gifted and talented population of students. Local schools and districts are encouraged to set high expectations and offer supports for gifted/talented students. As the School Report Card is developed, the KDE will explore enhancing reporting of gifted and talented

students. Also, each individual content area will be reported separately and disaggregated by individual student demographic groups. The agency determined no change should be made based on this comment.

As the new accountability system was developed, education leaders discussed how the proposed policies would affect the highest achieving students. One key goal is to promote higher levels of student learning and achievement at all levels. Emphasis is placed on high achievement in the system. For example, in the growth indicator, recognition is given to students scoring at the distinguished level and for those projected to be distinguished. Another example of emphasis of high achievement is the metrics in transition readiness. Rigorous courses and aligned exams including Advanced Placement, International Baccalaureate, and Cambridge International are part of the new accountability system. Including rigorous coursework like Advanced Placement, Cambridge International and International Baccalaureate (IB) addresses the needs of high and lower performing students. The Kentucky Department of Education and Kentucky Board of Education supports the development of all students. The agency determined no change should be made based on this comment.

The school's overall rating (five-star) is based on the strength of performance on school-level measures and indicators. Supplemental designation may be noted as positive gap closure or failure to close gaps. It is important that the achievement gap reduces in the overall school rating. To earn the top two ratings (five-star and four-star), the school must demonstrate gap closure. The Department does not believe that the comparability limitations and year-to-year stability limitations to be a hindrance to the power of the overall rating. Schools must begin closing the gap with the specific student groups they serve. The agency determined no change should be made based on this comment.

Within the Achievement Gap Closure indicator, gap-to-group and gap-to-proficiency measures will be reported separately. Both measures together will identify schools with statistically significant achievement gaps and influence the school rating. The combination of gap-to-group and gap-to-proficiency is desirable since each measure reflects a different, supporting dimension of equity and excellence. A standard setting process will be conducted involving Kentucky educators to determine limits within the range of gap levels. The agency determined no change should be made based on this comment.

The Kentucky Department of Education has a strong commitment to both progress and achievement of all student demographic groups. The Achievement Gap Closure indicator is designed to reduce the disparity in performance between student groups with a goal of reducing or closing the gap by moving all students to higher levels and moving those at the lowest levels more rapidly. As goals were created, the department took into consideration the current performance of each student demographic group. The goal for academic achievement balances the improvement of proficient and distinguished performance for all students and each student group and the reduction of gaps in student group performance by fifty (50) percent by 2030. Realizing a 50% reduction in the achievement gap is ambitious, these ambitious goals show the department's strong desire to improve performance of all student demographic groups. The agency determined no change should be made based on this comment.

For accurate reflection of individual schools, KDE staff recommends changing the wording in the regulation to "Sum the total achievement gap closure points across all student demographic groups and divide by the number of student demographic groups for gap to group and gap to proficiency."

School achievement gap closure between student demographic groups and proficiency will compare the index to the current year's annual target in combined content areas of reading/writing, mathematics, science, and social studies. KDE agrees with the suggestion regarding needed consistency in Section 4 (3)(b). For consistency, KDE staff recommends updating the regulation. Points will be combined into a combined subject area index score.

The sufficient percentage point will be fair and transparent and will be uniformly applied across schools and districts. There are two ways to be uniform (absolute or relative) and both ways have been considered. KDE advocates using long-term performance of schools and if they remain above target, they will be considered successful. It may be possible for a school to far exceed their annual target one year, decrease the next year and still be above the second-year target. The agency determined no change should be made based on this comment.

The definition of practical significance is "a measure of the differences between student groups has real meaning." The intent of practical significance takes into consideration the effect size. Balancing the reduction of achievement gap between student demographic groups by weighting thirty-three (33) percent and the reduction of gap to proficiency at weighted sixty-seven (67) percent provides no incentive for lowering performance of the upper performing group, but rather keeps the focus strongly on moving all students to proficiency. The agency determined no change should be made based on this comment.

Requirements for public reporting shall include progress on long-term and interim goals as required by the federal Every Student Succeeds Act (ESSA). Goals shall be developed for every student group, including all students, for academic achievement in each content area of reading/writing, mathematics, science, social studies and the content areas combined; graduation rate based on four-year and five-year adjusted cohorts; and progress on English proficiency for English learners. 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 gaps in student group performance by 50 percent by 2030. Each student group of 10 or more students shall be compared to the reference group of the highest performing student group that is at least 10 percent of the student population. The agency determined no change should be made based on this comment.

There is not a mechanism that will prevent an annual target for a school from being lower than that year's benchmark rate, and the agency does not feel that one is necessary. The agency determined no change should be made based on this comment.

The 10% proportional threshold language is referred to in Section 4 of the regulation that includes more details about calculations. The Department recommends that the statement remain as, "which shall be the highest of these."

The KDE, National Technical Advisory Panel on Assessment and Accountability (NTAPAA), and other technical experts will determine statistical and practical significance using appropriate statistical tests. Consideration of multiple statistical tests will be given while modeling the system. Careful and thoughtful attention of tests that lead to certainty of impact are of the utmost importance. The agency determined no change should be made based on this comment.

The Consolidated Student Group will include all students identified as African American, Hispanic, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two or more races, students with disabilities who have an individual education program (IEP), and English learners. For clarity, the Department recommends removing "too small to be publicly reported" from the regulation.

The practice of selecting the appropriate student demographic group at the school or district level is not within this regulation. Local education agencies and schools are encouraged to accurately report groups and KDE will continue to monitor practice for consistency over time. The agency determined no change should be made based on this comment.

Increasing the diversity of students and the determination of a school's funding in particular schools are not included in the proposed accountability system. Public schools, charter schools will participate in the accountability system.

(5) Transition Readiness Indicator:

(a) Comment: Comments were submitted for each component of the Transition Readiness indicator: elementary and middle school, academic readiness, career readiness, military readiness, and English learners. Other general comments on the transition readiness indicator were also submitted.

There were several comments on the elementary and middle school transition readiness indicator. A commenter believes that using the content area assessment scores in transition readiness at the elementary and middle school levels doubles their weight since the scores are already used in the proficiency and separate academic indicators.

Multiple commenters question inclusion and benchmarks of the academic and career readiness components. Another commenter is concerned that performance problems in a single content area, such as mathematics, can be hidden behind the composite score that is derived from the combined areas of reading/writing, mathematics, science, and social studies.

Another commenter asks for clarification about how KDE will address students with missing assessments and questions if there will be a uniform grade level for transition or if the final grade level of a school configuration will be used (such as 6th grade at a K-6 school). One comment requests that it be completely eliminated at the elementary level and suggest a new measure be developed for middle school.

Comments about the academic readiness component of the transition readiness indicator include the advanced coursework options and benchmarks and the assessments that will be used or no

longer used. Multiple comments were also submitted in support of continuing the use of the ACT and Kentucky Online Testing (KYOTE) exam in the accountability system. Commenters believe that KYOTE benefits students by providing them the opportunity to become college-ready and avoid remedial coursework in college in addition to instilling confidence that they can be successful.

One commenter recommends that the College Board's College Level Examination Program (CLEP) be added to the options for academic readiness. Several commenters express concern about having the Advanced Placement (AP) option in academic readiness, number of AP assessments to be completed and score of 3 or higher. Also included are concerns that parents may pressure schools to graduate students early if they have already demonstrated readiness. Commenters express concern about gaming of the system is possible in the form of schools offering only the AP exams with the highest pass rates. Another commenter questions the score of 5+ on at least two or more exams for International Baccalaureate exams.

Another commenter questions whether students will be able to combine different areas to meet transition readiness. For example, if a student has three hours of KBE-approved dual credit hours with a B or higher and passes one AP exam with a 3 or higher, would that student be considered transition ready?

Comments submitted for the career readiness component of transition readiness include the topics of teacher certification, equivalent level of difficulty of obtaining industry certifications, industry certifications in high demand areas (the bonus and the limitations), and assessment measures.

One commenter would like EPSB to be involved with CTE pathways, stating that schools attempt to hire industry people as teachers but that usually doesn't work because they do not have traditional teacher certification.

Several commenters express concern for the lack of equitable access across schools and districts to offer students options for high demand industry certification and access to area technology centers with the limited number of available seats for programs. Someone also suggests that the bonus point allowance could result in the unintended consequence of schools forcing students into high demand pathways against their personal pathway choices.

A commenter states that the .25 bonus factor is coming from Senate Bill 1, but the more a student transfers from schools and/or districts, the less likely he/she will be to complete a pathway on the list. It is the commenter's opinion that schools with a high student mobility are at a disadvantage. The commenter suggests a bonus value be added to the transition readiness percentage for schools who have at or above x% of students (with y consecutive days of enrollment) with an approved pathway. One commenter questions if whether or not districts will have the availability and opportunity to offer the high demand areas that the students are interested in and are able to complete. Commenter also recommends that areas in need should be identified state-wide so that schools and districts can determine what they can offer.

A commenter asks KDE to consider adding Arts Career pathways to the career readiness indicator. The commenter suggests that their removal has hurt the Arts programs in the form of less support from schools.

