

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amended After Comments)

5 703 KAR 5:280. School improvement procedures.

6 RELATES TO: KRS 158.6453, 158.6455, 158.782, 160.346, 20 U.S.C. 6301

7 STATUTORY AUTHORITY: KRS 156.029(7), 156.070(5), 158.6453, 158.6455, 160.346, 20

8 U.S.C. 6301

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(7) requires the Kentucky

10 Board of Education (KBE) to adopt policies and administrative regulations that shall govern the

11 Kentucky Department of Education (department) in planning and operating programs within its

12 jurisdiction. KRS 156.070(5) requires the KBE, upon the recommendation of the Commissioner

13 of Education (Commissioner), to establish policy or act on all programs, services, and other

14 matters that are within the administrative responsibility of the department. KRS 158.6453(3)(a)

15 requires the KBE to create an assessment system that measures achievement of the state learning

16 goals, ensures compliance with Title I of the federal Elementary and Secondary Education Act of

17 1965 (ESEA), 20 U.S.C. sec. 6301, et seq., as amended by the Every Student Succeeds Act

18 (2015) or its successor, and ensures school accountability. KRS 158.6455 requires the KBE to

19 create an accountability system to classify schools and LEAs, and to establish appropriate

20 consequences for schools failing to meet accountability measures. KRS 158.782 requires the

21 KBE to promulgate administrative regulations establishing the process for monitoring and

periodic review of schools' turnaround efforts for schools identified for comprehensive support and improvement pursuant to KRS 160.346. KRS 160.346 establishes the process for the required audit and turnaround efforts for schools identified for comprehensive support and improvement. Additionally, KRS 160.346 requires the KBE to create state-wide exit criteria for identified schools, additional action to support schools continuously failing to meet improvement goals, and additional support for LEAs with a significant number of schools identified for comprehensive and targeted support and improvement. Section 1111(c) of Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, 20 U.S.C. 6311(c) and (d), requires the KBE to identify the state's lowest achieving schools as schools identified for comprehensive support and improvement and for those schools to follow the requirements of 20 U.S.C. 6311(c) and (d) regarding school improvement. This administrative regulation establishes the process and procedures for school improvement efforts.

Section 1. Definitions. (1) "Additional Targeted Support and Improvement" means the process for schools identified pursuant to KRS 160.346(2)(b).

(2) "Advisory leadership team" means the team established pursuant to KRS 160.346(8)(f) ~~[(7)(g)]~~ and Section 7 [8] of this administration regulation.

(3) "Annual improvement" means a school reaching annual goals, established by the department, in the areas identified for comprehensive support and improvement.

(4) "Audit" means the process established in KRS 160.346~~[(5) and]~~(6)-(7).

(5) "Audit team" means the department, which completes the audit ~~[team selected by the LEA,]~~ pursuant to KRS 160.346~~(6)-(7)~~~~[(5), to complete a school or district audit]~~.

(6) "Charter school" means a "public charter school" as defined in KRS 160.1590(12).

(7) "Charter school board of directors" or "governing board" means charter school board of directors as defined in KRS 160.1590(6).

(8) "Comprehensive Support and Improvement" means the process for schools identified pursuant to KRS 160.346(3).

(9) "District" or "school district" means the local school district governed by a local board of education.

(10) "District audit" means an audit that:

(a) Reviews the functioning of the district and the district's ability to manage an intervention in a school identified for comprehensive support and improvement; and

(b) Meets the requirements of Section 4 [5] of this administrative regulation.

(11) "Evidence based interventions" is defined in the Elementary and Secondary Education Act, as reauthorized by the Every Student Succeeds Act (2015), 20 U.S.C.A. § 7801.

(12) "Local education agency" or "LEA" means a local school district as established in KRS 160.010 and KRS 160.020 or a charter school board of directors as established in KRS 160.1590.

(13) "Minority" is defined in KRS 160.345(1)(a).

(14) "School audit" means an audit that:

(a) Reviews the functioning of a school;

(b) Assesses principal capacity for leadership of school turnaround; and

(c) Meets the requirements of KRS 160.346(6)-(7).

(15) "School improvement assistance" means a program designed by the department to support improved teaching and learning.

(16) "School improvement plan" means the plan created by schools identified for targeted support and improvement or additional targeted support and improvement pursuant to KRS

1 160.346(4)-(5) and embedded in the comprehensive school improvement plan required pursuant
2 to 703 KAR 5:225.

3 (17) "Targeted Support and Improvement" means the process for schools identified pursuant to
4 KRS 160.346(2)(a).

5 (18) "Turnaround plan" means the plan created pursuant to KRS 160.346(8)(g)[(7)(h)] and
6 embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225.

7 (19) "Turnaround team" means the team selected pursuant to KRS 160.346(8)[(7)](a).

8 Section 2. ~~[Notification of Status for Comprehensive Support and Improvement. (1) Following~~
9 ~~notification of a school's identification for comprehensive support and improvement, an LEA~~
10 ~~shall, within thirty (30) days, declare its intent to either utilize the department for the audit team~~
11 ~~or another option pursuant to KRS 160.346(5).~~

12 ~~(2) If the LEA declares its intent to use any option other than the department for the audit team,~~
13 ~~the LEA shall provide, to the Kentucky Department of Education, the following information:~~

14 ~~(a) The name and address of each person included on the audit team;~~

15 ~~(b) The role and responsibilities of each person included on the audit team;~~

16 ~~(c) The occupation and any vendor affiliations of each person included on the audit team; and~~

17 ~~(d) Each person or entity's documented expertise in diagnosing the causes of an organization's~~
18 ~~low performance and providing advice and strategies resulting in effective turnaround leadership.~~

19 ~~(3) If the LEA declares its intent to use any other option other than the department for the audit~~
20 ~~team, the LEA shall ensure that all audit team members report potential conflicts of interest. The~~
21 ~~LEA shall report these conflicts of interest to the department and provide information regarding~~
22 ~~the LEA's work to remedy the conflicts of interest.~~

~~(4) Audit team members shall not be employed by or otherwise affiliated with the LEA or school under review.~~

~~(5) Upon receipt of the notification and appropriate information from the LEA, the department, within fifteen (15) days, shall review the proposals for non-department audit teams and either accept or deny the proposal. Denied proposals shall be returned to the LEA and the department shall advise the LEA to remedy the proposal.~~

~~(6) The LEA shall provide the information required in this Section utilizing the "Notification of Non-Department Audit Team Form" incorporated by reference in this administrative regulation.~~

~~(7) Non-department audit teams shall complete a Kentucky-specific induction training prior to conducting an audit.~~

~~Section 3:] Audit Team Membership. [For audit teams directed by the department:]~~ (1) Pursuant to KRS 160.346(6)(a), a school, including a charter school, identified for comprehensive support and improvement shall undergo an audit conducted by the department.

