

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Not Amended After Comments)

5 703 KAR 5:270. Kentucky's Accountability System.

6 RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, 20 U.S.C. 6311

7 STATUTORY AUTHORITY: KRS 158.6453, 158.6455

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453 requires the Kentucky Board

9 of Education to create and implement a balanced statewide assessment program that measures

10 the achievement of students, schools, and districts; complies with the federal Every Student

11 Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor; and ensures accountability.

12 KRS 158.6455 requires the Kentucky Board of Education to create an accountability system to

13 classify schools and districts, including a process for annual summative performance evaluations

14 and goals for improvement. This administrative regulation establishes the statewide system of

15 accountability, and meets requirements set forth in the federal Every Student Succeeds Act of

16 2015 at 20 U.S.C. 6311. Section 1. Definitions. (1) "Achievement gap" means a measure of the

17 performance difference between student demographic groups to each other for reading and

18 mathematics.

19 (2) "Comparison group" means the student demographic group being contrasted to the reference

20 group.

(3) "English learners" in the indicators of growth and transition readiness means students currently identified on an English language proficiency exam. For all other areas, it means students currently identified and those who continue to be monitored.

(4) "Federal student group designation" means targeted support and improvement, and comprehensive support and improvement as provided in KRS 160.346.

(5) "Federally defined student demographic groups" include White, African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, free/reduced-price meal eligible, students with disabilities who have an IEP, and English learners.

(6) "Full academic year" means 100 or more instructional days of student enrollment within the school year.

(7) "Grade 12 non-graduates" means all students enrolled in grade 12 at the end of the school year who do not graduate.

(8) ~~(7)~~ "Graduation rate" means the percentage of students who enter high school and receive a diploma based on their cohort in four (4) and five (5) years, adjusting for transfers in and out, émigrés, and deceased students.

(9) ~~(8)~~ "Growth" means a student's continuous improvement toward proficiency or above.

(10) ~~(9)~~ "Indicator" means a component of the accountability system that provides specific information on the school or district.

(11) ~~(10)~~ "Individual education program" or "IEP" means an individual education program as defined in 707 KAR 1:002.

(12) ~~[(41)]~~ "Local education agency" or "LEA" for the purposes of this administrative regulation shall mean a local school district as provided in KRS 161.010 and KRS 161.020 or a charter school board of directors as provided in KRS 161.1590.

(13) ~~[(42)]~~ "Practical significance" means a measure of the differences between student groups has real meaning.

(14) ~~[(43)]~~ "Proficiency indicator" means the measure of academic status or performance for reading and mathematics on state assessments.

(15) ~~[(44)]~~ "Proficient" or "proficiency" means reaching the desired level of knowledge and skills as measured on academic assessments.

(16) ~~[(45)]~~ "Quality of school climate and safety indicator" means the measures of school environment.

(17) ~~[(46)]~~ "Rating" means the process of inclusion of an indicator in the formal overall rating of the school or district.

(18) ~~[(47)]~~ "Reference group" means a student demographic group to which another group is contrasted to provide a benchmark for performance.

(19) ~~[(48)]~~ "Separate academic indicator for science, social studies, and writing" means the measure of academic status or performance for science, social studies, and writing on state assessments.

(20) ~~[(49)]~~ "Transition readiness" means the attainment of the necessary knowledge, skills, and dispositions to successfully transition to the next level.

(21) ~~[(20)]~~ "Value table" means a set of numbers that are used to attribute scores to different performance levels.

~~(21)~~ (22) "Writing" means the content area that includes on-demand writing, and editing and mechanics.

Section 2. Kentucky's accountability system that is used to classify schools and LEAs shall include the indicators of: proficiency; separate academic indicator for science, social studies, and writing; growth; transition readiness; quality of school climate and safety; and graduation rate.

(1) The proficiency indicator shall be measured by student performance on state tests in reading and mathematics.

(2) A separate academic indicator shall be measured by student performance on state tests in science, social studies, and writing.

(3) The growth indicator shall be calculated at the elementary and middle school levels. The growth indicator shall be measured:

(a) Based on a growth value table in reading and mathematics; and

(b) Progress toward achieving English proficiency by English learners.

(4) The quality of school climate and safety indicator shall include perception data from surveys that measure insight to the school environment.

(5) The transition readiness indicator shall be measured at high school for students meeting the following criteria:

(a) Earn a regular or alternative high school diploma plus grade 12 non-graduates; and

(b) Achieve academic readiness or career readiness.