A commenter recommends changing the term “KOSSA” to a more generic term such as “technical skills testing” to allow for more flexibility for career/tech programs and not be limited to only one assessment.

A commenter states the option statements which include "and" and "or" in career ready measures are unclear.

Comments addressing the military readiness component of the transition readiness indicator include the ASVAB benchmark, using the ASVAB as a culminating exam, the perception of schools or instructors as military recruiters, the requirement of enlistment for readiness credit, possible gaming, data collection and the exclusion of deaf or blind students from military eligibility. Commenters disagree with using the ASVAB as a completer exam or common capstone test for the JROTC course because, although it has a composite score, it is not a measure of competency, but a measure of vocational aptitude (a predictor, not a measure of past learning) and a recruiting tool at its core. Commenters also think that the AFQT/ASVAB benchmark of 50 is too high and not equivalent with the required college readiness benchmark. A commenter believes if it is equivalent, there should be no other requirement. Some commenters said that a lower score (35) would qualify students for entry into the military, so that standard should be accepted for Military Readiness. Another commenter suggested that a student should be able to meet the benchmark of whichever military branch he/she enlists in. Others commented that the proposed system is not requiring Academic Ready students to enroll in college or Career Ready students to show proof of having a job.

Commenters are in opposition to the proposal that a school will receive credit for a JROTC Cadet only if the student enters/enlists in the military after graduation. The commenters believe this appears to make high schools and the JROTC instructors a direct arm of the military service’s recruiting efforts and will, in essence, require instructors to teach the ASVAB as a non-accredited part of the course. They assert that the JROTC program is a citizenship program, and not a military recruiting tool. They believe that requiring enlistment goes beyond simply being considered “ready.” Commenters assert that requiring enlistment in the military is against federal law and that we cannot obligate or solicit students to perform military or other federal service. They also express concern that the proposal to require enlistment upon graduation would violate the United Nations Protocols on the Convention of the Rights of the Child, specifically that of Children Soldiers. The commenters believe that the current role of JROTC as a career-path option is not in violation of any law or convention and recommends that the proposed accountability system should not alter this configuration. One commenter questions how enlistment data will be tracked and questions if KDE will need student consent.

One commenter mentions the ineligibility of military readiness for students enrolled in Kentucky School for the Deaf and Kentucky School for the Blind. Commenters expressed concern about that language on enrollment into a third course is unclear.

Commenters are concerned about how EL students factor into the transition ready indicator. The commenter questions if an EL student meets English proficiency as a freshman, if the school does not have to make sure the student has to meet either academic, career or military readiness. He wonders if this should be credit 'in addition to' instead of an alternative readiness pathway. A commenter describes the two types of EL students in his district--those who enter during elementary school and perform strongly in 3-4 years and those who enter as newcomers in high school. The commenter believes districts with diverse populations will be penalized. A couple of commenters believe that requiring EL students to be proficient in English to be transition ready would be difficult, especially if they are just enrolling in high school. Some commenters wonder if English Proficiency scores for EL students will be accountable each year or if the students will be given a two or three year exemption. Some commenters request that provision.

A commenter states that "'shall receive credit' for each student demonstrating..." language is used for academic readiness, career readiness, and military readiness, but page 9, line 9 language uses "or." [(2) Achieve academic, career, or military readiness] Commenter believes it is the intention of the regulation that a school can earn credit if a student is ready in *one* of these three ways, but the regulation's use of "shall receive credit" language would give schools credit multiple times for a student who demonstrates readiness in multiple ways.

A commenter expressed concern that a student participating in the Alternate Assessment is limited to alternate assessment criteria given use of the word "shall" in the phrase "shall meet criteria based on alternate assessment requirements and employability skills." Commenter questions if the regulation should give students' families all options for the Least Restricted Environment and recommends using a "can" term instead.

Those speaking or offering written comments or concerns on the Transition Readiness Indicator of Kentucky's Accountability System were: Lynne Beavers, Jennifer Brogle, Royal Connell (CDR, USN-Ret, NJROTC Program Office), Bill Grein, Diana Hart, Lynn Henderson, Richard G. Innes (Bluegrass Institute), Mark Krummen, Donna J. Lucchese (Colonel, USAF-Ret), Mark Peters (LCDR, USN-Ret, SNSI), Jeremiah Pope, Joseph Prather, Megan Puckett, Amy Razor (Executive Director, Northern Kentucky Cooperative for Educational Services), Dr. Brennon Sapp, Tom Thompson and Michelle Tinsley.

(b) Response: Transition readiness is the attainment of the necessary knowledge, skills and dispositions to successfully transition to the next level of a student's educational career or life. At the elementary level, it will be measured at grade 5 and at the middle school level, grade 8, which is right before most students either enter middle or high school. For both the elementary and middle school levels, it is meeting a benchmark on a composite score that combines student performance on reading/writing, mathematics, science and social studies. For high school transition readiness, a student must earn either a regular or alternative high school diploma and meet the requirements of one type of readiness. In addition, English Learners require reclassification as English language proficient for any student who receives English language services during high school. The agency determined no change should be made based on this comment.

If a student meets the benchmark on a transition readiness measure their freshman year, the student will meet transition readiness at that time. For EL students in transition readiness, they are in the calculation twice: once for reaching EL proficiency, and another time for either reaching academic or career readiness. The agency determined no change should be made based on this comment.

Regarding the language around Alternate Assessment students, KDE staff recommend the language in the regulation be reworded to read, "students participating in the alternate assessment program shall meet criteria based on academic or career alternate assessment requirements."

To set the transition readiness benchmarks for elementary and middle schools, a standard setting process involving Kentucky educators will be used to define benchmark levels of achievement. At the time of standard setting, student performance levels in each content area will be taken into consideration to determine an overall cut score. For students who are missing scores, the last assessment that was given to the student will be used in the calculation. For students who have no assessment, then the other content areas will be proportionally redistributed and weighted for an overall score. The agency determined no change should be made based on this comment.

At the high school level, under academic readiness, KDE received comments on the college admissions exam, dual credit, advanced placement exams, International Baccalaureate exams, and Cambridge Advanced International examinations. The agency supports students having options to meet academic readiness in a variety of ways and will not amend the regulation based on the comments for academic readiness.

KDE staff recommends adding the word "students" to the end of the line so that it now reads, "At the high school level, students: 1. Earn a regular or alternative high school diploma; and 2. Achieve academic readiness or career readiness." In addition, schools cannot receive credit multiple times for students who demonstrate readiness in multiple ways. The school can only receive credit one time.

The agency reviewed the language "on the AP assessment" and changed wording within the regulation based on comments. The statement now reads "completing two (2) or more advanced placement (AP) courses and receiving a score of three (3) or higher on each AP assessment." The agency reviewed the language "course grade of B" for possible interpretations that could cause confusion. Based on the comments, the agency changed wording within the regulation from a previous version. The version now reads "completing six (6) or more hours of department-approved dual credit and receiving a grade of B or higher in each course." Senate Bill 1, 2017 specifies a score of five (5) or better on IB examinations. Therefore, the agency will not make changes to the regulation based on related comments.

College readiness assessments are summative exams utilized by colleges and universities for student admissions purposes. College placement exams are utilized by colleges and universities for student placement into appropriate college level courses. Placement exams determine the level of courses (i.e. credit-bearing, remedial, etc.), appropriate for the level of preparedness a student demonstrates. Based on information from their website, the Kentucky Online Testing

(KYOTE) program provides diagnostic and placement testing as well as practice exams. Their website also states, “The Placement Exam Program is a delivery and development system for standardized examinations used to measure preparedness for college level learning.” The KYOTE mathematics assessment includes three exam levels. Meeting benchmarks on the College Readiness exam demonstrates a student is ready to be placed in a college credit bearing course. Meeting benchmarks on the College Algebra exam or the Calculus exam demonstrates a student is ready to be placed in College Algebra or Calculus. If a student does not meet these benchmarks, they will not be placed into these courses. College placement exams are not included in the list of postsecondary readiness indicators provided in Senate Bill 1 (2017). Due to the emphasis in Senate Bill 1 on college readiness exams (such as the SAT or ACT), KYOTE is not included in the proposed system and the agency declines amendments based on these comments.

The College Board's College-Level Examination Program (CLEP) is a widely used program for college credit. Students must demonstrate a mastery of introductory college-level material to earn college credit. Only colleges may credit the course work toward a degree. CLEP is not recommended as an addition.

Rigorous courses including Advanced Placement courses are encouraged for all students including the typically underrepresented students. Local funding mechanisms may be found to support students to pay for exams. The KDE and CPE are collaborating to determine the approved courses and combination of exams needed to be academic ready. KDE recommends additional language be added to the regulation.

For career readiness, comments were received on industry certifications, Kentucky Occupational Skills Standard Assessment (KOSSA), Career and Technical Education Career Pathways, teacher certification, and the need for pathways in Visual and Performing Arts. As a statewide concern, student mobility is a factor for all schools and cannot be controlled. The agency determined no change should be made based on this comment. In addition to industry certifications under the proposed transition readiness model, the other "or" statement is earning a KOSSA as appropriate for articulated credit. The agency agrees that leaving the term as KOSSA is very specific and recommends using a more generic term to allow for more flexibility for career/tech programs and new assessments. Based on comments, the agency changed the wording in the regulation to read, "Career and Technical Education End-of-Program Assessment" in place of KOSSA.