(2) Members of the audit team shall be selected from qualified applicants by the department, and approved by the Commissioner ~~[of Education,]~~ or his designee;

(3)~~(2)~~ Members shall complete department-provided or department-approved training in any areas needed to effectively perform their duties;

(4)~~(3)~~ Members shall hold appropriate certification or qualifications for the position being represented;

(5)~~(4)~~ The team shall not include any members currently employed by or otherwise affiliated with the LEA or school under review;

(6)~~(5)~~ The team shall include the following representation:

(a) The chairperson, who shall be designated by the department or its designee, and shall be:

1. A certified administrator approved by the department to provide school improvement assistance;
 2. A certified administrator member of the review team; or
 3. A similarly qualified professional approved by the department;
- (b) An individual approved by the department to provide school improvement assistance;
- (c) A teacher who is actively teaching or has taught within the last three (3) years;
- (d) A principal who is currently serving or has served as a principal within the last three (3) years;
- (e) An LEA administrator who is currently serving or has served in an LEA administrative position within the last three (3) years;
- (f) A parent or legal guardian who has or has had a school-aged child; and
- (g) A university representative who is currently serving or has served in that capacity within the last three (3) years;
- ~~(7)~~~~(6)~~ The chair may serve in addition to the six (6) members outlined in subsection ~~(6)~~ ~~(5)~~ of this Section, or may be selected from those six (6) members who also meet the qualifications of this Section.
- Section 3. ~~[4.]~~ School Audit. (1) A school audit shall be scheduled within forty-five (45) days of a school's identification for comprehensive support and improvement.
- (2) ~~[The KBE recommends a school audit, in]~~ In addition to the requirements established in KRS 160.346~~(7)~~~~(6)~~, a school audit shall consist of and incorporate into the audit process and report the following criteria:
- (a) Analysis of state and local education data;

- (b) At the discretion of the audit team, an ~~An~~ analysis and recommendation regarding the principal's capacity to lead turnaround in a school identified for comprehensive support and improvement ~~[and whether the principal should be replaced];~~
- (c) Review of comprehensive school improvement plans and other planning documents;
- (d) Interviews with students, parents, all school council members, if applicable, school and LEA personnel, and community members;
- (e) Direct observation;
- (f) Administration of teacher and principal working conditions surveys and student satisfaction surveys;
- (g) Review of school council minutes and agendas, if applicable; and
- (h) Other information deemed necessary by the Commissioner ~~[of Education,]~~ or his designee.
- (3) ~~[Where the audit team is directed by the department, the]~~ The recommendation of the principal's ability to lead the intervention in the school, as required by (2)(b) of this Section ~~[KRS 160.346(6)(a)2]~~, shall be based upon an assessment consistent with the Professional Standards for Educational Leaders approved by the National Policy Board for Educational Administration and incorporated by reference in 16 KAR 3:090, Certifications for advanced educational leaders. ~~[of whether:~~
- ~~(a) The principal demonstrates maintenance and communication of a visionary purpose and direction committed to high expectations for learning as well as shared values and beliefs about teaching and learning;~~
- ~~(b) The principal leads and operates the school under a governance and leadership style that promotes and supports student performance and system effectiveness;~~

~~(e) The principal establishes a data-driven system for curriculum, instructional design, and delivery, ensuring both teacher effectiveness and student achievement;~~
~~(d) The principal ensures that systems are in place for accurate collection and use of data;~~
~~(e) The principal ensures that systems are in place to allocate human and fiscal resources to support improvement and ensure success for all students; and~~
~~(f) The principal ensures that the school implements a comprehensive assessment system that generates a range of data about student learning and system effectiveness and uses the results to guide continuous improvement.]~~

~~(4) [An audit team not directed by the department may utilize the criteria established in subsection (3) of this section for the recommendation of principal capacity, as required by KRS 160.346(6)(a)2. An audit team not directed by the department shall include a recommendation as to the principal's capacity to serve as a leader in school intervention and turnaround at a school identified for comprehensive support and improvement. If that audit team chooses not to use the criteria established in subsection (3) of this Section, it shall provide notification to the department as well as the framework to be used in the analysis of principal capacity and submit the criteria that shall be utilized to the department for approval.~~

~~(5) Upon identification as a school in need of comprehensive support and improvement, the authority of the school council shall be suspended.~~

~~(6) Pursuant to KRS 160.346, the authority of the school council may be restored if the school is not classified under comprehensive support and improvement status for two (2) consecutive years.~~

~~(7)~~ Charter schools shall be subject to a school audit that shall include an addendum providing a determination regarding the governing board's capacity to provide support for turnaround. Each addendum shall include:

(a) Analysis of state and local education data;

(b) A review of the governing board's level of functioning and recommendation to the Commissioner ~~[of Education]~~ as to whether the governing board has the capacity to manage the intervention in the charter school;

(c) Interviews with governing board members, students, parents, school personnel, authorizer, and community members;~~[-]~~

(d) Direct observations;

(e) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(f) Review of charter school governing board minutes and agendas; and

(g) Other information deemed necessary by the Commissioner ~~[of Education]~~, or his designee, to assess the functionality of the governing board to support school improvement.

~~[(8) If the audit team chooses not to use the criteria established in subsection (7) of this Section, it shall provide notification to the department as well as the framework to be used in the analysis of the governing board's capacity and submit the criteria that shall be utilized to the department for approval.]~~

Section 4. ~~[5.]~~ District Audit. (1) A district shall be subject to a district audit upon identification of a school within the district for comprehensive support and improvement.

(2) Within forty-five (45) days of identification by the department of a district containing a school identified for comprehensive support and improvement, an audit shall be scheduled to

review the functioning of the district's administration and its specific leadership capacity related to each school identified for comprehensive support and improvement.