1. A school shall receive credit for each student demonstrating academic readiness by:

a. Scoring at or above the benchmark score as determined by the Council on Postsecondary

Education (CPE) on the college admissions examination or college placement examination; or

- b. Completing six (6) hours of Kentucky Department of Education approved dual credit and receiving a grade of C or higher in each course; or
 - c. Completing two (2) advanced placement (AP) courses and receiving a score of three (3) or higher on each AP assessment; or
 - d. Receiving a score of five (5) or higher on two (2) examinations for international baccalaureate courses; or
 - e. Scoring at or above the benchmark on two (2) Cambridge Advanced International examinations; or
 - f. Completing a combination of academic readiness indicators listed above.
 - g. Demonstration of academic readiness listed in paragraph 5 (b)1 of this section shall include one (1) quantitative reasoning or natural sciences and one (1) written or oral communication; or visual and performing arts; or humanities; or social and behavioral sciences learning outcomes.
2. A school shall receive credit for each student demonstrating career readiness by:
- a. Scoring at or above the benchmark on industry certifications as approved by the Kentucky Workforce Innovation Board on an annual basis; or
 - b. Scoring at or above the benchmark on the career and technical education end-of program assessment for articulated credit; or
 - c. Completing six (6) hours of Kentucky Department of Education approved CTE dual credit, and receiving a grade of C or higher in each course; or
 - d. Completing a Kentucky Department of Education approved or labor cabinet-approved apprenticeship; or
 - e. Completing a Kentucky Department of Education approved alternate process to verify exceptional work experience.

3. For students who qualify as English learners in high school: Meeting criteria for English language proficiency to be English language ready.

4. Students participating in the alternate assessment program shall meet criteria based on academic or career alternate assessment requirements.

(6) The graduation rate indicator shall be measured for each high school using the four (4)- year and extended five (5)-year cohort rate. The graduation rate shall be reported for all students and student groups.

Section 3. Classification of Schools and LEAs in the State Accountability System. (1) Data shall be included in the overall rating for schools and LEAs for the following indicators:

(a) Proficiency (reading and mathematics);

(b) Separate academic indicator (science, social studies, and writing);

(c) Growth (elementary and middle school);

(d) Transition readiness (high school);

(e) Quality of school climate and safety; and

(f) Graduation rate (high school).

(2) Data from individual student performance on state assessments administered as required in KRS 158.6451 and KRS 158.6453 shall be included in the overall rating of each school and LEA. This data shall include students with disabilities with IEPs who participate in the alternate assessment program.

(3) Data in the overall rating shall be attributed to grade level spans for schools and LEA as established in this subsection.

(a) Elementary schools shall include data from: proficiency; separate academic indicator for science, social studies, and writing; growth; quality of school climate and safety; and federal student group designation.

(b) Middle schools shall include data from: proficiency; separate academic indicator for science, social studies, and writing; growth; quality of school climate and safety; and federal student group designation.

(c) High schools shall include data from: proficiency; separate academic indicator for science, social studies, and writing; transition readiness; graduation rate; quality of school climate and safety and federal student group designation.

(d) LEAs shall include data from: school proficiency; separate academic indicator for science, social studies, and writing, growth; transition readiness; graduation rate; and quality of school climate and safety.

Section 4. Calculations for Reporting Categories. (1) Proficiency for reading and mathematics shall be rated equally in elementary, middle and high schools and LEAs by awarding points as described in paragraph 2(b) of this section.

(2) The separate academic indicator for science, social studies, and writing shall be rated in elementary, middle and high schools, and in LEAs by awarding points as described in paragraph 2(b) of this section. The highest proportion shall be attributed to science and social studies.

(a) For any content area (reading, mathematics, science, social studies, and writing) where data are not available, the data of the remaining content areas shall be redistributed proportionally across proficiency and separate academic indicator.

(b) The following chart shall be used to calculate the points for proficiency and the separate academic indicator:

Proficiency Levels	Points Awarded for Each Percent of Students
Novice	0
Apprentice	.5
Proficient	1
Distinguished	1.25

(3) Growth shall be rated for elementary and middle schools as established in this subsection.

(a) Novice and apprentice performance levels for growth calculations shall be subdivided into novice high, novice low; and apprentice high, apprentice low.

(b) The school calculation for mathematics shall be the sum of the total points from the growth value table for all students divided by the total number of scores.

(c) The values in the growth value table below shall be used in calculating growth in this subsection.

Growth Value Table (Points for student performance in Year 2, given Performance in Year 1)						
	Novice		Apprentice		Proficient	Distinguished
Year 1 Student Performance	Low	High	Low	High		
Distinguished	0	0	0	0	0	50
Proficient	0	0	0	0	50	100
Apprentice High	0	0	0	50	100	150
Apprentice Low	0	0	50	100	150	200
Novice High	0	50	100	150	200	250
Novice Low	0	100	150	200	250	300

(d) The school calculation for reading shall be the sum of the total points for all students from the growth value table plus growth for English language proficiency as described in Section 4(3)(e) of this administrative regulation divided by the total number of scores.