Senate Bill 1, 2017 specifies more weight in accountability for industry-recognized certifications, licensures, or credentials identified as high demand according to their rank in state and regional areas. 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 points. Credit for students obtaining all other readiness indicators is one point. Department-approved measures contributing to the rating have not been finalized and approved by the Kentucky Board of Education. The agency determined no change should be made based on this comment.

Consideration for identifying high demand certification for each region goes through a rigorous verification process. The Kentucky Center for Education and Workforce Statistics (KCEWS)

works with each local workforce investment board to provide job and demand data for the region. Local workforce investment boards work with local economic development organizations to compile a list of industry-recognized certifications, licensures, and credentials, ranked by demand for that region. The lists are then given to the Kentucky Workforce Innovation Board (KWIB). Finally, the KWIB and KDE work together to edit and refine the list before KDE disseminates it to all school districts. The list is also reviewed by the KWIB and the KWIB Business and Education Alignment Committee in addition to being reviewed by numerous business and industry groups. School and district staff are expected to create supports for students to personalize their education, not force students into situations that benefit only the school/district.

Visual and Performing Arts are included in the Opportunity and Access indicator under the rich curricula component at elementary, middle and high school levels in the proposed system. Additionally, a teacher with certification in VPA is one of the possible options schools may select as part of the Whole Child Supports component. In addition, while the Department appreciates the commenter's desire to have the Arts Career Pathway included in the Career Readiness indicator, the agency declines to make changes to the regulation based on this comment.

Requiring that EL students be proficient in the transition readiness indicator in this new accountability model will be beneficial to students in preparing them for their next step in education or career. Additionally, ESSA requires that Kentucky's accountability system include the progress English learners make toward attaining the English language. The agency declines to make changes to the regulation based on this comment.

The overall accountability weights for transition readiness have also been a concern for some. At the elementary and middle school, the approximate weight will be 5–10 % of the overall accountability. For high school, the approximate weight will be 20-30%. For the district level, the weight will be 10-20% of the overall accountability. With concern that using all content areas in transition readiness at the elementary and middle school levels increases the weight since they are used in proficiency and separate academic indicator, the transition readiness weight will be lower at the elementary and middle school levels in the overall weighting and will remain at 5-10% as listed in the regulation. The agency determined no change should be made based on this comment.

Teacher certification requirements are established by EPSB and are outside the purview of this accountability regulation.

SB 1 specifies that students will take a college admissions exam without stipulating a specific vendor. Vendor selection and RFPs are not within the purview of this regulation.

The agency reviewed SB 1 in response to the comments it received. Based on these comments and the review of SB 1 it was noted that the regulation requires changes to more fully align with the requirements of SB 1 for transition readiness. The agency made the following amendments to career readiness and military readiness:

Career Readiness: The requirement of the student to meet two components has been removed. Instead, the student would be required to meet one measure.

Military Readiness: For Military Readiness, commenters expressed concern on the use of the ASVAB assessment and benchmark, enlistment in a military branch, and the JROTC pathways. Upon review, the agency agrees that ASVAB is not an appropriate culminating exam for a JROTC pathway that determines military/career readiness. In addition, the agency agrees that enlistment within the military goes beyond being ready. With much consideration, the agency recommends removing Military Readiness as one of the readiness measures under Transition Readiness.

(4) Opportunity and Access Indicator:

(a) Comment: Comments about the Opportunity and Access Indicator include comments about the rich curricula, equitable access, school quality and whole child supports components.

The Kentucky Counseling Association (KCA) provided comments in support of the proposed regulation and of the efforts to recognize the whole child in the accountability system, indicating the importance of fostering good mental health as part of student success. In addition, KCA commented that it is pleased with the inclusion of school counselors in the whole child supports component.

The Kentucky School Counselors Association (KSCA) appreciates that school counselors are being included in the menu of whole child supports since many Kentucky schools (especially elementary schools) do not have a full-time counselor in the building. They also appreciate the essential skills component.

KSCA recommends that the language of the proposed accountability system mirror the language in ESSA. KSCA has concerns about the wording "school-based counselor and/or mental health services provider." It states that the terms are not interchangeable as the two titles describe very different roles and training programs. KSCA recommends changing the language in the whole child supports from "school-based counselor and/or mental health professional" to "certified school counselor" or "school counselor."

Commenters believe that school counselors should be mandatory, not optional, and listed as a required measure under equitable access. Commenters state that the Office of Civil Rights lists [lack of] access to school counselors as an inequity. Commenters recommend providing additional points for schools that employ school counselors.

A commenter questions how the Department will address schools that are unable to support opportunity and access measures and asks if schools can be expected to increase those measures. Another commenter argues that the Opportunity and Access indicator uses attractive language to mask counterproductive measures and requests that the Department look at how other states address and measure these elements in their accountability systems and use those measures.

One commenter is in favor of scheduling physical education every day due to the obesity issue in our society. Commenters express concern with how at the middle school level, this indicator,

including the career exploration component, would create an environment that takes away opportunities rather than offers more of them by drastically changing the master schedule, resulting in "watering down" or shortening the length of other courses. Commenters request that career exploration be incorporated into related arts classes. A comment was submitted that, at the middle school level, for schools to achieve the highest score, every student must take a selected course yearly (visual and performing arts, health and physical education, science, social studies and career exploration).

A commenter states that the definition of "career counselor" or "career coach" does not include the professional certification or criteria this person will need. Another commenter is concerned that the majority of options for whole child supports will be measured by physical counts, while the measure for a career counselor or coach is simply "access to" those professionals. Some commenters believe that adding the "access to" a career counselor or coach measure to the whole child supports measure is redundant. Commenters argue that this position requires no specific certification and can be filled with bachelor's level staff with little or no counselor training. They recommend removing "career counselor" from the list of whole child supports.

Commenters would like for chronic absenteeism to be defined in the proposed regulation. One commenter requests assistance in communicating the need for support from court judges in the area of chronic absenteeism. A commenter believes an unintended consequence of using chronic absenteeism to assign accountability points is that schools may try to not enroll students who are chronically ill or perhaps pressure them to return to school before they are medically ready to return. Commenters also express concern that truancy is entered as a behavior event in Infinite Campus. They believe schools will be doubly penalized in this circumstance. Commenters recommend that broadening the regulatory definition of chronic absenteeism to include incidents of half-day absences where the reason for the student's early exit is attributable to the student's behavior as a type of protection for students who are repeatedly sent home early for behaviors that would not qualify as a "behavior event."

Some commenters think that the behavior events component will penalize schools with classrooms designed to serve students with emotional/behavioral issues, disabilities or other intensive needs, who sometimes must be physically restrained. They state that, in some cases, one school will serve students from surrounding counties, but will receive the penalty for the behavior events of all students. One commenter believes that a possible unintended consequence of assigning accountability points based on physical restraint and seclusion is that it might cause individuals to neglect to use the procedures when the situation warrants it. The commenter questions how standardized the physical restraint and seclusion practice and documentation are across the state.

Kentucky Protection and Advocacy (KPA) applauds the expansion of the accountability system beyond academics, particularly the Opportunity and Access Indicators and use of physical restraint and seclusion in the system.

A commenter states that there isn't any language in the regulation that a student must demonstrate proficiency as it relates to the Work Ethic Certification.

Commenters question how positive dispositions, communication and essential skills will be measured in an objective, consistent manner. One commenter discusses scoring for student "essential skills" and refers to Senate Bill 1, 2017 and KRS 158.6453, (3) (d) which stipulate that "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." The commenter also believes that there are challenging issues (such as training and certification) involved with requiring teachers or others to evaluate a student in these areas and questions if this item could result in highly inflated scoring.

A commenter recommends removing all sections of the regulations that discuss including a measurement of Essential or soft skills.

KSCA recommends moving Essential Skills to the Transition Readiness Indicator, with the stipulation that these skills are not only taught, but competency and attainment of these skills is measured.

Commenters express general and specific support for the visual/performing arts and encourage students' exposure to them, without specific reference to the regulation, by mentioning successful individuals who are passionate about the difference music made in their education and lives as well as reminiscing about their own personal experiences with the arts and how visual/performing arts helped create who they are today.

Several commenters express the opinion that the proposed regulation in regard to the arts programs is not what will be best for students. One commenter believes that the accountability system sends a clear message that Kentucky does not value the arts in schools. Another commenter is concerned that art-related experiences continue to be delegated to the bottom of an arbitrary score card for schools.

A few commenters offer the reminder that many individuals overwhelmingly expressed their support of the arts at the Commissioner's Town Hall forums across the state. They offer support and appreciation that the Department listened and has attempted to build a system responsive to the input received. Some believe that although there is evidence of an attempt to demonstrate the importance of a well-rounded education in the accountability system, the measures appear to weigh too insignificantly to send that message clearly.