(3) Each district audit shall include:

(a) Analysis of state and local education data;

(b) A review of the district's level of functioning and recommendation to the Commissioner [of Education] as to whether the district has the capacity to manage the intervention in each identified school;

(c) Review of comprehensive district improvement plan and other planning documents;

(d) Interviews with local board members, students, parents, school and district personnel, and community members;

(e) Direct observation;

(f) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(g) Review of school board minutes and agendas; and

(h) Other information deemed necessary by the Commissioner [of Education], or his designee, to assess the functionality of the district to support school improvement.

(4) ~~[If the audit team is directed by the department, the]~~ The determination of the district's level of functioning and ability to manage the intervention in the school identified for comprehensive support and improvement shall be based upon an assessment of capacity in the following areas:

(a) The district demonstrates maintenance and communication of a visionary purpose and direction committed to high expectations for learning as well as shared values and beliefs about teaching and learning;

(b) The district leads and operates under a governance and leadership style that promotes and supports student performance and system effectiveness;

(c) The district establishes a data-driven system for curriculum, instructional design, and delivery, ensuring both teacher effectiveness and student achievement;

(d) The district ensures that systems are in place for accurate collection and use of data;

(e) The district ensures that systems are in place to allocate human and fiscal resources to support improvement and ensure success for all students; and

(f) The district ensures that a comprehensive assessment system, which generates a range of data about student learning and system effectiveness and uses the results to guide continuous improvement, is implemented.

~~(5) [An audit team not directed by the department may utilize the criteria established in subsection (4) of this Section for recommendation to the Commissioner of Education of the district's level of functioning and ability to manage the intervention in the school identified for comprehensive support and improvement. An audit team not directed by the department shall include a recommendation as to district functioning and capacity to manage the interventions at a school identified for comprehensive support and improvement. If that audit team chooses not to use the criteria established in subsection (4) of this Section, it shall provide notification to the department as well as the framework to be used in the analysis of district functioning and capacity to manage the intervention in each identified school to the department for approval.]~~

~~(6)~~ There shall be only one (1) district audit per district, per year, regardless of the number of schools identified for comprehensive support and improvement located in the district.

Section 5. ~~[6-]~~ Notification to Schools and LEAs of Audit Findings. (1) Following any school audit, the audit team shall submit all findings and the principal capacity recommendation to the Commissioner ~~[of Education]~~.

(2) Following any charter school or district audit, the district or governing board audit findings and capacity recommendations shall be submitted to the Commissioner ~~[of Education]~~ who shall then make a determination regarding the district or governing board's level of functioning and whether the district or governing board has the capacity to manage the intervention in each identified school.

(3) After completion of the initial school or district audits and within thirty (30) days of receiving the audit findings, the Commissioner ~~[of Education]~~ shall notify in writing the school, district or ~~[charter]~~ governing board, and the charter authorizer of the audit findings and recommendation regarding principal or school leader's leadership capacity and authority and a determination regarding district or governing board's leadership capacity and authority. The superintendent shall then make any necessary determination regarding the principal or other certified staff pursuant to KRS 160.346(8)(c)-(d)~~[(7)(e)-(e)]~~.

(4)(a) A school, including a charter school, or district that believes the recommendation regarding the principal or school leader's leadership capacity and authority or the district or governing board's leadership capacity and authority is grossly unfair may appeal such recommendation within fifteen (15) days after the Commissioner notifies the school, district or governing board, and the charter authorizer of the audit findings, as described in subsection (3);
(b) The written request for an appeal shall be submitted by mail to the department at the address supplied in Section 16 of this administrative regulation and shall identify:

1 1. The reason(s) and supporting evidence that the recommendation regarding the principal or
2 school leader's leadership capacity and authority or the district or governing board's leadership
3 capacity and authority is believed to be grossly unfair; and

4 2. The requested adjustment to be made to the recommendation regarding the principal or school
5 leader's leadership capacity and authority or the district or governing board's leadership capacity
6 and authority; and

7 (c) The request for an appeal shall be signed by the superintendent of the district or comparable
8 leader of the charter school upon approval of the local board of education or governing board.

9 (5)(a) Upon receipt of the request for an appeal filed under subsection (4), the Commissioner, or
10 his designee, shall review such appeal against the standards set forth in either Section 3(3), if the
11 appeal relates to the recommendation regarding the principal or school leader's leadership
12 capacity and authority, or Section 4(4), if the appeal relates to the district or governing board's
13 leadership capacity and authority, to determine whether to dispute the appeal;

14 (b) Within thirty (30) days of the request for an appeal filed under subsection (4), the
15 Commissioner shall determine whether to:

16 1. Adopt the requested adjustment to the recommendation regarding the principal or school
17 leader's leadership capacity, and authority or the district or governing board's leadership
18 capacity and authority, set forth in the request for an appeal as required by subsection (4)(b)2.; or

19 2. Dispute the requested adjustment to the recommendation regarding the principal or school
20 leader's leadership capacity and authority, or the district or governing board's leadership
21 capacity and authority, set forth in the request for an appeal as required by subsection (4)(b)2.;

22 (c) If the request for an appeal is disputed by the Commissioner, an appeal shall be submitted to
23 the hearing officer for the Kentucky Board of Education; and

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

Section 6. ~~[7.]~~ Turnaround Team and Development of Turnaround Plan for School Identified for Comprehensive Support and Improvement. (1) Within fifteen (15) days after the Commissioner notifies the school, district or charter governing board, and the charter authorizer of the audit findings, as described in Section 5[6](3) of this administrative regulation, an LEA shall declare its intent to either utilize the department for the turnaround team or another vendor from the approved turnaround vendor list published ~~[option]~~ pursuant to KRS 160.346(1)(a) and (8)(a)[(7)] as well as Section 15 of this administrative regulation and, if the LEA declares its intent to use any option other than the department for the turnaround team, the LEA shall use the “Notification of Non-Department Turnaround Team Form.” ~~[to provide the following information to the department:]~~

~~(a) The name and address of each person or entity fulfilling the status of turnaround team;~~
~~(b) The role and responsibilities of each person or entity fulfilling the status of turnaround team;~~
~~and~~
~~(c) The evidence-based interventions that shall be utilized by the person or entity fulfilling the status of turnaround team.]~~

