

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 703 KAR 5:240. Accountability administrative procedures and guidelines.

6 RELATES TO: KRS 158.6451, 158.6453, 158.6455

7 STATUTORY AUTHORITY: KRS 158.6453, 158.6455

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453(3)(a) and KRS

9 158.6455(2)(a) require the Kentucky Board of Education to promulgate administrative

10 regulations to create and implement a balanced statewide assessment and accountability program

11 that measures the achievement of students, schools, and districts; complies with the federal

12 **Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq.**, [~~No Child Left Behind Act~~

13 ~~of 2001, 20 U.S.C. secs. 6301 et seq.~~], or its successor; and ensures accountability. This

14 administrative regulation establishes administrative procedures and guidelines for Kentucky's

15 assessment and accountability program.

16 Section 1. Definitions. (1) "A1" means a school that:

17 (a) Is under administrative control of a principal and eligible to establish a school-based

18 decision-making council; and

19 (b) Is not an alternative education program operated by, or as a part of, another school.

20 (2) "Alternative education program" is defined by KRS 160.380(1)(a).

1 (3) "Full Academic Year" means 100 or more instructional days of enrollment within the school
2 year.

3 Section 2. Assigning Students for School and District Accountability. (1)(a) A student enrolled
4 in an A1 school for a full academic year shall be counted in the accountability membership of the
5 A1 school and shall be attributed to the A1 school for accountability purposes. This shall include
6 state agency children or other students who have been enrolled in an A1 school by any authority.

7 (b) A student qualifying as an early graduate based on criteria defined in 704 KAR 3:305 shall be
8 included in the school's accountability calculation in the year in which the student graduates
9 whether or not the student has a full academic year of enrollment.

10 (2) A student enrolled in an A1 school and attending an alternative education program during the
11 year as a result of local school district policies or procedures shall be counted in the
12 accountability membership of the A1 school and shall be attributed to the A1 school for
13 accountability purposes if the student's combined enrollment in the A1 school and alternative
14 education program is a full academic year.

15 (3) A student enrolled in an alternative education program for a full academic year as a result of
16 local school district policies or procedures without any enrollment in an A1 school during the
17 same year shall be attributed to the accountability of the district that the student would have
18 attended if not enrolled in the alternative education program.

19 (4) A student not enrolled in any A1 school or an alternative education program for a full
20 academic year, but enrolled in a district for a full academic year, shall be assigned to the district
21 for accountability purposes.

1 (5) The Department of Education shall monitor alternative school placements. If evidence
2 indicates a district is inappropriately placing students into alternative programs to avoid inclusion
3 in accountability, it shall be further investigated by the Department of Education.

4 Section 3. Assigning Students for State Accountability. (1) Students enrolled in alternative
5 education programs, and not attributed to an A1 school or district, shall be aggregated into a state
6 level accountability report.

7 (2) If a student, before completing a full academic year in a school or district as provided in
8 Section 2 of this administrative regulation, is enrolled in an alternative education program by a
9 court, a governmental agency other than a Kentucky public school, or Kentucky school district,
10 the student shall be accountable to the state.

11 Section 4. Inclusion of Schools in Accountability. (1) All A1 schools shall receive annual
12 accountability classifications as established in 703 KAR 5:270 [~~703 KAR 5:200, Section~~
13 ~~4(6)(b)~~], for the state's assessment and accountability system [~~and shall receive recognition or~~
14 ~~support as provided by 703 KAR 5:225~~].

15 (2)(a) For reporting purposes, all alternative education programs shall receive annual
16 accountability reports based on tested students.

17 (b) Reports for alternative education programs shall be separate from the A1 school
18 accountability reporting.

19 (c) The alternative education program reports shall outline the unique features and characteristics
20 of the alternative education program and the appropriate uses and limitations of the data.