Commenters recount that in the last 25 years they have seen progressively decreased representation of the arts with each new accountability system along with the weight given in the system. They believe that counting the number of students who spend seat time in a competent teacher's class is no comparison to assessing what students know and are able to do in the arts.

Commenters believe that visual/performing arts programs are not being recognized as a legitimate academic area within the regulation, but instead are being hidden within a nonacademic area of the accountability system with a diminished value--counting as a very small percentage (approximately 1-1.5 percent) of the overall accountability score for a school. Commenters assert that the visual/performing arts have content standards that are just as important as the standards in other content areas and should hold some form of academic weight.

Some commenters recommend adding an eighth indicator (weighted equally with the other seven) to address the standards-based content of a well-rounded curriculum.

Commenters recommend removing the specific number of TWO from “Whole child supports as the school determines by selecting two of the following...” from a list of options. One commenter thought that requiring only two options makes the system look weak. Many commenters express concern that schools can receive maximum credit for selecting only two. Commenters suggest that some schools might “check boxes” for compliance and will not be incentivized to do anything differently than they are currently doing. One commenter states that if point attribution is based on student ratio, some schools will have to reapportion staff to maximize points. The commenter is concerned that with that algorithm, a point maximization mindset will be more important than the “child outcome” mindset.

Several commenters question why schools should be given the opportunity to gain accountability points for providing services already mandated by statute, particularly a librarian and family resource center. One commenter believes that having a family resource and youth services center (FRYSC) included in the accountability system model creates a situation where some schools get a funding boost which helps them meet their accountability benchmarks while others receive no such support. Commenters recommend removing FRYSCs from the accountability system altogether.

Some commenters recommend that if the selection of two supports isn't changed, that a bonus point provision be added to encourage schools to have as many measures as possible. For example, 1 point for selecting two options, 2 points for 3-5 options, etc. A commenter suggested using a percentage rather than a number. A commenter suggests that the selection number be adaptable, based on school budget or some other indicator so that schools with varied resources are not judged to same standard. Some commenters believe that removing the specific number requirement will provide flexibility within the regulation as data are discovered through schools' reporting. Other commenters recommend leaving the arbitrary number of selected supports to be determined at the policy level, not in the regulation.

One commenter believes the regulation should specify who will make the determination of which supports to select (Principal, Superintendent, school based decision making (SBDM) council, LEA Board, etc.).

Commenters express concern that if the state does not incentivize keeping the arts programs, schools will not hold themselves accountable in that area of their own initiative. Commenters think that during a time of tough budgeting issues, because they won't see a “substantial impact on [their] accountability rating,” or maximum credit, schools with smaller funding streams will be forced to make opportunity cost decisions, such as staffing cuts, that will remove or decrease the arts education in their schools. Another commenter believes that if visual/performing arts does not have significant impact on accountability that administrators will continue to focus on test scores rather than on offering a well-rounded education that includes visual/performing arts. One commenter believes that even if schools reflect visual/performing arts opportunities on the master schedule, students will still be pulled from those opportunities to participate in interventions.

A commenter stresses the importance of policy language in providing stronger terms of clarity, comprehension, and boundaries for district administrative decisions. Another commenter is confused by wording in the high school Opportunity and Access Indicator, Rich Curricula where it states that students need visual and performing arts. The commenter states that currently the minimum high school graduation requirements specifically mention Arts and Humanities. The commenter questions if students would be required to take two classes or if the requirements would need to be revised.

Commenters express concern that students will be instructed by teachers who are uneducated in the subjects they are teaching. Many commenters recommend changing the language of the regulation from “Teachers with certification in the content areas of visual arts, music, dance, theatre, and media arts” to “Teachers with specialist certifications in the content areas of visual arts, music, dance, theatre, and media arts” so that teachers who are certified to teach these subjects are not confused with certified specialists in these content areas. Commenters believe this will ensure that students receive the best instruction in Visual and Performing Arts. One commenter recommends awarding more credit for employing teachers with specialist certifications. A commenter asked for clarification of “specialist” and thought the term “certified” would be preferable. Regarding teachers with certification in areas, one commenter questions if the requirement is for one teacher with one of the certifications or for an individual teacher for each of the certifications listed. The commenter also asks if the teachers will need to be full-time and if they are only needed for courses that are offered.

One commenter was a music educator who was in support of program reviews with specialists being responsible for submitting evidence for them.

One commenter states that he has found evidence using the publicly released school report card data that suggest that some schools have more students taking AP courses than they historically have being proficient in English II (EOC). The commenter states that being placed in a course has no state-defined uniformity as far as he knows – therefore, the equitable access measure for high school seems much less defined and stable than the “gifted and talented” threshold that elementary and middle schools have. The commenter asked the state to have a higher standard for equitable access than just student placement. As written, the commenter believes this has a high potential for gaming and can lead to students having a diminished power to set their own course pathway.

One commenter questions what level (elementary, middle or high) is the locally determined indicator to be established and asks what will happen if the LEA and the department cannot agree.

A commenter believes that continuing development of the regulation would be preferable to submitting an incomplete, potentially deficient regulation.

Those speaking or offering written comments or concerns on the Opportunity and Access Indicator of Kentucky's Accountability System were: Julie Anderson, Lynette Baldwin, Rayma Beal, Scott Bersaglia, Dan Brennan, Lauren Bridges, Jana Bromley, Jason Bromley, Tanya

Bromley, Vickie Brown, Rebecca Brumback, Logan Butler, David Carmichael, Megan Chitwood, Shannon Chrisco, Cathy Christian, Brice Clark, Jeff Cloyd, Jenny Collins, Greg Daugherty, Wendy Davidson, Jane Dewey, Melissa Doll, Luis Dominguez, Laura Ecken, Tracey Esters, Tonya Fox, Koree Fugate, David Gilkey, Karla Hall, Katie Hancock, Ann Harkins, Scott Harris, James Harrison, Julie Hartman, Erica Hayes, Chris Hedges, Lucy Heskins, Ashley Hogue, Richard G. Innes, Caitlin Jennings, Dennis Johnson, David Jump, Mark Krummen, Matthew Leedy, Linda Lemaster, Megan Lenox, Gina Lentz, Michelle Lewis, Julie Lucky, Justin Matson, Stephen Mattingly, Dale Mayberry, Elizabeth Mays, Dawn McFarland, Jackie Melton, Leslie Merryman, Tony Metcalf, Paul Metzger, Krista Mueller, Shambra Mulder (Licensed Psychologist Abundant Living Psychological and Coaching Services for Children and Adolescents, PLLC), Chuck Newman, Ellie Osborne, Jeremiah Pope, Joseph Prather, Michael Probus, Megan Puckett, Charlene Revel, Kara Riffe-Styer, Paul Robinson, Justin Romney, FoxyRooRoo, Sam Rouster, Ryan Rue, Stacey Russell, Christi Shelton, Phillip Shepard, Michelle Sircy, Pippa Soeder, Jennifer Spade, Michele Steiner, Kevin Stepp, John Stroube, Susan Sullivan, Shelley Thomas, Trish Torline, Holly Trenkamp, Courtney Turay, Gerald Turner, Ashley Tyree, Bentley Utgaard, Martina Vasil, Lederrick Wesley, Cindy Williams, Rebecca Williams, Laura Wilson, Andrew Witak, Tom Wortham, Jonathan Wyatt, Matt Yarborough and Deneen Zimmerman.

(b) Response: The Kentucky Department of Education (KDE) thanks commenters for their support and appreciates the work of its many shareholders in the design and development of the proposed accountability system. Comments were received regarding all areas of the Opportunity and Access indicator.

The Opportunity and Access indicator is intended to go beyond the traditional test scores to reflect the well-rounded educational experiences that support and lead to student success. This indicator will bring a new level of transparency to school data. Districts, schools and SBDM Councils determine which programs, pathways and curriculum are offered to their students.

KDE staff has reviewed the accountability systems developed by other states; however, Kentucky's accountability system is grounded in a year and a half of extensive outreach and engagement efforts with thousands of Kentuckians, including educators at all levels, families, businesses, education partners, policymakers and communities. It reflects Kentucky ideals, the values of equity, achievement and integrity and promotes what is best for our children. The agency does not recommend making changes that conform to the accountability systems of other states.

Although the regulation does not require students to take physical education classes every day, schools will receive credit for rich curricula by providing all students opportunities and access to health and physical education. Career exploration at the middle school level can include career and technical education courses as well as other courses that focus on essential skills and co-curricular learning and leadership experiences. The agency declines to make changes that require schools to adjust their master schedules.

Central to the new accountability system is the focus on the whole child. The Kentucky Department of Education (KDE) values the important role school guidance counselors play in

the school and individual student's lives. It is the department's intention to make progress in meeting the social, emotional and behavioral health needs of our students by utilizing the school guidance counselors and school-based mental health professionals within our schools and/or districts. Following consideration, the agency does not recommend removing "mental health professional" from the regulation.