(e) Progress toward achieving English proficiency by English learners shall be calculated as follows:

1. Individual growth shall be compared to prior year performance on an English proficiency exam.

2. The exit benchmark and English learner growth value table created involving Kentucky educators and advised by technical experts shall be utilized.

3. Points for each English learner based on the English learner growth value table shall be summed.

a. Depending on further analysis, Kentucky may modify the value table and its use to reflect factors that may impact English learners' progress toward language proficiency, including age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling.

b. The values in the growth value table below shall be used in calculating growth in this subsection.

WIDA ACCESS score previous year	WIDA ACCESS score current year							
	1	1.5	2.0	2.5	3.0	3.5	4.0	4.5
4.0	0	0	0	0	0	0	50	100
3.5	0	0	0	0	0	50	100	150
3.0	0	0	0	0	50	100	150	200
2.5	0	0	0	50	100	150	200	250
2.0	0	0	50	100	150	200	250	300
1.5	0	50	100	150	200	250	300	300
1.0	0	100	150	200	250	300	300	300

4. Total points for English learners shall be added to the sum of the reading growth points for all students in reading as described in Section 4(3)(e) of this administrative regulation.

(f) For an overall school growth score, an average of reading scores that includes growth for English learners on an English proficiency exam and mathematics growth scores shall be calculated.

(4) The quality of school climate and safety indicator shall be rated for elementary, middle, high schools, and LEAs as established in this subsection. The Kentucky Board of Education shall approve the measures of quality of school climate and safety.

(5) Transition readiness shall be calculated by dividing the number of high school graduates plus grade 12 non-graduates who have met measures of transition readiness plus the number of English learners who have achieved English language proficiency by the total number of graduates plus grade 12 non-graduates plus the number of graduates who have received English language services during high school. 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 (1.25) points. Credit for students obtaining all other readiness indicators is one (1.0) point.

(6) Graduation rate is the percentage of students completing the requirements for a Kentucky high school diploma compared to the cohort of students beginning in grade nine. The accountability system shall include a four (4) year cohort rate and an extended five (5) year cohort rate. Each rate shall be weighted equally.

(7) The overall rating shall be assigned as follows:

(a) The indicators for each school and LEA as identified in Section 3 of this administrative regulation shall contribute to the overall rating of schools and LEAs.

(b) Indicators identified in Section 3 shall have a rating of very low, low, medium, high, or very high by school and LEA level.

(c) A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to determine very low to very high performance levels for each indicator

including proficiency, separate academic indicator, growth, transition readiness, graduation rate, and quality of school climate and safety.

(8) An overall star rating for elementary, middle, and high schools shall be reported using a five (5) star rating system to communicate performance of schools, with one (1) star being the lowest rating and five (5) stars being the highest rating. Performance of schools, LEAs, and state will be reported by level (elementary, middle, and high) as applicable. The School Report Card shall display the star ratings earned for each school, LEA, and state (by level) and the total five (5) stars available.

Overall Accountability Weights						
	Proficiency (Reading and Mathematics)	Separate Academic Indicator (Science, Social Studies, and Writing)	Growth (including English Language Learners)	Quality of School Climate and Safety	Transition Readiness (High school includes English language learners)	Graduation Rate (4 and 5 year cohort)
Elementary/ Middle Schools	35	26	35	4	--	---
High Schools	45	15	---	4	30	6

(b) The performance on indicators that contribute to the overall star ratings shall be determined by a standards setting process involving Kentucky educators.

(c) If achievement gaps are found in schools and LEAs earning a four (4) or five (5) star rating, the star rating will be reduced by one (1) star.

1. Achievement gap shall be calculated between student demographic comparison groups and reference groups for reading and mathematics combined by:

a. Determining the student demographic groups to be included in this subsection, which shall include the following student demographic groups that have at least ten (10) students: African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White.

(i) Comparing African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White to a reference group. The

reference group shall be the highest performing racial and ethnic student group that has at least ten (10) students and constitutes at least ten (10) percent of the students enrolled in the school;

(ii) Free and reduced price meal eligible students compared to non-free and reduced price meal eligible students;

(iii) Students with disabilities who have an IEP compared to students without IEPs; and

(iv) English learners compared to non-English learner students.

b. Using a statistical analysis for each pair of comparison and reference groups, the department shall determine if a gap between the comparison group and reference group is both statistically and practically significant.

(d) Kentucky will identify schools to determine bottom five (5) percent and ten (10) percent based on the indicators of the (five) 5-star system.

(e) If data cannot be calculated for an indicator, the weights shall be redistributed proportionally to remaining indicators that shall be reported for the school or LEA.