21 [~~(d) State support and recognition as provided in 703 KAR 5:225 may apply to an alternative~~
22 ~~education program at the discretion of the Commissioner of Education if resources are available.~~]

1 Section 5. Standard Grade Configuration for Accountability. (1) Accountable grade level
2 configurations shall be elementary, middle, or high school.
3 (a) Elementary shall include any configuration of grades K-5 or K-6.
4 (b) Middle school shall include any configuration of grades 5-8 or 6-8.
5 (c) High school shall include any configuration of grades 9-12.
6 (2) An A1 school or an alternative education program shall fall into one (1), two (2), or three (3)
7 grade level configurations for accountability reporting.

8 Section 6. Reporting of Schools with Changed School Service Area. (1)(a) For reporting
9 purposes, a school's past data trend shall be removed from public reporting if a school has a
10 significant change in its stable population.

11 (b) A school shall be considered to have a stable population, if as a result of a change in service
12 area boundaries or local board of education policies affecting student population served by a
13 school, the population of the school remains at sixty (60) percent or higher of its original
14 students from the previous year in the accountability grades.

15 (c) To determine if the population is stable, the number of students in the stable population shall
16 be divided by the total number of students in the grades included in the accountability
17 calculations.

18 1. If the stable population is sixty (60) percent or higher, the school's past trend data shall be
19 reported.

20 2. If the stable population is less than sixty (60) percent, the school's past trend data shall not be
21 reported.

22 (2) A school district shall notify the Department of Education of any school that **will have** [has]
23 an unstable population compared to the prior year[s] by **June 30** [~~October 1~~].

1 Section 7. Data Review and School or District Appeal of Accountability Classifications. (1) A
2 written request for a data review shall be submitted to the Department of Education within ten
3 (10) days after the Department of Education officially releases the final accountability
4 classifications as established in **703 KAR 5:270** [~~703 KAR 5:200, Section 4(6)(b)~~], to the public.

5 (2) A written appeal of a final accountability classification shall be submitted to the
6 Commissioner of Education within forty-five (45) days after the Department of Education
7 officially releases the accountability classifications. The appeal of a final classification shall:

8 (a) Identify clearly the basis for the wrongful effect on the calculations used to place a school
9 into a classification; and

10 (b) Detail the requested adjustment to be made to the calculations used to place a school into a
11 classification.

12 (3)(a) The request for an appeal for a school accountability classification shall be signed by the
13 principal upon approval of the school council. If there is no school council, the request shall also
14 be signed by the superintendent, upon approval of the local board of education.

15 (b) The request for an appeal for a district accountability classification shall be signed by the
16 superintendent upon approval of the local board of education.

17 (4)(a) Department of Education staff shall review the request for an appeal against the standards
18 set forth in KRS 158.6455 **(6)**[~~(8)~~].

19 (b) A committee shall be appointed by the Commissioner of Education to review the pending
20 appeals and make recommendations to the Commissioner of Education as to whether to dispute
21 an appeal. The committee may include a teacher, a parent, a principal, a district assessment
22 coordinator, a superintendent, and a counselor.

1 (c) If the appeal is disputed by the department, it shall submit the request to the hearing officer
2 for the Kentucky Board of Education.

3 (5) The hearing officer shall conduct a hearing in accordance with KRS Chapter 13B. The
4 hearing officer shall submit a written recommended order to the Kentucky Board of Education
5 for the board's consideration in rendering its final order, in accordance with KRS Chapter 13B.

6 Section 8. Student Participation in State Assessments. (1)(a) All students enrolled shall
7 participate at the appropriate grade level for the state-required assessments in grades 3-12 [~~8, the~~
8 ~~college readiness tests, and the writing on demand tests~~].

9 (b) For assessment and accountability purposes, the state shall not use the primary level
10 designator and all students in grades 3-12 shall be assigned a single grade level. The assigned
11 grade level shall determine the state tests to administer.

12 (c) Exceptions for testing shall be made for medical-exempted students **or extraordinary**
13 **circumstances** [~~and foreign exchange students~~].