In the regulation, the definition of career counselor or career coach, is "an individual who advises middle and high school students on academic and career opportunities, as well as the post-secondary education and training plans necessary to achieve such careers." At the middle and high school levels, career counseling or coaching connects academics to postsecondary and career opportunities. Schools and districts may take a variety of approaches to assist students with examining career opportunities, researching college choices and aligning student's interests to postsecondary options. Specific certification is not included in this regulation. A career counselor is different from a certified guidance counselor. A guidance counselor may assist students' development of academic and social skills that help them succeed in school. Career counselors assist students with the process of making career decisions by helping them develop skills or choose a career or educational program. They serve as liaisons between students and business and industry and will provide guidance based on labor market data to ensure opportunities for Kentucky students. Based on comments received and for consistency in whole child supports, KDE staff recommends removing "access to a career counselor or career coach" from the regulation so that it reads, "career counselor or career coach."

Attendance, truancy and chronic absenteeism were highly debated during the development of the proposed accountability system. Business and industry, education and community leaders expressed the importance of students' attendance every day. Although there was debate on the placement and definition, everyone agreed that the system should strongly promote regular attendance. Shareholders in communities, such as court judges, are necessary to provide services and support to Kentucky students and communication within the community will be critical. Following consideration, the agency does not recommend amending the definition of "chronic absenteeism."

Chronic absenteeism is reported independently of behavior events. The regulation defines behavior events as student infractions involving drugs, weapons, harassment, including bullying, alcohol, tobacco, assault first degree, other assault or violence, and state resolutions not reported. For behavior events, best practice is to create systems of prevention to minimize the need to use intensive interventions such as physical restraint and seclusion. School and district staff are expected to create supports for students, not force students into harmful situations. KDE has training and communications available for standardization of process, procedures and reporting. Following consideration, the agency does not recommend changes to chronic absenteeism or behavior events in the regulation.

Essential skills are valued by business and industry, education and community leaders. The agency does not recommend removing essential skills to the transition readiness indicator or to make changes to essential skills in the regulation within the rich curriculum category.

Essential skills is not a tested element of the accountability system, so therefore it complies with KRS 158.6453(4)(b). Work ethic certification is not an actual summative assessment as part of the statewide assessment program. Instead, the model work ethic certification looks at attendance, completion of work-based learning experiences, participation in CTE organizations, etc. As a result, there is no “assessment” or summative test of these experiences or characteristics of students. KRS 158.6453(4)(b) sets a limitation on the assessment/testing program, not the overall accountability system. The Work Ethic Certification process by which a student demonstrates essential skills and workplace readiness is in development. Details will be shared as the process is developed and approved by the Kentucky Board of Education with a full set of data measures and metrics for Opportunity and Access. For the purpose of clarity, KDE staff recommends changing the definition of work ethic certification in the regulation by removing the word "assessed" so that the definition reads “... a process by which a student demonstrates essential skills and workplace readiness.”

Kentuckians value the visual and performing arts. Conversations at the Commissioner's Town Halls and during the development of the accountability system and comments on the regulation confirm this content area's position of importance. Staff in the Kentucky Department of Education agree and the new accountability has included the visual and performing arts in the Opportunity and Access indicator under rich curriculum and whole child supports.

Quality instruction is of paramount importance to Kentucky Department of Education and the Kentucky Board of Education. The accountability regulation provides an incentive to schools who offer programs to students in the areas of the arts, foreign language, health, etc. which are taught by properly credentialed teachers. Additionally, teachers with specialist certification are a selected measure in whole child supports. Based on the comments and following consideration, KDE staff recommends adding “specialist” to the regulation so that it reads, “Teachers with specialist certification in visual art, music, dance, theatre, media arts, physical education, health, and world languages.” The agency declines to add visual and performing arts as an eighth indicator or to make other changes to visual and performing arts in the regulation.

Kentucky's new accountability system is designed to help ensure that all students have robust experiences that are precursors to high achievement and growth as well as equitable availability to research-based student experiences and school factors that impact student access. It is important that schools and districts make good decisions that are in the best interest of students and are not harmful to their success. Each option in opportunity and access in the whole child supports will be encouraged and publicly reported. The determination of which supports to select is a local decision. Schools and districts will be closely monitored to ensure a quality education experience for all students. Reporting publicly the supports (or lack of supports) being offered will allow parents, business and community leaders and educators to understand the quality education experiences and opportunities offered to students in each school and district. The agency determined no change should be made based on this comment.

State law requires school library media specialists, but allows for them to be shared among schools. A substantial body of research since 1990 clearly demonstrates the importance of quality school library programs to students' education. Research shows that a well-stocked library staffed by a certified library media specialist who provides high quality programming has

a positive impact on student achievement, regardless of the socio-economic or educational level of the community. FRYSC funding is available based on a threshold of 20% of students qualifying for free and reduced priced meals. There are strict guidelines for FRYSC operation and funding. Department staff have reviewed the current data for full-time library media specialist and FRYRC across the state. Over 75% of Kentucky schools already have a full-time library media specialist and fewer than seven districts do not receive FRYSC funding. The current data demonstrate that these two measures will not provide a range of performance in the accountability system and will be easily achieved by most schools. Following consideration, KDE staff recommends removing library media specialist and FRYSC from the list of selected whole child supports and adding them to the reporting information for the school. This change will also increase the potential for teachers with specialist certification to be selected in whole child supports.

Although some commenters recommend bonus points, unintended consequences can often be the result of additional or bonus points. Following consideration, the agency does not recommend amending the regulation to include additional or bonus points.

Per Senate Bill 1, 2017, Program Reviews were discontinued. Specific metrics of Opportunity and Access are not identified in this regulation. Once data are available, the Kentucky Board of Education will approve through Board policy the measures of opportunity and access including the accumulation of credit and details will be communicated. Following consideration and in alignment with Senate Bill 1, the agency declines to make changes to the regulation that would restructure equitable access or add program reviews.

The locally determined indicator will be established for each LEA through a negotiated process between LEAs and KDE. The locally determined indicator may focus on one or multiple levels (elementary, middle or high). To be included in accountability, the locally determined indicator shall be established. If no locally determined indicator is established, the district will be unable to receive credit in the accountability system. Based on the comments, the agency will not amend the locally determined indicator component in the regulation. However for clarity, the agency recommends amending the placement within the regulation of the locally determined indicator.

In response to the comment implying that the regulation is incomplete and potentially deficient, pursuant to KRS 13A.100, administrative bodies promulgating regulations shall prescribe “Each statement of general applicability, policy, procedure, memorandum, or other form of action that implements; interprets; prescribes law or policy; describes the organization, procedure, or practice requirements of any administrative body; or affects private rights or procedures available to the public.” However, KRS 13A.100 does not require such policies and procedures incorporated into administrative regulation to be so prescriptive that every possible detail or scenario is incorporated into the regulation. Instead, the agency may promulgate a regulation which sets forth a framework for the policy or procedure, leaving the agency to determine how to best operate within that framework. Therefore, the agency does not recommend making the regulation more prescriptive.

(6) Graduation Rate Indicator:

(a) Comment: Only one comment was submitted for the Graduation Rate indicator. A commenter asks if students who receive a graduation code after age 19 are included in the Graduation Rate indicator. The commenter is concerned that alternate assessment students may get graduation codes later to achieve their transition ready goals, which will be after their 9th grade cohort's fifth year.

The person speaking or offering written comments or concerns on the Graduation Rate Indicator of Kentucky's Accountability System was: Jeremiah Pope.

(b) Response: Students in the alternate assessment program may remain in school until age 21 to complete transition goals. Under NCLB and the waiver process, states had to include these students in graduation rates as earning a non-standard diploma. Their inclusion did not contribute positively to the graduation rate of the school and district. With ESSA, students in the alternate assessment may be included positively in the graduation rate calculation if states can meet specific federal criteria. KDE staff have been in conversation with staff in the United States Department of Education on the specific criteria and how the students may be included positively in federally-required calculations for graduation rate for 4-year and extended 5-year rates.

Upon review of the commenter concern, KDE staff does not recommend a change of wording in the regulation.

(7) Overall Rating:

(a) Comment: Comments about the Overall Rating component of the accountability system include suggestions for language change and/or clarification as well as claims that the rating method will penalize schools with diverse populations.

Several commenters claim that the five-star system appears to reward schools with less diversity. They propose that the statistical difference between the highest and lowest gap groups will hurt schools that have diversity, including English learners. Several commenters offer concern that the new system is in favor of homogenous schools, not diversity. One commenter is concerned the proposed system will be harmful to the structure of Jefferson County Public Schools' diversity. A commenter stated that pushing schools to eliminate achievement gaps will create false results. Commenters express the concern that the new model appears to discourage diversity in schools. They believe the system issues scores based on tests that haven't happened. One commenter states the model in multiple areas comes from a deficit-based approach, instead of highlighting the positive teaching and innovations that are occurring in schools.

One commenter states that the stipulation of limiting schools with significant gap issues to only three stars is providing too much specificity in the regulation and believes that the level is arbitrary. The commenter also suggests that if the Board really wanted to emphasize gap issues, then limit schools with a significant gap issues to a 2- or 1-star rating.

