

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amended After Comments)

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

6 RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, **158.649, 160.346**, 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 Suc-

11 ceeds 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.

17 Section 1. Definitions. (1) ~~["Achievement gap" means a measure of the performance difference~~

18 ~~between student demographic groups to each other for reading and 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.]~~

"English learner progress indicator" means the combination of individual student growth for status and the difference in school performance for change of English learners toward English language proficiency. For all other indicators, **English learners [it]** means students currently identified and those who continue to be monitored **as English learners.**

~~**[(2) [(4)] "Federal student group designation" means targeted support and improvement, and additional targeted [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.]~~

~~**(2) [(3)] [(6)]** "Full academic year" means 100 or more instructional days of student enrollment within the school year.~~

~~**(3) [(4)] [(7)]** "Grade twelve (12) non-graduates" means all students enrolled in grade twelve (12) at the end of the school year who do not graduate.~~

~~**(4) [(5)] [(8)]** "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) "Growth" means a student's continuous improvement toward proficiency or above.~~

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

(5) [(6)] "Indicator performance rating" means one of five colored-coded performance levels on each state indicator that is determined by combining status and change.

(6) [(7)] [(11)] "Individual education program" or "IEP" means an individual education program as defined in 707 KAR 1:002.

(7) [(8)] [(12)] "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) "Practical significance" means a measure of the differences between student groups has real meaning.~~

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

(8) [(9)] "Overall performance rating" means one (1) of five (5) color-coded performance levels that aggregates all available state indicator data that is determined by combining status and change.

(9) [(10)] "Postsecondary readiness" means the attainment of the necessary knowledge, skills, and dispositions to successfully transition to the next level.

(10) [(11)] [(15)] "Proficient" or "proficiency" means reaching the desired level of knowledge and skills as measured on academic assessments.

(11) [(12)] [(16)] "Quality of school climate and safety indicator" means the measures of school environment.

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

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

~~(19) "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.]~~

(12) [(13)] "State assessment results for reading and mathematics indicator" means the measure of academic [status or] performance for reading and mathematics on state assessments.

(13) [(14)] "State assessment results for science, social studies, and writing indicator" means the measure of academic [status or] performance for science, social studies, and writing on state assessments.

(14) [(15)] "State indicator" means a component of the accountability system as defined in KRS 158.6455.

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

(15) [(16)] [(21)] "Value table" means a set of numbers that are used to attribute scores to different performance levels.

(16) [(17)] [(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 state indicators of: state assessment results for reading and mathematics [proficiency]; state assessment results [separate academic indicator] for science, social studies, and writing; English learner progress [growth]; postsecondary [transition] readiness; quality of school climate and safety; and graduation rate.

(1) The state assessment results for reading and mathematics [proficiency] indicator shall be measured by student performance on state assessments [tests] in reading and mathematics.

(2) ~~The state assessment results for science, social studies, and writing [A separate academic]~~ indicator shall be measured by student performance on state assessments ~~[tests]~~ in science, social studies, and writing.

(3) The English learner progress indicator shall be measured by student performance on an English proficiency test. The English learner progress indicator shall be measured based on a growth value table. Additional tables shall incorporate the federal flexibilities of age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling. ~~[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 postsecondary ~~[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 twelve (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 two (2) ~~[six (6) hours of]~~ Kentucky Department of Education approved dual credit courses 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 **successful completion of** one (1) quantitative reasoning or natural sciences **course** and one (1) written or oral communication **course**; or visual and performing arts **course**; or humanities **course**; or social and behavioral sciences learning outcomes **course**.
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 two (2) [~~six (6) hours of~~] Kentucky Department of Education approved CTE dual credit courses, 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.]~~
  - 3 [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 performance rating for schools and LEAs for the following state indicators:

(a) State Assessment Results [~~Proficiency~~] (reading and mathematics);

(b) State Assessment Results [~~Separate academic indicator~~] (science, social studies, and writing);

(c) English learner progress [~~Growth (elementary and middle school)~~];

(d) Postsecondary [~~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 performance 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 performance rating shall be attributed to grade level spans for schools and LEA as established in this subsection.