~~(2) [If the LEA utilizes a private entity to serve as the turnaround team, pursuant to KRS 160.356(7)(a)(1), the LEA shall submit to the department evidence of the private entity's documented success at turnaround diagnosis, training, and improved performance of organizations and provide ongoing oversight of the private entity's work, functioning, and accomplishments as the turnaround team.]~~

~~(3) If the LEA utilizes the local staff and community partners to serve as the turnaround team, pursuant to KRS 160.346(7)(a)(2), the LEA shall ensure the following:~~

~~1. Schools having eight (8) percent or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member serving on the turnaround team; and~~

~~2. At least one (1) parent of a student in the identified school is selected as a member of the turnaround team.~~

~~(4) Upon receipt of the notification and appropriate information from the LEA, the department shall review within fifteen (15) days the proposals for non-department turnaround teams and either accept or deny the proposal. Denied proposals shall be returned to the LEA and the department shall advise the LEA to remedy the proposal.~~

~~(5)] If the LEA utilizes the department to serve as the turnaround team, the turnaround team shall be comprised of team members selected and approved by the Commissioner [of Education], or his designee, to provide school improvement assistance.~~

(3) A school, including a charter school, identified for comprehensive support and improvement shall be eligible to apply for funding under 20 U.S.C. 6303. Any funds awarded to a school pursuant to 20 U.S.C. 6303 shall be utilized to pay for turnaround activities, which may include assisting with funding an LEA's utilization of a non-department vendor from the approved turnaround vendor list published pursuant to KRS 160.346(1)(a) and (8)(a) as well as Section 15 of this administrative regulation.

~~[(6)]~~ (4) Within forty-five (45) days after the Commissioner notifies the school, district or ~~[charter]~~ governing board, and the charter authorizer of the audit findings, as described in

1 Section 5[6](3) of this administrative regulation, the turnaround team shall develop a turnaround
2 plan pursuant to KRS 160.346(8)(g)[(7)(h)].

3 [(7)] (5) In addition to the requirements established in KRS 160.346(8)(g)[(7)(h)], the turnaround
4 plan shall be embedded in the comprehensive school improvement plan required pursuant to 703
5 KAR 5:225 and shall include:

6 (a) Evidence-based interventions to be utilized to increase student performance and address the
7 critical needs identified in the school audit;

8 (b) A comprehensive list of persons and entities involved in the turnaround efforts and the
9 specific roles each shall play in the school's turnaround; and

10 (c) A review of resource inequities that shall include an analysis of school level budgeting to
11 ensure resources are adequately channeled towards school improvement.

12 [(8)] (6) The turnaround plan shall be approved by the superintendent and local board of
13 education, as required by KRS 160.346(8)(g)[(7)(h)], who shall provide the necessary support
14 and resources for the turnaround plan and submit the turnaround plan to the Commissioner [of
15 Education] for final approval.

16 [(9)] (7)(a) Following receipt of the turnaround plan specified in subsection (6) [(8)] of this
17 Section and before the beginning of the school year following the audit, the Commissioner [of
18 Education], in consultation with the advisory leadership team, superintendent, and local board of
19 education, shall determine the sufficiency of the school's turnaround plan to meet the needs of
20 the school's turnaround effort.

21 (b) If the Commissioner [of Education] finds that the plan is not sufficient to meet the needs of
22 the school turnaround effort for a school identified for comprehensive support and improvement,

the department shall provide feedback detailing the deficiencies and advise the LEA and school to make changes to the plan.

Section 7. [~~8~~] Advisory Leadership Team. (1) The principal or charter school leader of a school identified for comprehensive support and improvement shall provide to the department, in a format acceptable to the department, the names and addresses of advisory leadership team members appointed pursuant to KRS 160.346(8)(f)[~~(7)(g)~~ ~~to the department~~].

(2) The department shall maintain a database of all advisory leadership team members appointed pursuant to KRS 160.346(8)(f)[~~(7)(g)~~].

(3) In establishing the advisory leadership team, the principal or charter school leader shall ensure that schools having eight (8) percent or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member serving on the advisory leadership team.

(4) Meetings of the advisory leadership team shall be open to the public.

(5) Duties of the advisory leadership team shall include:

(a) Providing support for systems that seek to build capacity in school leadership;

(b) Promoting positive school climate and culture; and

(c) Supporting the continual use of data-driven decision-making to support school improvement.

Section 8. [~~9~~] Monitoring and Periodic Review of Plan Implementation. (1) Pursuant to the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, 20 U.S.C.A. Section 6301, all schools identified for comprehensive support and improvement shall be subject to monitoring and periodic review by the department.

(2) Monitoring shall include:

(a) Onsite support by department staff if the department is chosen by the LEA to serve as the turnaround team pursuant to KRS 160.346(8)(a) or if more rigorous intervention by the department is warranted as established in Section 9 [10] of this administrative regulation;

(b) Annual review of school and LEA state accountability data;

(c) Review of indicators of school quality; and

(d) Other measures deemed necessary by the department to ensure compliance with the Every Student Succeeds Act, or its successor.

(3) Periodic review of the turnaround plan shall include:

(a) Periodic site visits;

(b) Direct observation; and

(c) Interviews with students, parents, all school council members, if applicable, school and LEA personnel, and community members.

Section 9. [10.] More Rigorous Intervention. (1) Schools identified for comprehensive support and improvement that do not exit that status after three (3) years shall be subject to intervention by the department including but not limited to:

(a) A school audit conducted by the department;

(b) Onsite assistance by department staff; and

(c) Evaluation and modification of the school turnaround plan.

(2) Schools identified for comprehensive support and improvement that do not exit after three (3) years shall be subject to an audit by the department every two (2) years, or as deemed necessary by the Commissioner [of Education].

(3) Schools identified for comprehensive support and improvement that do not make annual improvement for two (2) consecutive years shall be subject to intervention by the department, as established in subsections (1) and (2) of this Section, after the second year;

(4) Districts serving any number of schools identified for comprehensive support and improvement that do not exit after three (3) years, or two (2) years as established in subsection ~~[(2)]~~ (3) of this Section, shall be subject to a district audit. Additional district audits for districts serving schools identified for comprehensive support and improvement that do not exit that status shall occur every two (2) years, or as deemed necessary by the Commissioner ~~[of Education]~~. No district, regardless of the number of schools identified for comprehensive support and improvement that fail to exit that status, shall have more than one (1) district audit every two (2) years.