(9) School accountability indicators shall be assigned as follows:

(a) Students enrolled for a full academic year shall be included in the calculations for proficiency, a separate academic indicator for science, social studies, and writing,, growth, quality of school climate and safety, and transition readiness for a school and LEA.

(b) Graduation rate calculations shall be based on the students' final enrollment.

(c) Student demographic groups shall have a minimum of ten (10) students to be included in school rating calculations.

(d) In accordance with KRS 158.6455, schools and districts shall be placed into one (1) of five (5) star ratings established by a standards-setting process utilizing results from the first operational administration of assessments in 2018-19. The process shall:

1 1. Be advised by the National Technical Advisory Panel on Assessment and Accountability; the
2 School Curriculum, Assessment and Accountability Council; and the Office of Education
3 Accountability; and

4 2. Use accepted technical procedures and involve Kentucky school and district administrators
5 and teachers.

6 Section 5. Public reporting requirements. (1) The Kentucky Department of Education shall report
7 disaggregated data for each indicator of the state assessment and accountability system.

8 (2) Progress on long-term and interim goals shall be reported publicly as required by the federal
9 Every Student Succeeds Act. Goals shall be developed for every student group, including all
10 students, for academic achievement in each content area of reading, mathematics, science, social
11 studies, and writing, and the content areas combined; graduation rate based on four (4) year and
12 five (5) year adjusted cohorts; and progress on English proficiency for English learners.

13 (3) The goal for academic achievement operationalizes both the improvement of proficient and
14 distinguished performance for all students and each student group and the reduction of gaps in
15 student group performance by fifty (50) percent by 2030. Each student group of ten (10) or more
16 students shall be compared to the reference group of the highest performing student group that is
17 at least ten (10) percent of the student population.

18 (4) Goals for graduation rate shall be generated for a four (4) year adjusted cohort to ninety-five
19 (95) percent for all students and an extended five (5) year cohort to ninety-six (96) percent for all
20 students. The goal for progress on English language proficiency shall be based on the percent of
21 students making progress toward attainment of the English language.

22 (5) Performance levels of each indicator (proficiency for reading and mathematics, a separate
23 academic indicator for science, social studies, and writing, growth, transition readiness, quality

1 of school climate and safety, and graduation rate) from very low to very high on each indicator
2 will be determined by Kentucky educators with a standards setting process.
3 (6) Federal designations and statistically and practically significant achievement gaps will be
4 reported for each school, LEA, and state. This is to certify that the chief state school officer has
5 reviewed and recommended this administrative regulation prior to its adoption by the Kentucky
6 Board of Education, as required by KRS 156.070(5). [~~44 Ky.R. 848, 1567, 2008; eff. 2-26-2018;~~
7 ~~45 Ky.R. 2179, 2707, 3068; eff. 5-31-2019.)~~]

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Kevin C. Brown
Interim Commissioner of Education

(Date)

Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on February 24, 2020 at 10:00 a.m. in the State Board Room, 5th Floor, Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until February 29, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov .

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 703 KAR 5:270
Contact Person: Todd Allen, todd.allen@education.ky.gov
Phone number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes state accountability requirements for Kentucky's public local education agencies (LEAs) and schools.

(b) The necessity of this administrative regulation: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools and districts, complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specific details for establishing the indicators and measures of the state-required accountability system for Kentucky public LEAs and schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specific details for establishing the statewide accountability program that rates LEAs and schools based on performance of multiple indicators: proficiency (reading and mathematics), separate academic indicator (science, social studies and writing), growth (elementary and middle schools only), graduation rate (high school only), transition readiness (high school only), and quality of school climate and safety. The multiple indicators incorporate the student test results and school quality measures. The regulation complies with state statute and the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation establishes state accountability requirements for Kentucky's public local education agencies (LEAs) and schools. The amendments to this regulation will change the Transition Readiness calculation to include all grade 12 non-graduates as required federally.

(b) The necessity of the amendment to this administrative regulation: After feedback from the United States Department of Education (USED), regulatory changes are required to have Kentucky's Consolidated State Plan approved.