A commenter believes that every accountability system since the 1990s has a fundamental error and that this proposal is not an exception. The commenter states that the draft regulation averages too much material together to develop just one, final star rating. The commenter states

that this approach trivializes the importance of the individual components. The commenter argues we can expect to find examples of gross under-performance in specific individual areas hidden behind some very high ratings for schools. The commenter argues the new accountability system will never establish credibility if high or even moderate star ratings are given for somewhat similar situations. The commenter advocates for additional accountability “triggers” with resulting actions when problems exist in important sub-areas such as basic academic proficiency in key subjects like mathematics and reading or when notable achievement gaps are present. One commenter believes that the star system of rating is outdated and that it attempts to combine metrics that should not be combined.

A commenter states that the regulation lists three rules that are inconsistent when discussing the three-star rating eligibility. The commenter recommends using consistent language with the suggested wording: "Schools and LEAs may not be rated above three stars if they: (a) Have an achievement gap closure ratio of low or very low (b) Are identified for targeted support and improvement, or (c) Have statistically significant achievement gaps. The commenter argues that the three rules will identify three different sets of schools based on three different mathematical procedures.

A commenter wonders how schools that do not conform to the traditional configurations of 3-5, 6-8 and 9-12 will be treated within the overall system. The commenter describes trouble seeing the “approximate weight” terminology and the 9 (b) tables as being congruent and states that they contradict sharply. The commenter also believes that ESSA requires the one-star to include the bottom five percent of the Title 1 schools but not the bottom five percent overall.

A commenter suggested the system relies heavily on state tests and stated that 80%-90% of the school’s score is based on end-of-year assessments. The commenter also believes that the “significant number” from the notes column of the star charts included in the regulation should be defined.

One commenter questions the overall objective of the rating system and wonders if we are redirecting funds to more 5-star schools in an attempt to build a foundation for charter schools. Several commenters were concerned there was a potential hidden agenda to promote charter schools, neighborhood schools, specialty schools and application-only schools, not public schools.

A commenter includes a table on hypothetical weights. The commenter states that this proportional redistribution could lead to a bigger shift in the overall weighting of indicator groups. The commenter gives the example that, under the model, the green indicators are 60% of the overall measure, but if growth cannot be calculated, then the proportional redistribution leads to the yellow indicators now representing 57% of the overall measure. The commenter states that shifts like this would seem to be very different measures and wonders if they would truly be comparable. The commenter also believes that there is a proportional floor that ESSA requires of certain academic indicators and asks if some indicators like proficiency should be mandatory and if a school should be able to get an overall rating without it.

Those speaking or offering written comments or concerns on the Overall Rating of Kentucky's Accountability System were: Joyce Biergans, Richard G. Innes (Bluegrass Institute), Jatin Parmar, Jeremiah Pope, Brigitte Blom Ramsey (Director, Pritchard Committee for Excellence) and Shelley Thomas.

(b) Response: Kentucky's star ratings will be a criterion-referenced system where Kentuckians establish the standards for quality performance for Kentucky public schools in a standard-setting process. Standards will be set for each indicator to define low to high performance and for the overall star ratings. These standards will serve as benchmarks against which school and LEA performance may be evaluated and rated in the accountability system. Senate Bill 1 (2017 Kentucky General Assembly) requires that Title I and Non-Title I schools are treated equally in the accountability system.

The star charts included in the regulation outline profiles of performance needed to earn each star rating. The overall accountability weights are shown as a range to communicate the relative emphasis of each indicator within the profiles of performance and will serve as the low and high limits for each indicator's contribution to the overall star rating. The star charts were further elaborated during the standard setting process including the statistically-based significant number language that appears in the note column of the star chart. The dashboard will report individual indicators and the overall state rating. A benefit of averaging within the indicators allows the inclusion of more data using a simple and easy to understand mathematical function. The agency recommends no change be made based on this comment.

As required by ESSA, performance on academic indicators will contribute significantly more to the overall rating of a school or LEA than student quality factors. The system uses multiple academic and school quality measures, not a single test or indicator.

The accountability system directly focuses attention on Kentucky's achievement gap and provides incentives to reduce the gap. If Kentucky's goal to reduce the gap by 50% by 2030 is to be achieved, schools must move all students to higher levels and move those at the lowest levels more rapidly. To achieve this critical goal, it is important that reducing the achievement gap influence the overall star rating. To earn the top two ratings (five-star and four-star), the school must demonstrate gap closure. The accountability system's focus on achievement gap closure and its influence on the star rating does not exist to penalize schools with diversity or promote any particular type of public school. Rather it is a means to highlight a significant problem in the Commonwealth and report, with transparency, how Kentucky is addressing and improving the problem.

The agency declines to mend the regulation with regard to averaging, weights or the 5-star rating system.

KDE staff recommends clarifying language in the regulation to clearly identify how schools and local education agencies (LEAs) may not be rated above three stars. The regulation reads, (f) Schools and LEAs may not be rated above three stars if they:

1. Have an achievement gap closure indicator of low (L) or very low (VL), or
2. Are identified for targeted support and improvement (TSI), or

3. Have statistically significant achievement gaps.

(8) System as a Whole:

(a) Comment: Comments were submitted about the proposed accountability system as a whole. The commenters were concerned about the cost of implementing the system, the complexity of the system, the impact of the system on schools with diverse populations, the complexity of the calculations and lack of specificity.

Commenters are pleased with the addition of the Dashboard in the School Report Card and finds the concept useful for transparency.

Several commenters are concerned about the overall cost of the new assessment and accountability system. One commenter is concerned that there is no funding for the new accountability system. The commenter states that without additional funding, this will be incredibly punitive and demoralizing for schools.

The agency received several comments regarding the notion that people expected the new accountability system to be more simplistic and easily explained. Several commenters like the attempt the Department made by using the Dashboard 5-star system to simplify the overall picture of a school's performance, but dislike the anticipated difficulty to explain calculations and measures.

Commenters express concern that there are a significant number of students (e.g., foster children) who are unable to complete a full academic year within the same school/district, essentially leaving no school or district accountable for these students. Commenter recommends counting all students in the accountability system, regardless of their continued enrollment.

One commenter feels the new system, which seems similar to the previous system, tends toward a micromanaging format, dictating mandatory requirements, even courses, at every level. Another commenter maintains that the new testing format takes up too many instructional days. The commenter is also concerned that the system pressures students, parents and employees and loses sight of the whole well-being of the students. Another commenter supports diverse programs in schools rather than trying so hard to make all kids perform to a certain score on their K-PREP exams and other tests as a measure of success.

A commenter questions the primary objective for the proposed regulation changes and questions which changes specifically will help accomplish this goal. A commenter is concerned that there is a greater potential for penalties than the accrual of points in the proposed accountability system. The commenter also states that the new proposed regulation has missing details about scoring various elements to clearly and completely define the regulation. Commenter argues no scoring examples are available to predict how the system will actually work or how the gaps will be identified and scored in an effective manner. The commenter also suggests that the lack of specificity makes the system unenforceable and questions whether or not it could withstand a legal challenge. Another commenter states that the unknowns regarding the testing system are problematic. Another commenter questions if the Board will be able to revisit the regulation after

the first round of testing and make modifications as warranted. Commenter also questions the wisdom of the Board's approving something with a notable number of unresolved issues. One commenter is interested in if this system was modeled after any school/county in the United States and if so are there any success stories from this model.

A commenter states that in regard to the system being fair, reliable, and valid, there have been no simulation data made available to test the values. Commenter argues that districts cannot run their own simulation data based on the regulation. Some commenters believe that although KDE has identified ten as the minimum reportable subgroup, an n-count as low as five students can both protect student privacy and ensure statistical stability. The commenter requests that the minimum subgroup size be reduced to five students, ensuring greater transparency in the performance of the smallest at-risk subgroups.

Three commenters understand and appreciate the amount of work that has gone into developing the proposed accountability system. One commenter supports the elimination of ranking schools, the dashboard approach to reporting and the data sets behind it that can serve to inform further decision making, and the addition of non-academic indicators that support quality instruction. Another commenter states, "I am confident the KDE will strengthen this system as we move forward. I am excited about the possible positive changes this system can make in the lives of our students."

Those speaking or offering written comments or concerns on the system as a whole for Kentucky's Accountability System were: Joyce Biergans, Tanya Bromley (Kentucky Coalition for Arts Education), Sara Ceresa, Irina Dubinchik, Laura Ecken, Lucy Heskins (Attorney Supervisor, Children and Youth Team, Kentucky Protection and Advocacy), Richard G. Innes (Bluegrass Institute), Lisa Kimbrell, Justin Matson, Elizabeth Mays, Marnie McAllister, Jatin Parmar, Joseph Prather, Michael Probus, Amy Razor (Executive Director, Northern Kentucky Cooperative for Educational Services), Dr. Brennon Sapp and Tom Wortham.

(b) Response: The Kentucky Department of Education appreciates the willingness of individuals to review and comment on the proposed regulation. The feedback is highly appreciated and will help improve the educational system in Kentucky.