Section 10. ~~[44-]~~ Targeted Support and Improvement and Additional Targeted Support and Improvement. (1) Upon identification as a school for targeted support and improvement or additional targeted support and improvement, the identified school shall comply with the requirements of KRS 160.346(4)-~~(5)~~. The school improvement plan shall be embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225.

(2) LEAs with a school identified for targeted support and improvement or additional targeted support and improvement shall monitor and provide support to the school to ensure the successful implementation of the school improvement plan.

Section 11. ~~[42-]~~ Significant Number of Schools. (1) In addition to providing notification to LEAs as to the identification of schools for comprehensive support and improvement, additional targeted support and improvement, or targeted support and improvement, the department shall notify LEAs as to whether they shall be considered an LEA supporting a significant number of

schools identified for ~~[either]~~ comprehensive support and improvement or targeted support and improvement, including additional targeted support and improvement.

(2) To determine whether an LEA meets this designation, the department shall calculate, based on the total number of A1 schools, as defined in 703 KAR 5:240, in the LEA, the LEA's percentage of schools identified for comprehensive support and improvement or ~~[and the LEA's percentage of schools identified for]~~ targeted support and improvement, including additional targeted support and improvement. Any LEA containing two (2) or more schools identified for comprehensive support and improvement or targeted support and improvement, including additional targeted support and improvement, and whose percentage of identified schools exceeds ten (10) percent of all schools within the district shall be designated an LEA supporting a significant number of schools identified for ~~[either]~~ comprehensive support and improvement or targeted support and improvement, including additional targeted support and improvement.

Section 12. ~~[13.]~~ Technical Assistance for LEAs Supporting a Significant Number of Schools Identified for Comprehensive Support and Improvement. (1) LEAs supporting a significant number of schools identified for comprehensive support and improvement shall receive the following technical assistance:

(a) A district audit, or school audit if a charter school, conducted by the department; and

(b) Onsite support from department staff.

(2) The district audit, or school audit if a charter school, completed by the department pursuant to subsection (1)(a) of this Section shall take the place of any district or school audit conducted under Sections 3 and 4 ~~[and 5]~~ of this administrative regulation.

(3) Department staff shall:

(a) Coordinate with the LEA to ensure direct support of schools identified for comprehensive support and improvement;

(b) Review, via the district or school audit, if a charter school, resources and allocations to determine if they are being used effectively for school improvement;

(c) Work with the LEA to address any identified resource inequities that negatively impact schools and students; and

(d) Work with the LEA to develop sustainable systems to support school improvement.

Section 13. [~~14~~.] Technical Assistance for LEAs Supporting a Significant Number of Schools Identified for Targeted Support and Improvement. (1) LEAs supporting a significant number of schools identified for targeted support and improvement, including additional targeted support and improvement, shall receive the following technical assistance:

(a) Periodic site visits; and

(b) Onsite support by department staff.

(2) Department staff shall:

(a) Review LEA resources and allocations to determine if they are being used effectively for school improvement;

(b) Provide technical assistance to the LEA regarding resource allocation to support school improvement; and

(c) Connect LEAs with professional development opportunities to build capacity for school improvement efforts.

Section 14. [~~15~~.] Exit Criteria. (1) A school identified for comprehensive support and improvement pursuant to KRS 160.346(3)(a) or (c) shall exit that status if:

(a) It no longer meets the criteria for identification; and

(b) It demonstrates progress on the data that served as the basis for identification.

(2) Schools identified for comprehensive support and improvement pursuant to KRS 160.346(3)(b) shall exit that status if they no longer meet the criteria for identification.

(3) Schools identified for comprehensive support and improvement as a result of more than one (1) criteria shall exit if all relevant exit criteria are met.

(4) Schools identified for targeted support and improvement pursuant to KRS 160.346(2)(a) or additional targeted support and improvement pursuant to KRS 160.346(2)(b) shall exit that status if they:

(a) No longer meet the criteria for identification; and

(b) Demonstrate progress on the data that served as the basis for identification.

(5) Schools identified for additional targeted support and improvement pursuant to KRS 160.346(2)(b) that do not exit that status within three (3) years shall be identified for comprehensive support and improvement pursuant to KRS 160.346(3)(c).

Section 15. Approved Turnaround Vendor List. (1) On or after July 1 and prior to August 15 of each calendar year, an entity may request to be a KBE-approved turnaround vendor by submitting to the Chair of the KBE and the Commissioner the “Turnaround Vendor Application” outlining evidence of the entity’s documented success at turnaround diagnosis, training, improved performance of organizations, and expertise in using evidence-based strategies to improve student achievement, instruction, and schools.

(2) Within forty-five (45) days from receipt of a completed “Turnaround Vendor Application,” the Commissioner, or his designee, shall review and recommend the KBE approve or deny the “Turnaround Vendor Application.”

(3) At the next regularly scheduled meeting of the KBE following the receipt of the recommendation from the Commissioner, or his designee, pursuant to subsection (4) of this Section, the KBE shall approve or deny a completed “Turnaround Vendor Application.”

(4) Any entity with a “Turnaround Vendor Application” that has been approved by the KBE shall be placed on the approved turnaround vendor list that the KBE is required to maintain pursuant to KRS 160.346(1)(a) and, thereafter, may be selected, in accordance with KRS 160.346(8)(a), by an LEA to provide turnaround training and support to a school identified for comprehensive support and improvement.

(5) An entity placed on the KBE’s approved turnaround vendor list shall annually by October 15 submit the following to the department:

(a) The name and address of each school, including charter school, identified for comprehensive support and improvement wherein the entity provided turnaround training and support during the immediately prior school year;

(b) The accountability system performance of each school, including charter school, identified for comprehensive support and improvement wherein the entity provided turnaround training and support during the immediately prior school year;

(c) An accounting of the funds the entity received during the immediately prior school year from an LEA in consideration for the entity providing turnaround training and support to a school, including charter school, identified for comprehensive support; and

(d) Any other information the department deems necessary to evaluating the performance of the turnaround vendor and reporting thereon to the KBE and the Interim Joint Committee on Education, as required by KRS 160.346(10).