(a) Elementary schools shall include data from: state assessment results for reading and mathematics [~~proficiency~~]; state assessment results [~~separate academic indicator~~] for science, social studies, and writing; English learner progress [~~growth~~]; **and** quality of school climate and safety [~~;~~ **and federal student group designation**].

(b) Middle schools shall include data from: state assessment results for reading and mathematics [~~proficiency~~]; state assessment results [~~separate academic indicator~~] for science, social studies,

and writing; English learner progress [~~growth~~]; **and** quality of school climate and safety[~~;~~**and federal student group designation**].

(c) High schools shall include data from: state assessment results for reading and mathematics [~~proficiency~~]; state assessment results [~~separate academic indicator~~] for science, social studies, and writing; English learner progress; postsecondary [~~transition~~] readiness; graduation rate; **and** quality of school climate and safety[~~;~~**and federal student group designation**].

(d) LEAs shall include data from: school state assessment results for reading and mathematics [~~proficiency~~]; state assessment results [~~separate academic indicator~~] for science, social studies, and writing, English learner progress [~~growth~~]; postsecondary [~~transition~~] readiness; graduation rate; and quality of school climate and safety.

Section 4. Calculations for Reporting Categories. (1)(a) State assessment results [~~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.

~~(b)(2)~~ State assessment results [~~The separate academic indicator~~] for science, social studies, and writing shall be rated **equally** 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.~~]

(2)(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 state assessment results state [~~proficiency and separate academic~~] indicators.

(b) The following **value table** [~~chart~~] shall be used to calculate the points for state assessment results in reading and mathematics and state assessment results in science, social studies, and writing [~~proficiency and the separate academic indicator~~]:

Proficiency Levels	Points Awarded for Each Percent of Students
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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		Pro- fi- cient	Distin- guished
Year 1 Student Perfor- mance	Low	High	Low	High		
Distin- guished	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.]~~

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

(a) ~~[1-]~~ Individual growth shall be compared to prior year performance on an English proficiency exam.

(b) ~~[2-]~~ The exit benchmark and English learner growth value tables created involving Kentucky educators and advised by technical experts shall be utilized.

(c) ~~[3-]~~ Points for each English learner based on the English learner growth value table shall be averaged ~~[summed]~~.

(d) The value tables shall be included in the Every Student Succeeds Act Consolidated State Plan and negotiated with the United States Department of Education.

(e) ~~[a. Depending on further analysis,]~~ Kentucky shall ~~[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. **Data collected for individual students shall be aggregated to calculate school and district level scores for climate, safety, and overall climate and safety indicator.**

(5) Postsecondary ~~[Transition]~~ readiness shall be calculated by dividing the number of high school graduates plus grade twelve (12) non-graduates who have met measures of postsecondary ~~[transition]~~ readiness ~~[plus the number of English learners who have achieved English language proficiency]~~ by the total number of graduates plus grade twelve (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 indicator performance rating shall be assigned as follows:

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

(b) Indicators identified in Section 3 shall have a rating of declined significantly, declined, maintained, increased, or increased significantly by school and LEA for change.

(c) Each state indicator combines status and change and reports an indicator performance level using a color-coded table.

~~(8) [(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 performance 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.]~~

~~(9) [(e)]~~ A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to recommend ~~[determine]~~ very low to very high performance levels for status and declined significantly to increased significantly for change on each indicator including state assessment results for reading and mathematics ~~[proficiency]~~, state assessment results for science, social studies, and writing ~~[separate academic indicator]~~, English learner progress ~~[growth]~~, postsecondary ~~[transition]~~ readiness, graduation rate, and quality of school climate and safety.

~~(10)(a) [(8)]~~ An overall performance ~~[star]~~ rating for elementary, middle, and high schools shall be reported using a color ~~[five (5) star]~~ rating system to communicate performance of schools, with red ~~[one (1) star]~~ being the lowest rating and blue ~~[five (5) stars]~~ being the highest rating. Color ratings shall include five performance levels from highest to lowest: Blue, Green, Yellow, Orange, and Red. Performance of schools, LEAs, and state will be reported by level (elementary, middle, and high) as applicable. The School Report Card shall display the color ~~[star]~~ ratings earned for each school, LEA, and state (by level) ~~[and the total five (5) stars available]~~.