State-required assessments are developed to measure the attainment of student knowledge and skills. Standards and assessments will be continuously reviewed and revised. Per Senate Bill 1, 2017, "beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a process for reviewing Kentucky's academic standards and the alignment of corresponding assessments for possible revision or replacement to ensure alignment with postsecondary readiness standards necessary for global competitiveness and with state career and technical education standards." The design of the accountability system is dynamic to support new assessments. While cost is a concern, it is not under the purview of this accountability regulation. The format (types, time, etc.) of assessments has not been determined and is not under the purview of this accountability regulation.

Kentucky's accountability system goes beyond compliance with federal and state legislation (ESSA and SB1, 2017) to focus on students and reflect Kentucky's values. Citizens of Kentucky have expressed the importance of a variety of educational factors.

Comment refers to the definition of "Full Academic Year" of 100 or more instructional days of enrollment within the school year. This definition is included in the administrative regulation 703 KAR 5:240 — Accountability administrative procedures and guidelines. Beginning with No Child Left Behind, states were required to define full academic year for accountability reporting. Full academic year is used for school and district reporting. All students enrolled in Kentucky public schools are reported for the state. After careful review of the comment, the agency declines to change the regulation.

Pursuant to KRS 13A.100, administrative bodies promulgating regulations shall prescribe "Each statement of general applicability, policy, procedure, memorandum, or other form of action that implements; interprets; prescribes law or policy; describes the organization, procedure, or practice requirements of any administrative body; or affects private rights or procedures available to the public." However, KRS 13A.100 does not require such policies and procedures incorporated into administrative regulation to be so prescriptive that every possible detail or scenario is incorporated into the regulation. Instead, the agency may promulgate a regulation which sets forth a framework for the policy or procedure, leaving the agency to determine how to best operate within that framework. It is under the Kentucky Board of Education's authority to revisit a regulation at any time.

To achieve a balance between stability in the system and inclusion of every student demographic group, a minimum n-count of ten is proposed. The minimum count of ten students to be reported provides the stability of reporting and protection of student data. Other approaches to protect student score data are less transparent and do not provide the clarity desired. KDE is committed to the inclusion of every student demographic group. As an example of this commitment, a consolidated student group will be reported. Combining scores into a consolidated student group will allow reporting for student demographic groups too small to be reported individually and separately. The agency declines amendment to change the minimum n-count to a number other than ten.

Performance data and information will be reported in an online report card. The first page for each school will show a dashboard displaying the overall rating and the performance on indicators of the accountability system. The dashboard will be accessible to all. However, the specifics around the school report card and the dashboard are not under the purview of this accountability regulation.

(9) General Comments:

(a) Comment: General comments about the accountability system included topics of norm-referenced assessments and teacher accountability.

Two commenters wonder why the norm-referenced parts of assessments have been eliminated. They ask why we would not want a way to know how students are performing compared to their national peers.

One commenter questioned how teacher accountability falls within the proposed accountability system?

Those speaking or offering general written comments or concerns about Kentucky's Accountability System were: Lisa Kimbrell, Elizabeth Mays, Shambra Mulder (Psychologist, Abundant Living Psychological and Coaching Services for Children and Adolescents), Shelley Thomas and Rebecca Williams (Professor, Murray State University).

(b) Response: The national norm-referenced test (NRT) requirement was removed by Senate Bill 1, 2017.

The Department is committed to providing support for improving educator effectiveness in schools and districts across Kentucky through providing relevant research, best practice guides and models, technical assistance, and professional learning. Teacher accountability and evaluations are not included in the \accountability system.

The specifics around the school report card and the dashboard do not fall under the accountability regulation. Therefore, changes to the regulation will not be made in response to comments about the school report card.

(10) Language Clarifications:

(a) Comment: A commenter believes the phrase "too small to be publicly reported individually" suggests that the consolidated group will change from school to school, depending on which groups meet the 10-student public reporting rule. Therefore, the commenter recommends deleting the words "too small to be publicly reported individually" from the consolidated group definition.

A commenter suggests that, as written, the "Consolidated student group" suggests the combination of any group not large enough to be publicly reported individually. However, commenter understood that this was the unduplicated combination of all the groups listed in this definition.

A commenter is concerned that the shareholders are likely to misinterpret the definition of consolidated student group and recommends changing the name of the group to something like "entity specific consolidated student group."

A commenter states that the regulation currently explains that Achievement Gap Closure and Opportunity and Access ratings will be defined in a standard setting process. The commenter recommends adding language about standard setting to the other indicators.

A commenter is concerned that some of the language in the indicators sometimes states "shall be measured by awarding credit" and sometimes "shall be measured."

Regarding the language, "school quality as measure by a "lack of" student chronic absenteeism, behavior events, and physical restraint and seclusion," a commenter states that this "a lack of"

terminology would suggest a binary measure. The commenter questions if this would prevent the state from using a partial crediting value table like those used elsewhere in the regulation.

One commenter is concerned that all students not participating in the alternate assessment have the "or" language used for transition credit, while students participating in the alternate assessment are the only group required to meet the "and" language. Commenter argues this seems unfair from an accountability perspective.

A commenter asked that KDE explore the feasibility of not requiring equal weighting of the content areas if it is not mandated by ESSA. The commenter believes that this would give the Department the flexibility to assign credit that balances the desire to signal that all content areas are of equal importance.

Those speaking or offering written comments or concerns on language clarifications in Kentucky's Accountability System were: Lynette Breedlove (Western Kentucky University), Richard G. Innes (Bluegrass Institute) Jeremiah Pope, Joseph Prather and Brigitte Blom Ramsey (Director, Pritchard Committee for Excellence).

(b) Response: Following review of the comment, the agency amended the regulation to remove "too small to be publicly reported individually".

Following review of the comment, the agency amended the regulation to read, "The individual indicators and the overall rating shall be developed through a standard setting process..."

Following review of the comment, the agency amended the regulation to add\ language to clarify all indicators will be addressed during standard setting.

Following review of the comment, the agency amended the regulation to remove "by awarding credit".

The measurements of chronic absenteeism, behavioral events, and physical restraint and seclusion all have a negative impact on student performance and quality. The Department's goal is a reduction or "lack of" chronic absenteeism, behavioral events, and physical restraint and seclusion. Upon review of the comment regarding "lack of" in reference to chronic absenteeism, the agency declines to make amendments.

While students who participate in the Alternate Assessment program have specific criteria to measure performance for academic readiness and for career readiness. All students are expected to become either academic or career ready. Following review of the comment, the agency amended the regulation to replace "and" with "or" to read, "Students participating in the alternate assessment program shall meet criteria based on academic or career alternate assessment requirements."

The weighting of content areas was discussed frequently during the accountability development process. Upon review of the comment regarding weighting of content areas, the agency declines

to make amendments. The content area weights are included in the Kentucky plan submitted to U.S. Department of Education and a federal response is expected in the future.

Summary of Statement of Consideration and
Action Taken by Promulgating Administrative Body

The Office of Assessment and Accountability, Division of Assessment Support, has responded to the comment from the public hearing and public comment period regarding proposed amendments to 703 KAR 5:270. The Office proposes the following amendments based on comments, suggestions and general review of the document by office staff for consistency, flow and readability:

Page 2

Section 1 (7)

Line 13

Remove "too small to be publicly reported individually" from the definition of Consolidated student groups.

Page 2

Section 1 (8)

Line 17

Remove the word "area" and insert "indicators". After growth, insert "and transition readiness."

Page 3

Section 1 (10)

Line 1

Remove the word "includes" and insert "means" in the definition of Federal student group designation.

Page 3

Section 1 (15)

Line 13

Add a definition for the term indicator, "(15) "Indicator" means a component of the accountability system that provides specific information on the school or district."

Page 3 and 4

Section 1 (15)

Line 13

Renumber definitions 15-32 due to the addition of the definition for indicator.

Page 4

Section 1 (26)

Line 13

After the words Rating means the, insert "process of" in the definition of rating.

Page 4

Section 1 (30)

Line 23

Remove “is assessed based upon his/her demonstration of,” insert “demonstrates.”

Page 5

Section 2 (3) (a)

Line 12

Remove “by awarding credit as follows: The percentage of students who meet or are on track to meet their annual personal target for improvement based on an individual student trajectory toward proficiency” and insert “Based on a Growth Value Table.”

Page 5

Section 2 (4)

Line 17

Remove “by awarding credit.”

Page 5

Section 2 (4) (a) 2.

Line 23

Insert “students” to free/reduced-priced meal eligible and to non-free/reduced-priced meal eligible.

Page 6

Section 2 (5)

Line 8

Remove “by awarding credit”.

Page 6

Section 2 (5) (a) 3.

Line 19

Remove “in grades four (4) and five (5)” and insert “excluding the primary talent pool.”

Page 6

Section 2 (5) (a) 4.

Line 21

Remove “as the school determines,”

Insert “or” after school nurse;

Remove “c. Library media specialist; d. Family resource/youth services center; or”.

Change “e” to “c.”

Page 7

Section 2 (5) (a) 4.

Line 2

Add “specialist” before certification.

Page 7

Section 2 (5) (b) 4.

Line 16

Remove “as determined by the school”, insert “or” after school nurse.