(c) How the amendment conforms to the content of the authorizing statute: This administrative regulation provides specific details for establishing the indicators and measures of the state-required accountability system for Kentucky public LEAs and schools.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides specific details for establishing the statewide accountability

program that rates LEAs and schools based on performance of multiple indicators: proficiency (reading and mathematics), separate academic indicator (science, social studies and writing), growth (elementary and middle schools only), graduation rate (high school only), transition readiness (high school only), and quality of school climate and safety. The multiple indicators incorporate the student test results and school quality measures. The regulations amendments complies with state statute and the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public LEAs and schools in Kentucky with grade 3 or higher and supporting staff in the Kentucky Department of Education (KDE).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: KDE, LEAs and schools shall implement the specific details of the assessment and accountability system. The regulation defines the indicators and measures to be included in the accountability system used to evaluate and rate the performance of Kentucky's public LEAs and schools. The system is a multi-dimensional model that uses student- and school-based data to differentiate performance. The Kentucky Department of Education implements and manages the accountability system, as established and promulgated in regulation by the Kentucky Board of Education. LEAs and schools implement the required assessments and processes that generate data reported annually in the accountability system. The data reported help schools and districts improve student achievement and growth, close the achievement gap among groups, ensure students are ready to transition to the next step of education or life, and provide quality school climate and safety for students.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The accountability system requires no additional direct costs to the LEAs and schools. LEA's and schools may choose to implement new programs or services in response to the new accountability system that may result in additional costs for LEA's and schools, however, this would be a locally determined decision.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The accountability system has several key goals: promote higher levels of student learning and achievement, reduce achievement gaps and ensure equity, establish opportunity and access for students to receive a quality education, build a culture of high expectation and continuous improvement, and communicate a clear and honest understanding of strengths and opportunities for improvement in LEAs and schools.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The transition to the new accountability system required KDE to implement activities such as standard setting, additional staff time, and the support of experts, each with associated

costs. The accountability system requires no additional cost to the LEAs and schools. KDE anticipates additional costs to implement new assessments and reporting requirements codified in Senate Bill 175 (2019 Kentucky General Assembly). The results of these assessments are used to rate schools in the accountability system established by this regulation.

(b) On a continuing basis: Senate Bill 175 (2019) requires continual reviews of standards and assessments. There will be ongoing costs to implement new assessments and meet reporting requirements, particularly the release of some assessment items annually. These activities directly support the accountability system established in this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general and federal funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increased fees or funding are anticipated as a result of this regulation, however activities related to this regulation as required by SB 175 (2019) may require additional funding as described above.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Regulation does not establish or increase fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and LEAs.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 703 KAR 5:270
Contact Person: Todd Allen, todd.allen@education.ky.gov
Phone number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Public Local Education Agencies (LEAs) and schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453; KRS 158.6455; 20 U.S.C. secs. 6301 et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? The transition to the accountability system required the Kentucky Department of Education (KDE) to implement activities such as standard setting, additional staff time, and the support of experts, each with associated costs. The accountability system requires no additional cost to the LEAs and schools. KDE anticipates additional costs to implement new assessments and reporting requirements codified in Senate Bill 175 (2019 Kentucky General Assembly). The results of these assessments are used to rate schools in the accountability system established by this regulation.

(d) How much will it cost to administer this program for subsequent years? Senate Bill 175 (2019) requires continual reviews of standards and assessments. There will be ongoing costs to implement new assessments and meet reporting requirements, particularly the release of some assessment items annually. These activities directly support the accountability system established in this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): There will be ongoing costs to implement new assessments and meet reporting requirements, particularly the release of some assessment items annually. These activities directly support the accountability system established in this regulation.

Other Explanation: N/A

STATEMENT OF CONSIDERATION
Relating to 703 KAR 5:270
Kentucky's Accountability System

Kentucky Board of Education
Department of Education

Not Amended After Comments

- I. A public hearing was scheduled for the above regulation on February 24, 2020 at 10:00 a.m. Eastern Time at the Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky, but was cancelled because no one registered to attend.
- II. The following individuals submitted written comments:

<u>Name</u>	<u>Title and Affiliation</u>
Buddy Berry	Superintendent, Eminence Independent Schools
Skip Cleavinger	English Learner Consultant, Kentucky Coalition for English Learners, Equity Coalition
Hasan Davis, J.D.	Principal, Hasan Davis Solutions, Inc.
Brigitte Blom Ramsey	President & CEO, Prichard Committee for Academic Excellence
Jamie Sparks	Executive Director, Kentucky Association for Health, Physical Education, Recreation & Dance
Jacqueline Pope-Tarrence	Senior Fellow, Equity Coalition

- III. The following people from the promulgating administrative body responded to written comments:

<u>Name and Title</u>
Todd Allen, Interim General Counsel, Office of Legal Services
Rhonda Sims, Associate Commissioner, Office of Assessment and Accountability
Michael Hackworth, Executive Advisor, Office of Assessment and Accountability
Jennifer Stafford, Division Director, Division of Assessment and Accountability Support
Kevin Hill, Division Director, Division of Assessment Data and Analysis
John Landon, Staff Attorney, Office of Legal Services