1 (6) The KBE may revoke approval of an entity’s “Turnaround Vendor Application” as a result of
2 evidence collected pursuant to subsection (5) or through any other means and remove the entity
3 from the approved turnaround vendor list that the KBE is required to maintain pursuant to KRS
4 160.346(1)(a).

5 (7) Any entity that has had approval of its “Turnaround Vendor Application” revoked by the
6 KBE shall be disqualified from submitting a new “Turnaround Vendor Application” or being
7 placed on the KBE approved turnaround vendor list for a period of two (2) years from the date of
8 revocation.

9 (8) An entity may, by letter to the Chair of the KBE and the Commissioner, withdraw its
10 approved “Turnaround Vendor Application” and be removed from the approved turnaround
11 vendor list that the KBE is required to maintain pursuant to KRS 160.346(1)(a). An entity
12 voluntarily removed from the approved turnaround vendor list that the KBE is required to
13 maintain pursuant to KRS 160.346(1)(a) shall be eligible to reapply using the “Turnaround
14 Vendor Application” at any time.

15 (9) An entity with a “Turnaround Vendor Application” that has been denied by the KBE or one
16 that has been voluntarily or involuntarily removed from the approved turnaround vendor list that
17 the KBE is required to maintain pursuant to KRS 160.346(1)(a) shall be ineligible to be selected,
18 in accordance with KRS 160.346(8)(a), by an LEA to provide turnaround training and support to
19 a school, including charter school, identified for comprehensive support and improvement.

20 Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

21 ~~(a) [“Notification of Non-Department Audit Team Form,” August 2019;~~

22 ~~(b)] “Notification of Non-Department Turnaround Team Form,” December 2020 [August 2019.];~~

23 (b) “Turnaround Vendor Application,” December 2020.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
2 the Kentucky Department of Education, Office of Continuous Improvement and Support, 300
3 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30
4 p.m.

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)

Jason E. Glass, Ed.D.
Commissioner of Education

(Date)

Lu Young, Chairperson
Kentucky Board of Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 703 KAR 5:280
Contact Person: Todd G. Allen, Todd.Allen@education.ky.gov
Phone Number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: The Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (ESSA) requires the Kentucky Department of Education (KDE) to adopt a system of accountability and support for low-achieving schools and districts. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of the ESSA require the KDE to identify schools for comprehensive support and improvement (CSI), and Section 1111(d)(2) requires the KDE identify schools for targeted support and improvement (TSI). Additionally, KRS 160.346 requires the Kentucky Board of Education (KBE) to, among other items, maintain an “approved turnaround vendor list” and establish annual statewide exit criteria for schools identified for CSI or TSI. This regulation establishes a system of support and ongoing accountability for CSI and TSI schools in compliance with the ESSA and KRS 160.346.

(b) The necessity of this administrative regulation: This amended regulation is necessary because it establishes a system of support and ongoing accountability for CSI and TSI schools in compliance with the ESSA and KRS 160.346. Amendments to 703 KAR 5:280 are necessary to align the regulation with KRS 160.346 as amended by Senate Bill (SB) 158 (2020).

(c) How this administrative regulation conforms to the content of the authorizing statute: This amended regulation conforms to federal and state statutes by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with the ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of the ESSA require the KDE to identify schools for CSI, and Section 1111(d)(2) requires the KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to, among other items, maintain an “approved turnaround vendor list” and establish annual statewide exit criteria for schools identified for CSI or TSI.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amended regulation assists in the effective administration of federal and state statutes by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with the ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of the ESSA require the KDE to identify schools for CSI, and Section 1111(d)(2) requires the KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to, among other items, maintain an “approved turnaround vendor list” and establish annual statewide exit criteria for schools identified for CSI or TSI.

(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: Substantive amendments to 703 KAR 5:280 are necessary to align the regulation with KRS 160.346 as amended by SB 158 (2020). Specifically, SB 158 (2020) impacts how and when schools are

identified for CSI or TSI, including additional targeted support and improvement; requires all newly identified CSI schools receive an audit conducted by the Kentucky Department of Education (KDE); and, mandates turnaround efforts in CSI schools be led by an entity on the KBE's "approved turnaround vendor list," which is newly defined in SB 158 (2020).

(b) The necessity of the amendment to this administrative regulation: Substantive amendments to 703 KAR 5:280 are necessary to align the regulation with KRS 160.346 as amended by SB 158 (2020).

(c) How the amendment conforms to the content of the authorizing statute: Substantive amendments to 703 KAR 5:280 conform to federal and state statutes by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with the ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of the ESSA require the KDE to identify schools for CSI, and Section 1111(d)(2) requires the KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to, among other items, maintain an "approved turnaround vendor list" and establish annual statewide exit criteria for schools identified for CSI or TSI.

(d) How the amendment will assist in the effective administration of the statutes: Substantive amendments to 703 KAR 5:280 assist in the effective administration of federal and state statute by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with the ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of the ESSA require the KDE to identify schools for CSI, and Section 1111(d)(2) requires the KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to, among other items, maintain an "approved turnaround vendor list" and establish annual statewide exit criteria for schools identified for CSI or TSI.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local education agencies (LEAs), entities seeking placement on the KBE's "approved turnaround vendor list," the KBE, and the KDE will be impacted by this regulation.

(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: LEAs with schools, including charter schools, identified for CSI must comply with the process established within the regulation, pursuant to KRS 158.6455(6), whereby "a school or school district shall be allowed to appeal any judgment made by the department...of a principal, superintendent, school, or school district which it considers grossly unfair." LEAs with schools, including charter schools, identified for CSI must also select a turnaround team from the "approved turnaround vendor list" the KBE is required to maintain pursuant to KRS 160.346(1)(a) and (8)(a) and Section 15 of the revised regulation. LEAs must notify the KDE of selected turnaround teams using the Notification of Non-Department Audit Team Form incorporated by reference within the

regulation. Entities seeking placement on the KBE's "approved turnaround vendor list" must comply with Section 15 of the revised regulation, including utilization of the Turnaround Vendor Application incorporated by reference within the regulation. The KBE and the KDE will implement all aspects of the amended regulation, which aligns with SB 158 (2020) requiring, among other items, the KDE act as the audit team in all schools identified for CSI and the KBE establish and maintain an "approved turnaround vendor list;" sets forth revised criteria for the KDE-led audit team to determine a principal's capacity to lead turnaround efforts in a CSI school; and, delineates a process, pursuant to KRS 158.6455(6), by which "a school or school district shall be allowed to appeal any judgment made by the department...of a principal, superintendent, school, or school district which it considers grossly unfair."