Page 7

Section 2 (5) (b) 4.

Line 19-20

Remove “c. Library media specialist; d. Family resource/youth services center; or”.

Page 7

Section 2 (5) (b) 4.

Line 21

Add “specialist” before certification.

Page 7

Section 2 (5) (b) 4. e.

Line 21 and 23

Change “e” to “c” and “f” to “d”.

Page 7

Section 2 (5) (b) 4. f.

Line 23

Remove “Access to”, insert “Career”.

Page 8

Section 2 (5) (c) 4.

Line 13

Remove “as the school determines,”.

Page 8

Section 2 (5) (c) 4. b.

Line 15

Insert “or” after school nurse.

Page 8

Section 2 (5) (c) 4. c.

Line 16

Remove “c. Library media specialist; d. Family resource/youth services center; or”.

Page 8

Section 2 (5) (c) 4.

Line 18

Add “specialist” before certification.

Page 8

Section 2 (5) (c) 4. f.

Line 20

Remove “Access to a”, capitalize “Career”.

Page 8

Section 2 (5) (c) 5.

Line 21

Remove “Within opportunity and access, the locally determined indicator shall be included in the accountability rating of each LEA. Each LEA shall propose to the department the targeted goal or objective that is specific, measurable, achievable, relevant, and time bound. Through discussion and deliberation, the LEA and the department shall enter into an agreement on the goals or objectives of the locally determined indicator.”

Page 9

Section 2 (6)

Line 3

Remove “by awarding credit”.

Page 9

Section 2 (6) (b)

Line 11

After school level, insert “, students”.

Page 9

Section 2 (6) (b) 2.

Line 13

Remove “,” after academic readiness, insert “or”.

Remove “, or military readiness as follows:”, insert “.”

Page 9

Section 2 (6) (b) 2. i.

Line 16

Insert “or” after admissions examination.

Page 9

Section 2 (6) (b) 2. ii.

Line 17

Remove “department”, insert “Kentucky Department of Education”.

Page 9

Section 2 (6) (b) 2. ii.

Line 18

Remove “course” before grade.

Insert “in each course; or” after higher.

Page 9

Section 2 (6) (b) 2. iii.

Line 20

Delete the word “the” and insert “each” before AP. Insert the word “or” after assessment.

Page 9

Section 2 (6) (b) 2. v.

Line 24

Remove the “.” after examinations, insert “; or”.

Page 10

Section 2 (6) (b) 2.

Line 1

Insert “vi. Completing a combination of academic readiness indicators listed above. vii.

Demonstration of academic readiness shall include one quantitative reasoning or natural sciences and one written or oral communication, or arts and humanities, or social and behavioral sciences learning outcomes.”

Page 10

Section 2 (6) (b) 2. b. ii.

Line 8

Remove “Kentucky Occupational Skill Standards Assessment (KOSSA) as appropriate” and insert “Career and Technical Education End-of-Program Assessment”.

Page 10

Section 2 (6) (b) 2. b. ii.

Line 10

Remove “and”, insert “or”.

Page 10

Section 2 (6) (b) 2. b. iii.

Line 11

Remove “department”, insert “Kentucky Department of Education”.

Page 10

Section 2 (6) (b) 2. b. iii.

Line 12

Remove “course”.

After the word higher, insert “in each course”.

Page 10

Section 2 (6) (b) 2. b. iv.

Line 13

Remove “Completing two (2) credits in a career and technical education program of study and was enrolled in a third credit in a CTE program of study; or ”.

Change numbering due to removal of iv.

Page 10

Section 2 (6) (b) 2. b. v.

Line 15

Remove “department”, insert “Kentucky Department of Education”.

Page 10

Section 2 (6) (b) 2. b. vi.

Line 17

Remove “department”, insert “Kentucky Department of Education”.

Page 10

Section 2 (6) (b) 2. c.

Line 19

Remove “c. A school shall receive credit for each student demonstrating military readiness by:
i. Scoring at or above the department-approved benchmark of the Armed Forces Quality Test (AFQT) on the Armed Services Vocational Aptitude Battery (ASVAB); and ii. Enlisting in a branch of military service; or iii. Completing two (2) certificates of training and was enrolled in the third credit within a Junior Reserve Officer Training Corps (JROTC) program.”

Page 11

Section 2 (6) (b) 2.

Line 1 and 3

Changed letters due to removal of “c.”

Page 11

Section 2 (6) (b) 2. e.

Line 4

After criteria based on, insert “academic or career”.

Delete “and employability skills.”

Page 11

Section 3. First sentence

Line 8

Remove the word "districts", insert "LEAs".

Page 12

Section 3 (3)

Line 13

After (d), insert "(e) Within opportunity and access, the locally determined measures shall be included in the accountability rating of each LEA. Each LEA shall propose to the department the targeted goal or objective that is specific, measurable, achievable, relevant, and time bound. Through discussion and deliberation, the LEA and the department shall enter into an agreement on the goals and objectives of the locally determined measure."

Page 12

Section 4 (1)

Line 20

Remove the words "in districts" and replace with "LEAs".

Page 12

Section 4 (2)

Line 23

Remove the words "for science and social studies".

Page 12

Section 4 (2) (b)

Line 10

Remove the words "If data are not available for the" and replace with "For any".

Page 13

Section 4 (2) (b)

Line 4

Insert the words "where data are not available" after social studies.

Page 13

Section 4 (3)

Line 8

After gap closure indicator, insert "that includes gap to group and gap to proficiency".

Page 13

Section 4 (3) (a) 1.

Line 13

After at least (10) students, insert "African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two or more races, and White."

Page 13

Section 4 (3) (a) 1. a.

Line 16

Remove the words "Reference group compared to" and insert "Comparing".

Page 13

Section 4 (3) (a) 1. a.

Line 18

After the word White, insert "to a reference group."

Page 14

Section 4 (3) (a) 1. b.

Line 1

Insert the word "students" after the word eligible both times in that sentence.

Page 15

Section 4 (3) (b) 2.

Line 4

After the words content area assessments, insert "into an index".

Page 15

Section 4 (3) (b) 3.

Line 7

Remove the words "percent proficient and above", insert "index".

Page 15

Section 4 (3) (b) 3.

Line 8

After the words year's annual target, insert "developed by the Kentucky Department of Education".

Page 15

Section 4 (3) (b) 3.

Line 9

Insert a "," after the word science.

Page 15

Section 4 (3) (b) 4.

Line 10

Remove the words "percent proficient" and insert "index".

Page 15

Section 4 (3) (b) 5.

Line 14

Remove the words "percent proficient" and insert "index".

Page 15

Section 4 (3) (b) 6.

Line 19

Remove the words "percent proficient" and insert "index".

Page 15

Section 4 (3) (c)

Line 23 and 24

After the words student demographic groups insert "and divide by the number of student demographic groups".

Page 16

Section 4 (3) (d)

Line 1

After the words gap closure points, insert "the Kentucky Department of Education will conduct".

Page 16

Section 4 (3) (e)

Line 6

Remove the word "report", insert "include".

After the words gap data, insert "in accountability".

Page 16

Section 4 (4) (b)

Line 14

After the words shall be assigned, insert "from a growth value table".

Page 16

Section 4 (4) (b)

Line 14 and 15

After projection of student performance, remove "from a growth value table".

Page 16

Section 4 (4) (c)

Line 18

Remove "each student" and insert "all students".

Page 17

Section 4 (4) (e)

Line 1

Remove "each student" and insert "all students".

Page 17

Section 4 (4) (f) 2.

Line 8

Remove "shall be" and insert "was".

Page 16

Section 4 (4) (f) 2.

Line 9

After technical experts to determine, insert "an".

Remove the word "criteria" and insert "benchmark".

Remove "shall be" and insert "was" before generated.

Page 18

Section 4 (4) 4.

Line 6

Remove "non English learner" and insert "all".

Page 17

Section 4 (5)

Line 10

After the word middle, remove the word "and".

Page 17

Section 4 (5)

Line 11

After the word schools, insert ", and LEAs."

Page 17

Section 4 (5) (a)

Line 13-15

After the word supports, insert "based on data collected from Kentucky's student information system and other statewide systems for individual students."

Page 19

Section 4 (8) (a)

Line 22

Remove the word "district" and insert "LEA".

Page 22

Section 4 (9) (d)

Line 4

Insert "individual indicators and the" before overall rating.

Page 22

Section 4 (9) (e)

Line 12

Remove "Schools or LEAs with statistically significant achievement gaps may" and insert "and shall".

Page 22

Section 4 (9) (e)

Line 14

Between (e) and (f), insert "(f) Schools and LEAs may not be rated above three stars if they: 1. Have an achievement gap closure indicator of low (L) or very low (VL), or 2. Are identified for targeted support and improvement (TSI), or 3. Have statistically significant achievement gaps."

Page 23

Section 4 (9) (f)

Line 4

Change "(f)" to "(g)".

Page 23

Section 4 (9) (g)

Line 9

Change "(g)" to "(h)".

Page 23

Section 4 (9) (g)

Line 10

After equal proportion to, insert the word "remaining."