Overall Accountability Weights						
	<u>State</u>	<u>State</u>	<u>English</u>	<u>Quality</u>	<u>Postsecondary</u>	<u>Graduation</u>

	Assessment Results [ <del>Pro-</del> iciency] (Reading and Mathematics)	Assessment Results [Separate Academic Indicator] (Science, Social Studies, and Writing)	learner progress [Growth (including English Language Learners)]	of School Climate and Safety	[Transition] Readiness [(High school includes English language learners)]	Rate (4 and 5 year cohort)
Elementary[ <del>/</del> Middle] Schools	<u>51</u> [35]	<u>40</u> [26]	<u>5</u> [35]	4	--	---
Middle Schools	<u>46</u>	<u>45</u>	<u>5</u>	<u>4</u>		
High Schools	45	<u>20</u> [45]	<u>5</u> [—]	4	<u>20</u> [30]	6

(b) The performance on state indicators is combined ~~[that contribute to the overall star ratings]~~ using the amounts in the Overall Accountability Weights table to generate an overall performance ~~[shall be determined by a standard setting process involving Kentucky educators]~~.

(c) **As a result of the standard setting process, the committee shall recommend the procedures for determining indicator and overall performance ratings, combining status and change and reflecting the indicator weights. [Indicator and overall performance color ratings shall be recommended during standards setting.]** The recommendation from the standards setting committee shall be approved as defined in KRS 158.6455.

~~[(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 required federal designations **as defined in KRS 160.346** ~~[bottom five (5) percent and ten (10) percent]~~ based on the overall performance ~~[indicators]~~ of the accountability ~~[(five) 5-star]~~ system.

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

~~(11) [(9)]~~ School accountability indicators shall be assigned as follows:

(a) Students enrolled for a full academic year shall be included in the calculations for state assessment results for reading and mathematics ~~[proficiency]~~, state assessment results ~~[a separate academic indicator]~~ for science, social studies, and writing, English learner progress ~~[growth]~~, quality of school climate and safety, and postsecondary ~~[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 thirty (30) ~~[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) color ~~[(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. Be advised by the National Technical Advisory Panel on Assessment and Accountability; the School Curriculum, Assessment and Accountability Council; Local Superintendent Advisory Council, and the Office of Education Accountability; and

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

Section 5. Additional Public Reporting Requirements. (1) The Kentucky Department of Education shall report disaggregated data for each state indicator of the state assessment and accountability system.

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

(3) The goal for academic achievement operationalizes both the improvement of proficient and distinguished performance for all students and each student group and the reduction of achievement gaps as defined in KRS 158.649 ~~[in student group performance by fifty (50) percent by 2030]~~. Each student group of ten (10) or more students shall be reported on the School Report Card. The data will be suppressed as necessary for reporting to meet the Family Educational

1 Rights and Privacy Act (FERPA) [~~Each student group of ten (10) or more students shall be com-~~  
2 ~~pared to the reference group of the highest performing student group that is at least ten (10) per-~~  
3 ~~cent of the student population].~~

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

8 ~~-(5) Performance levels of each indicator (proficiency for reading and mathematics, a separate~~  
9 ~~academic indicator for science, social studies, and writing, growth, transition readiness, quality~~  
10 ~~of school climate and safety, and graduation rate) from very low to very high on each indicator~~  
11 ~~will be determined by Kentucky educators with a standards setting process.~~

12 ~~(6) Federal designations and statistically and practically significant achievement gaps will be re-~~  
13 ~~ported for each school, LEA, and state. (44 Ky.R. 848, 1567, 2008; eff. 2-26-2018; 45 Ky.R.~~  
14 ~~2179, 2707, 3068; eff. 5-31-2019; 46 Ky.R. 2144; eff. 7-31-2020.)]~~



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, Ed.D.  
Kentucky Board of Education Chairperson

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this proposed administrative regulation shall be held on April 22, 2021 at 10 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 April 30, 2021. 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, 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](mailto: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](mailto: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.

KRS 158.6455 requires the Kentucky Board of Education (KBE) to create an accountability system to classify schools and districts, including a process for annual summative performance evaluations and goals for improvement.