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no anticipated budget impact related to the amendment of this administrative regulation for local education agencies or entities seeking placement on the KBE's "approved turnaround vendor list." While the KBE and the KDE may incur unknown costs in the form of additional staff time and dedicated resources with regard to the creation and maintenance of an "approved turnaround vendor list," which the KBE is required to oversee pursuant to KRS 160.346(1)(a), providing a system of school improvement procedures and supports continues to be required by federal and state law, and Kentucky is estimated to receive \$600,000 in federal funding under Title I, Part A to support school improvement in identified schools.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amended regulation conforms to federal and state statutes, including the ESSA and KRS 160.346, and conformance with authorizing statutes ensures clarity and legal compliance for the entities identified in question (3). Further, the system of accountability and support for low-achieving schools and districts provided in this regulation is aimed at creating sustainable turnaround and, ultimately, spurring school and district improvement across Kentucky.

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

(a) Initially: The ESSA, which became effective in 2015, requires the KDE to adopt a system of accountability and support for low-achieving schools and districts. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of the ESSA require the KDE to identify schools for CSI, and Section 1111(d)(2) requires the KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to, among other items, maintain an "approved turnaround vendor list" and establish annual statewide exit criteria for schools identified for CSI or TSI. While the KBE and the KDE may incur unknown costs in the form of additional staff time and dedicated resources with regard to the creation and maintenance of an "approved turnaround vendor list," which the KBE is required to oversee pursuant to KRS 160.346(1)(a), providing a system of school improvement procedures and supports continues to be required by the ESSA and KRS 160.346, and the KBE and the KDE have been complying with these federal and state statutes since their effective dates.

(b) On a continuing basis: While the KBE and the KDE may incur unknown costs in the form of additional staff time and dedicated resources with regard to the creation and maintenance of an “approved turnaround vendor list,” which the KBE is required to oversee pursuant to KRS 160.346(1)(a), providing a system of school improvement procedures and supports continues to be required by the ESSA and KRS 160.346, and the KBE and the KDE have been complying with these federal and state statutes since their effective dates. Therefore, on a continuing basis, the KDE incurs costs for providing support, monitoring, and technical assistance to low-achieving schools and districts. Since the state legislature’s decision not to fund the Commonwealth School Improvement Fund in the 2018-2020 biennial budget, federal funding has supported this work. Kentucky is expected to receive \$600,000 under Title I, Part A of the ESSA to support school improvement in identified schools.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: While the KBE and the KDE may incur unknown costs in the form of additional staff time and dedicated resources with regard to the creation and maintenance of an “approved turnaround vendor list,” which the KBE is required to oversee pursuant to KRS 160.346(1)(a), providing a system of school improvement procedures and supports continues to be required by the ESSA and KRS 160.346, and the KBE and the KDE have been complying with these federal and state statutes since their effective dates. Federal funding is used for the implementation and enforcement of the obligations in the ESSA and KRS 160.346, including the provision of support, monitoring, and technical assistance to low-achieving schools and districts, and Kentucky is expected to receive \$600,000 under Title I, Part A of the ESSA to support school improvement in identified schools.

(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: An increase in fees or funding is not anticipated to be necessary to implement the amendment to this administrative regulation.

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

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because the amendment to this administrative regulation applies equally to individuals, businesses, organizations, or state and local governments affected by this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 703 KAR 5:280
Contact Person: Todd G. 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? Local education agencies (LEAs), the Kentucky Board of Education (KBE), and the Kentucky Department of Education (KDE).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.029(7), 156.070(5), 158.6453, 158.6455, 160.346, 20 U.S.C. 6301.

(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. For the first full year, there is no anticipated budget impact related to the amendment of this administrative regulation for LEAs; however, the KBE and the KDE may incur unknown costs in the form of additional staff time and dedicated resources with regard to the creation and maintenance of an “approved turnaround vendor list,” which the KBE is required to oversee pursuant to KRS 160.346(1)(a). However, because providing a system of school improvement procedures and supports continues to be required by the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (ESSA) as well as KRS 160.346 and because the KBE and the KDE have been complying with these federal and state statutes since their effective dates, there is no anticipated additional cost in the first full year.

(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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? While the KBE and the KDE may incur unknown costs for the first year in the form of additional staff time and dedicated resources with regard to the creation and maintenance of an “approved turnaround vendor list,” which the KBE is required to oversee pursuant to KRS 160.346(1)(a), providing a system of school improvement procedures and supports continues to be required by the ESSA and KRS 160.346, and the KBE and the KDE have been complying with these federal and state statutes since their effective dates.

(d) How much will it cost to administer this program for subsequent years? While the KBE and the KDE may incur unknown costs in subsequent years in the form of additional staff time and

dedicated resources with regard to the creation and maintenance of an “approved turnaround vendor list,” which the KBE is required to oversee pursuant to KRS 160.346(1)(a), continuing costs are incurred as a result of the obligations in the ESSA and KRS 160.346 to provide support, monitoring, and technical assistance to low-achieving schools and districts. Since the state legislature’s decision not to fund the Commonwealth School Improvement Fund in the 2018-2020 biennial budget, federal funding has supported this work. Kentucky is expected to receive \$600,000 under Title I, Part A of ESSA to support school improvement in identified schools.

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 (+/-): NA

Other Explanation: N/A

Summary Page - Incorporation by Reference

703 KAR 5:280. School Improvement Procedures

The following documents are incorporated by reference:

- (1) "Notification of Non-Department Turnaround Team Form," December 2020. This document incorporated by reference consists of one (1) page and is the form an LEA shall use to notify the department of its intent to utilize the department or another option from the KBE-approved vendor list for the turnaround team.
- (2) "Turnaround Vendor Application," December 2020. This document incorporated by reference consists of two (2) pages and is the form an entity shall use to seek status on the KBE-approved vendor list pursuant to KRS 160.346(1)(a) and (8)(a) as well as Section 15 of 703 KAR 5:280.