14 (d) Students categorized as English Learners (EL) shall follow testing guidelines set forth by the
15 federal **Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq.** [~~No Child Left~~
16 ~~Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.~~], or its successor.

17 [~~(2) High school students shall participate in the state-required end-of course testing program~~
18 ~~after completing the appropriate course linked to the end-of course test.~~]

19 **(2)** [~~(3)~~] For the state assessments in grades 3-12 [~~8, the college readiness tests, and the writing~~
20 ~~on demand tests~~], a school shall test all students during the test window that are enrolled in each
21 accountability grade on the first day of the school's testing window and shall complete a roster in
22 the electronic application provided by the Department of Education.

1 ~~[(4) For the end of course examination, the school shall test all students enrolled at the~~
2 ~~completion of the course associated with the state required end of course examination and shall~~
3 ~~complete a roster in the electronic application provided by the Department of Education.]~~

4 (3) ~~[(5)]~~ A student retained in a grade in which state-required assessments are administered shall
5 participate in the assessments for that grade again and shall continue to be included in all
6 accountability calculations. ~~[A high school student who re-takes a course attached to an end-of~~
7 ~~course examination shall take the end-of-course examination at the end of the appropriate~~
8 ~~coursework.]~~

9 (4) ~~[(6)]~~ A student who is suspended or expelled but continues to receive instructional services
10 required under KRS 158.150 shall participate in the state-required assessments.

11 Section 9. Students Not Participating in State-Required Assessments. (1) If a student does not
12 participate in state-required assessments, the school at which the student was enrolled on the first
13 day of the testing window shall include the student in the roster in the electronic application
14 provided by the Department of Education.

15 (2) A student who does not take the state assessments and does not qualify for approved
16 exempted status shall be assigned the lowest reportable score on the appropriate test for
17 accountability calculations.

18 (3) A student reaching the age of twenty-one (21) years of age who no longer generates state
19 funding under Support Education Excellence in Kentucky shall not be required to participate in
20 state-required assessments.

21 (4) A student who is expelled and legally not provided instructional services under the standards
22 established in KRS 158.150 shall not be considered to be enrolled for a full academic year, and
23 shall not be included in accountability calculations.

1 (5) If a student has been expelled or suspended at some point during a year and is enrolled but
2 does not complete the state-required assessment, the student shall be included in the
3 accountability calculation.

4 (6)(a) If participation in the state-required assessment would jeopardize a student’s physical,
5 mental, or emotional well-being, a school or district shall submit a request for medical
6 exemption, which shall be subject to the approval of the Department of Education and which
7 describes the medical condition that warrants exempting a student from the assessments.

8 (b) An identified disability or handicapping condition alone shall not be considered sufficient
9 reason for granting a medical exemption to state-required assessment and accountability
10 requirements.

11 (c) A student with an approved medical exemption **or extraordinary circumstance** shall be
12 excluded from state-required assessments and state and federal accountability calculations.

13 [~~7) A foreign exchange student may be assessed with state required assessments, but the foreign~~
14 ~~exchange student scores shall not be included in the accountability calculations.]~~

15 **7)** [~~8)~~] If the student moves out of state or [to a private school before state-required assessments
16 can be completed in the school or district’s announced testing window, the student shall be
17 excluded from accountability calculations.

18 Section 10. Required Participation in the National Assessment of Educational Progress (NAEP)
19 and State-Required Field Testing. (1) If a school is selected by the U.S. Department of Education
20 or its designated contractors to participate in NAEP testing, the school shall participate fully.

21 (2) If a school is selected by the Department of Education to participate in field testing for state
22 assessment purposes, the school shall participate fully. [~~38 Ky.R. 1407; 39 Ky.R. 32; eff. 7-13-~~
23 ~~2012; 41 Ky.R. 2042; eff. 6-8-2015.)]~~