(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: state assessment results (reading and mathematics), state assessment results (science, social studies and writing), English learner progress, graduation rate (high school only), postsecondary 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 certain accountability indicators and measures in the system due to recently passed legislation, Senate Bill (SB) 158 (2020).

SB 158 (2020) amends KRS 158.6455 to create an accountability system that shall include an annual meaningful differentiation of all public schools in the state using multiple measures that describe the overall performance of each district, school and student subgroup. Performance shall be based on a combination of academic and school quality indicators and measures known as "state indicators." Those indicators shall exclusively include student assessment results, progress toward achieving English proficiency by limited English proficiency students, quality of school

climate and safety, high school graduation rates, and postsecondary readiness. In addition, the accountability system performance for each district, school and student subgroup determined by the state indicators shall be based on a combination of annual performance, hereinafter called “Status,” and improvement over time, hereinafter called “Change.” In addition, SB 158 (2020) changes the definition for achievement gap.

(b) The necessity of the amendment to this administrative regulation: After recently passed legislation, Senate 158 (2020), it is necessary to amend the accountability regulation to align with state statute.

(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: state assessment results (reading and mathematics), state assessment results (science, social studies and writing), English learner progress, graduation rate (high school only), postsecondary 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 schools 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 KDE implements and manages the accountability system, as established and promulgated in regulation by the KDE. 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, 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. LEAs and schools may choose to implement new programs or services in

response to the new accountability system that may result in additional costs for LEAs and schools, however, this would be a locally determined decision. KDE anticipates additional indirect costs to implement a new accountability system. Additional costs are expected to implement new accountability and reporting requirements codified in SB 158 (2020).

(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, include quality of school climate and safety, 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. In addition, achievement gaps will be reported outside of accountability.

(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 will require 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 1 (2017 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 1 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 1 (2017) 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](mailto: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 new accountability system will require 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 1 (2017 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 1 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 (+/-): The transition to the new accountability system will require 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 1 (2017 Kentucky General Assembly). The results of these assessments are used to rate schools in the accountability system. Senate Bill 1 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.

Other Explanation: N/A

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

Kentucky Board of Education  
Department of Education

Amended After Comments

- I. A public hearing was held for the above regulation on April 22, 2021 at 10 a.m. Eastern Time at the Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky.
- II. The following individuals attended this public hearing or submitted written or verbal comments:

<u>Name</u>	<u>Title and Affiliation</u>
Judith Bradley	Managing Partner & Idea Architect, JackBeNimble, Inc.
Travis Burton	Director of Political Affairs, Kentucky Chamber of Commerce
Dena Dossett	Chief of Accountability, Research and Systems Improvement, Jefferson County Public Schools
Todd Dunn	President, UAW - Local 862
Michael Gritton	Executive Director, Kentuckiana Works
Perry Papka	Deputy Director of Policy & Research, Prichard Committee for Academic Excellence
Brigitte Blom Ramsey	President & CEO, Prichard Committee for Academic Excellence
Marcia Ford Seiler	Acting Legislative Research Commission (LRC) Deputy Director, Office of Education Accountability
David Tachau	Former Kentucky Board of Education (KBE) Member

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

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



#### IV. Summary of Comments and Responses

##### (1) Subject Matter: Minimum N-Count

(a) Comments: Commenters object to the decision to raise the minimum “n” size to thirty (30) students per school for accountability purposes and urge the Kentucky Board of Education (KBE) to continue accountability for student groups of ten (10) or more. The commenters believe that the change will radically reduce accountability for student groups and is inconsistent with the Board’s values. Commenters recommend that the regulation not be amended to change the minimum n-count and language to use thirty (30) students per school be removed.

One commenter, is particularly concerned about students with disabilities and states that students with disabilities are a sizable subpopulation in our education system and believes that they are already undercounted, underestimated and underrepresented. The commenter is concerned that too many high school students with disabilities will not be counted if the minimum n-count is increased to 30 per school.

Another commenter states that during the 2019-2020 school year, there were eight schools that would not have the requisite number of students to have a 4-year graduation rate and three of those eight schools would not have enough to have a 5-year graduation rate included in their indicator performance rating. The commenter is concerned that the proposed regulation does not address a situation where there is no 4-year graduation rate but there is a 5-year graduation rate or vice versa.