IV. Summary of Comments and Responses

(1) Subject Matter: Achievement Gap in Kentucky's Accountability System

(a) Comments: The commenters asked that attention be given to achievement gaps in Kentucky, with explicit intention of alerting communities and families to education challenges that need their engagement. The commenters request the accountability regulation be revised specifically asking the board and department to make a policy decision on what size gap needs strong community attention. In addition, commenters requested the agency revise the

accountability regulation to be sure that gaps of significant size receive robust attention. The commenters recommend four brief amendments to 703 KAR 5:270 that they believe would make the change effective. The recommended amendments include:

1. Revise Section 4(8)(c) to add the words “of twenty points or greater” after “achievement gap,” so that the text will read “if achievement gaps of twenty points or greater are found in schools and LEAs earning a four (4) or five (5) star rating, the star rating will be reduced by one (1) star.
2. Revise Section 5(6) to remove “statistically and practically significant” and add “of twenty points or greater,” so that the text will read “Federal designations and achievement gaps of twenty points or greater will be reported for each school, LEA, and state.”
3. Delete Section 1(12), which currently says “Practical significance” means a measure of the differences between student groups has real meaning.”
4. Delete Section 4(8)(c)1b, which currently says “Using a statistical analysis for each pair of comparison group and reference group and reference group is both statistically and practically significant.”

In addition, the commenters propose that results for each student group ought to be visible on the first page of the school report card. This would include performance data for individual student groups in reading and mathematics results to be visible on the first page.

Individuals speaking or offering written comments or concerns on this subject matter include: Skip Cleavinger, Hasan Davis, Brigitte Blom Ramsey and Jacqueline Pope-Tarrence

(b) Response: The agency carefully reviewed and considered all comments.

As Kentucky Department of Education (KDE) staff reviewed the concerns and recommendations from the commenters, three summary statements emerged that organize recent experience with the issue of achievement gaps. The statements touch on how gaps are identified, reported publicly and included in the accountability rating of schools.

1. The widening gap in academic performance among groups of students is both a state and national issue of concern.

The Every Student Succeeds Act (ESSA) requires that each state reports disaggregated data for specific student groups, based on race/ethnicity (i.e., White, African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races) and receipt of particular services (i.e., free/reduced-price meal eligible, students with disabilities who have an Individualized Education Plan (IEP), English learners). Kentucky data show that all student groups have improved over time, but in the last several years the rate of improvement has been slow or flat. The gap among the performance of groups has not reduced and in some grades and content areas it has widened.

The KDE appreciates the commenters recommendation and is committed to enhanced public reporting of achievement gaps. Educators, stakeholders, parents and students must know about achievement gaps so that collective efforts can reduce the differences in

performance and assist all students in reaching desired outcomes. KDE is currently working with the School Report Card vendor, BrightBytes, to make public additional information useful to schools and communities. In addition, if current legislation is passed by the Kentucky General Assembly, it also could affect how gap is reported throughout the state.

2. During committee meetings, town halls and discussions with the KBE that yielded the current accountability system, there was consistent agreement that reducing achievement gaps should be incorporated.

In the initial development of accountability regulation, 703 KAR 5:270, approved by the KBE in 2017, Achievement Gap Closure was a separate indicator including both “gap to group” that compares performance of groups to a reference group and “gap to goal” that compares the percent of proficient and above performance for each group. These measures included all content areas (i.e., reading, mathematics, science, social studies and writing) tested. Schools identified with a significant gap issue could not earn above a 3-star rating in the accountability system.

As KDE staff communicated throughout the state on the new accountability system, many voices expressed concerns on how the gap indicator would be calculated and how complex it was. Based on the concerns, the regulation was simplified and approved by the KBE. The amendments removed Achievement Gap Closure as an indicator and focused on using the “gap to group” measure in reading and mathematics. In addition, the regulation was amended to read that, “if achievement gaps are found in schools and LEAs earning a 4- or 5- star rating, the star rating will be reduced by one star.” This regulatory change was effective for 2018-2019 school accountability.

3. There is NOT consistent agreement in Kentucky on the calculations and processes to include achievement gap data within the accountability system.

During the accountability development process, the Prichard Committee advocated that the ESSA-required specific goals for each student group that must be reported publicly should directly be linked to a school’s final rating. For example, if the school met specific student goals on a timeline, it would have a higher school rating. The final regulation did not make a direct connection of state and federal expectations, instead the state and federal requirements were allowed to function separately within reporting.

Disagreement was very obvious in October 2019 when the KDE, in compliance with Senate Bill 175 (2019), convened a committee to analyze assessment results and the expected impacts and unintended consequences of the state’s accountability system, and report the results of these analyses to the Interim Joint Committee on Education in November 2019.