STATEMENT OF CONSIDERATION
RELATING TO 703 KAR 5:280
School Improvement Procedures

Kentucky Board of Education, Department of Education

(Amended After Comments)

I. A public hearing was scheduled on the above regulation for February 22, 2021 at 10:00 a.m. Eastern Time, in the State Board Room, Kentucky Department of Education, 300 Sower Blvd., 5th Floor, Frankfort, Kentucky but was cancelled when no one registered to attend or attended the hearing. However, written comments were received during the public comment period.

II. The following individuals submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Bobby Bennett	President, Kentucky Association of School Administrators

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

<u>Name and Title</u>
Dr. Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support
Todd Allen, General Counsel, Office of Legal Services
Dr. Matthew Courtney, Policy Advisor, Office of Continuous Improvement and Support

IV. Summary of Comments and Responses

(1) Subject Matter: Principal capacity recommendation

(a) Comment: The commenter stated, “Based on the legislature’s action and intent in deleting this requirement, we believe it is necessary to delete Section 3, subsection (3)(b) of the regulation, at the top of page 7. That provision still requires a school audit to automatically evaluate the leadership capacity of a principal. That language should be replaced by the language contained in SB 158: ‘the best strategies to address the school’s specific needs’. If the principal’s leadership is a specific need that the superintendent wishes to address, nothing in our proposed new language would preclude the audit team from expressing that in their report.”

Those offering written comments related to principal capacity was Bobby Bennett.

(b) Response: The agency has carefully reviewed and appreciates this comment.

Section 3(2)(b) of the regulation states that all school audits must include “An analysis and recommendation regarding the principal’s capacity to lead turnaround in a school identified for

comprehensive support and improvement and whether the principal should be replaced.” KRS 160.346(7)(a) requires audit teams to provide “(2) an assessment and recommendation to the superintendent regarding the best strategies to address the school’s specific needs” and “(4) a recommendation of the steps the school may implement to launch and sustain turnaround process.”

Recognizing the important role that a school leader plays in implementing the turnaround process in a school, the evaluation of the principal’s capacity to lead turnaround represents a best practice. Additionally, SB 158 (2020) included a specific requirement for the KDE to promulgate a regulation to allow districts to appeal principal capacity findings to the Kentucky Board of Education (KBE). This suggests that the legislature did not intend to prohibit the audit teams from conducting principal capacity recommendations. Without a statutory prohibition, an audit team may use their professional judgement to determine if a capacity recommendation is appropriate. The regulation must include language clarifying the rules and procedures for the implementation of the capacity recommendation component of the audit in order to stem the effects of unconscious bias and promote equity.

KRS 13A.120(2)(e) prohibits an administrative body from promulgating administrative regulations “[w]hen a statute prescribes the same or similar procedure for the matter regulated.” Because the language the commenter recommends be adopted in the regulation is already prescribed in statute and because the inclusion in the regulation of matters already set forth in statute is prohibited by law, KDE declines to adopt the repetitive text from KRS 158.6455 in 703 KAR 5:280.

However; KDE has amended the text to better reflect legislative intent by giving the audit team the flexibility to determine if a capacity recommendation (whether positive or negative) is warranted and to remove the expectation that a capacity recommendation includes a recommendation as to whether or not to remove the principal. Under the revised language, audit teams will have authority to comment on the role a principal may play in promoting or inhibiting rapid school improvement and the various supports they may need to accomplish this task. Section 3(3) of the regulation provides guard rails to guide the audit teams in making a capacity determination.

2. Subject Matter: Content of KRS 158.6455.

(a) Comment: The commenter stated, “In addition, KRS 158.6455, subsection (6) now states that a school or district may appeal “any performance judgment . . . of a principal”. We believe the regulatory language should reflect that standard as well, and that the phrase “recommendations regarding the principal or school leader’s capacity and authority” that appear in the regulation should be replaced with “any performance judgment regarding a principal or school leader.” This phrase appears in Section 5, subsection (4)(a); subsection (4)(b), and subsection (5)(b).”

Offering written comments related to the content of KRS 158.6455(6) was Bobby Bennett.

(b) Response: The agency has carefully reviewed and appreciates this comment.

KRS 158.6455(6) requires the KBE to promulgate a regulation to create an appeals process for principals who disagree with “any performance judgement made by the department” under KRS 160.346. This regulation addresses the requirements of KRS 158.6455(6) in Section 4. The commenter requested that language in Section 3 of the regulation, which states “an analysis and recommendation regarding the principal’s capacity to lead turnaround in a school identified for comprehensive support and improvement and whether the principal should be replaced,” be replaced to say “A performance judgment regarding a principal or school leader.”

These two statements are wholly different in their intent. The current language requires audit teams to consider whether or not the school leader has the ability to lead the current school in its current state. The broad language proposed by the commenter would require audit teams to consider if the school leader is an effective school leader in a much broader sense. This is an unnecessarily high bar that will have negative consequences for leaders who are found to be insufficient by the audit team. Under the current language, if a leader is found to lack the capacity to lead the turnaround effort, they have the ability to pursue leadership positions in higher performing schools that are not in need of turnaround.

School improvement research has demonstrated that the competencies of school turnaround leaders are different than those of leaders in other settings. Research has also found that leaders who lack the necessary skills to facilitate turnaround are unlikely to be able to develop those skills while on the job. The intent of the regulatory language is to facilitate a process by which audit teams can determine if the current principal has the necessary prerequisite skills to lead a low performing school in its current state.

Also, KRS 13A.120(2)(e) prohibits an administrative body from promulgating administrative regulations “[w]hen a statute prescribes the same or similar procedure for the matter regulated.” Because the language the commenter recommends be adopted in the regulation is already prescribed in statute and because the inclusion in the regulation of matters already set forth in statute is prohibited by law, KDE declines to adopt the repetitive text from KRS 158.6455 in 703 KAR 5:280.

No amendments were made in response to this comment.

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

The public hearing on this administrative regulation was cancelled; however, written comments were received. The promulgating agency responded to the comments and amends the administrative regulations as follows:

Page 7

Section 3(2)(b)

Line 1

After “(b)”, insert the following:

At the disrection of the audit team, an

Delete “An”

Page 7

Section 3(2)(b)

Line 2

After “school identified for comprehensive support and improvement”, delete “and whether the principal should be replaced”.