The committee spent time discussing achievement gap identification. Specifically, if *more or fewer* schools should be identified as having an achievement gap significant enough to warrant a change in its star rating. Some committee members felt strongly that more schools should be identified and therefore the rules and calculations regarding achievement gap should be adjusted, while other committee members felt strongly that

achievement gap should play a reduced role in accountability ratings. Susan Weston represented the Prichard Committee at the October meeting and advocated more schools should be identified with gaps.

The Prichard Committee comments mentioned that the KDE set the statistically significance rules to only identify very large difference in performance and should have highlighted more schools for gap issues. The KDE used a modified Cohens D statistical test on the advice of several psychometric experts. Kentucky did set a high bar for identifying a significant gap since the identification could lower the school's star rating. The potential impact of one student group of ten students on the overall accountability status of the school required KDE to be certain of the gap and not misidentify a school.

The Prichard comments suggests Kentucky use a standard difference among the performance of groups, without considering the size of the student population. Using a statistical analysis incorporates a level of fairness for the many small student groups that meet the minimum N count of 10. Although the ESSA allows for a higher N count, Kentucky has maintained, for reporting and accountability, the rule of 10 to include more of our students in accountability and reporting.

A central focus of Kentucky's school accountability system is on achievement gaps. When using the term "achievement gap," the KDE means the difference in academic achievement between specific groups of students. Achievement gaps are determined through statistical and practical differences. These differences verify that a significant difference (gap) exists.

There is not one single method to best determine or report achievement gaps for all schools. Having an achievement gap is not an either/or statement, but a matter of degree. It is KDE's goal to provide more granular data on the level of achievement gaps than were previously reported. As mentioned earlier, Kentucky is working to enhance public reporting of achievement gaps. However, we caution that when the accountability rating is directly impacted, the additional safety of a statistical test must be used.

An achievement gap is said to have practical significance when the difference in scores is large enough to be considered important. Generally, this means that most educators believe that an intervention to raise up the lower scores is appropriate. Practical significance is a judgement and therefore educators with extensive knowledge and experience are consulted to set cut points in accountability systems.

An achievement gap is statistically significant when the mathematical properties of the scores indicate that there is a very small chance that the difference is the results of just the normal random variation in scores. An achievement gap is based on the distribution of scores for two separate groups. Therefore, the department calculates the effect size based on the two group means and the variation within and across the groups.

In Kentucky's identification of achievement gaps, a Cohen's d is used to determine statistical and practical significance. Cohen's d provides a measure of effect size for comparisons of groups with differing sizes and variability as seen in student groups across the state. This statistical test of significance is used to determine if achievement gaps are significant or not. There are multiple

forms of Cohen's d used to determine a significant gap (Glass' Delta, Cohen's D , and Hedges' g). Cohen recommends the effect size and corresponding d value in the following table.

Effect Size	d
Small	0.20
Medium	0.50
Large	0.80

In the accountability system, the 1.0 level is used to determine if the achievement gaps are statistically and practically significant. According to Ian Walker in an entry titled [*Null hypothesis testing and effect sizes*](#) published in the Statistics for Psychology in 2008, "this means that if we see a d of 1, we know that the two groups' means differ by one standard deviation; a d of .5 tells us that the two groups' means differ by half a standard deviation; and so on."

After careful consideration of the comments received, the agency declines to amend the regulation.

(2) Subject Matter: Quality of School Climate and Safety; Removal of Opportunity and Access Indicator

(a) Comments: A commenter expressed dissatisfaction in the removal of Opportunity and Access as an indicator in the accountability system and state plan. The commenter pointed out that the first and second readings of the accountability regulation in 2018 were vastly different, with the omission of the Opportunity and Access Indicator in the second reading. The commenter requests that the Kentucky Board of Education (KBE) revisit the idea of including Opportunity and Access in the accountability system.

Individuals speaking or offering written comments or concerns on this subject matter include: Jamie Sparks

(b) Response: The agency carefully reviewed and considered the comments.

The KBE had a first reading to amend the Transition Readiness indicator in the accountability regulation in October 2018. In December 2018, a second reading occurred by the KBE that amended additional indicators and measures within the regulation.

During the time between the two KBE readings, KDE continued to gather input. Clarity and direction were gained from the additional feedback. With the goals of simplifying the system and more closely aligning it to state statute, further changes were proposed to the regulation at the December 2018 meeting.

After the December KBE meeting, a 30-day public comment period and hearing occurred. The agency responded to various comments regarding the proposed changes to the regulation in a Statement of Consideration (SOC). The SOC was presented to the KBE at its February 2019 meeting and the board made its final decision.

As one of the six indicators in the accountability system that contribute to the school's or district's overall star rating, the Opportunity and Access indicator posed many challenges. Several concerns arose with data collection in the Opportunity and Access indicator. After much evaluation and feedback, the Opportunity and Access indicator was replaced with the Quality of School Climate and Safety indicator to align more with the state statute requirements. KRS 158.6455 specifically states that the accountability system shall include a Quality of School Climate and Safety measure. This indicator is designed to capture measures of the school environment with perception data from surveys that will go into effect during the 2019-2020 school year.

Although the KDE supports the Visual and Performing Arts, Health and Physical Education that were within the Opportunity and Access indicator, the content areas will not be included in the overall accountability system. KDE does assure however, that VPA, Health and Physical Education are publicly reported on an annual basis. Public reporting is in accordance with KRS 158.6453 as amended in Senate Bill 1 (2019). The annual School Profile Report, linked to the Kentucky School Report card, highlights programs offered in schools as well as how schools implement standards-based instruction for Health and Physical Education (Practical Living), Career and Technical Education (Career Studies), Visual and Performing Arts, and World Languages (Foreign Language).

After careful consideration of the comment, the agency declines to amend the regulation.

(3) Subject Matter: Transition Readiness and English Language Learners

(a) Comments: The commenter expressed concern regarding the Transition Readiness Indicator and English Language Learners in the accountability system. The commenter states, that "to be deemed "career ready," the current accountability system requires any students who are identified as "English Learners" and served in an English language development program while in high school to exit from services and be reclassified as "fluent in English." The commenter feels that this is an unrealistic expectation for many students who may enter the United States and start the process at an older age. In addition, the commenter states that this requirement in the accountability model creates a lot of complaints and "hand wringing" among school and district leaders. The commenter states that high schools across the state that enroll many older immigrant students feel unduly punished by this requirement. The commenter hopes that KDE and the Commissioner will reconsider this requirement and ask for guidance from national experts to avoid making additional missteps.

Individuals speaking or offering written comments or concerns on the subject matter include:
Skip Cleavinger

(b) Response: The agency carefully reviewed and considered the comment.

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. For high school students to meet transition readiness, a student must earn either a regular or alternative high school diploma and meet one type of readiness (academic or career). In addition, English

Learners require reclassification as English language proficient for any student who received English language services during high school.

The accountability regulation states in Section 3 that depending on further analysis, Kentucky may modify the value table and its use to reflect factors that may impact English learners' progress toward language proficiency, including age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling.

The KDE is committed to supporting all students toward transition readiness and will work with national experts and Kentucky stakeholders to consider the factors impacting progress toward English language proficiency.

After careful consideration of the comment, the agency declines to amend the regulation.

(4) Subject Matter: Assigning Students for District and State Accountability

(a) Comments: A commenter proposed that no accountability for any measure (including ACT, graduation rate, etc.) be attributed to any district that the student hasn't been in attendance for 100 days. The commenter feels that these scores should be attributed to the sending district or state. The commenter feels that in a large district, the district score isn't as heavily impacted as those in smaller districts.

Individuals speaking or offering written comments or concerns on the subject matter include:
Buddy Berry

(b) Response: The agency carefully reviewed and considered the comment.

Assigning students to school, district and state accountability is outside the purview of this regulation and is defined in 703 KAR 5:240, *Accountability Administrative Procedures and Guidelines*.

KRS 158.6455 states that the KBE shall create an accountability system to classify districts and schools in accordance with the academic standards and student assessment program developed pursuant to KRS 158.6453.

Accountability Administrative Procedures and Guidelines, 703 KAR 5:240, is the administrative regulation that establishes administrative procedures and guidelines for Kentucky's assessment and accountability program. Sections 2 and 3 within this regulation include assigning students for school and district accountability along with assigning students to state accountability. Also, this regulation defines "full academic year" as 100 or more instructional days of enrollment within the school year.

Kentucky's Accountability System, 703 KAR 5:270, Section 4(9)(a) states that students enrolled for a full academic year shall be included in the calculations for proficiency, a separate academic indicator for science, social studies, and writing, growth, quality of school climate and safety, and transition readiness for a school and local education agency. Section 4(9)(b) states that graduation rate calculations shall be based on the students' final enrollment.

Graduation rate is the only system indicator that doesn't include 100 days because of a previous decision by the KBE. The KBE felt that the responsibility should be on the school/district that gives the diploma to students and that it gives KDE one consistent graduation rate for federal submissions. If KBE created a special 100-day graduation rate, the agency would still have to report the rate under the federal definition.

After careful consideration of the comment, the agency declines to amend the regulation.

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

A public hearing was scheduled for the above regulation on February 24, 2020 at 10:00 a.m. Eastern Time at the Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky, but was cancelled because no one registered to attend. Written comments were accepted through February 29, 2020. The agency responded to the comments and will not amend the administrative regulation.