Commenters also state that there are several high schools that do not have a high enough “n-count” to be accountable in the State Assessment Results indicators, English Learner Progress, Graduation Rate and Postsecondary Readiness indicators. In these instances, the overall performance of the accountability system would be redistributed to the Quality of School Climate and Safety indicator that has not been fully defined and is intended to only have a weighting of four percent.

Finally, a couple of commenters ask for a clarification be made to Section 5(3) on “Additional Public Reporting Requirements” by amending its second sentence to read: “Academic achievement goals and annual data for each student group of ten (10) or more students shall be reported on the School Report Card and used to implement KRS 158.649.”

Individuals speaking or offering written comments or concerns on this subject matter include: Judith Bradley, Perry Papka, Brigitte Blom Ramsey, Marcia Ford Seiler, David Tachau

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

Accountability systems, like other measurement systems, should be based on measures and scores that support valid interpretations, are appropriately reliable/precise for the intended uses and are fair. In addition, accountability systems should be sustainable, which includes being simple enough to communicate effectively to garner support, and to maintain operationally. Because they are based on imperfect measures of human performance, accountability measures always have some variability. Some of that variability reflects real differences, and some is uncertainty

because of the imperfections in instruments and the nature of human performance. Accountability systems usually are designed to minimize uncertainty to the levels deemed appropriate by policy makers and that are technically possible, reflecting policy values about inherent tradeoffs.

In accountability systems, fewer students' scores yield less reliable school scores when generalizing about past and future school performance. One common method for increasing reliability of school scores is to require a minimum number of student scores, or minimum n-count in order for the school to be included in accountability. The higher the minimum n-count (up to a point), the more reliable the school score. However, the higher the minimum n-count, the more schools and/or student groups will not be included, since the result of requiring, for example, at least 10 students is that any school or student group with fewer than 10 students will not be included in accountability. The policy decision about where to set a minimum n-count must identify the acceptable balance is between inclusion and reliability, within what is technically possible. It is not technically possible in Kentucky's measures, for example, to have a very low minimum n-count and a high level of reliability. Another factor to consider is privacy. State and federal laws (e.g., FERPA) protect certain individual information from being disclosed. Aggregation and reporting results of groups and not individuals is one way to protect personally identifiable information. The minimum n-count needed to protect individual privacy is generally quite low—in simple systems, perhaps 5, which is much lower than the minimum n-count required for accountability reliability. A minimum n count that supports reliable accountability decisions will be sufficiently high to safeguard individual data privacy in all but the most unusual circumstances. A final consideration is simplicity— Kentucky has tried to keep its use of minimum n-count very simple, with one rule applied to all situations. It would be possible to tune minimum n-count rules to different situations, but at the tradeoff of increased complexity.

Kentucky, for many years, has used a minimum n-count of 10 students per grade that applies to schools and student groups. The regulation continues to use the minimum n-count of 10 students in a grade for public reporting. Using a lower minimum n-count for reporting ensures transparent communication of aggregated student data for analysis and discussion by stakeholders and local communities. For accountability, increasing the minimum n-count to 30 per school provides greater reliability for accountability determinations and for a more consistent impact of the minimum n-count across all grade levels. During the 2020 session of the General Assembly, a proposal was made to use a minimum n-count of 30 students for every school and student group. Additionally, the Local Superintendent Advisory Council (LSAC) and KBE requested staff contact the U.S. Department of Education (USED) regarding additional flexibilities around minimum n-count. USED confirmed that states must use a single number and that a percentage of student population does not meet federal law. USED did confirm that a state may submit for USED approval a different minimum n-count for a specific indicator if there is a justification. Staff are unable to identify such a justification.

In addition, the Kentucky Department of Education (KDE) has long held every school in the state of Kentucky accountable in compliance with federal and state law. In some cases, business rules have been developed to handle exceptional cases and circumstances that may occur. For example, a business rule for small schools has been used for the all students group so the indicator (e.g. graduation rate) is included in accountability even if the total population is below the minimum n-count. These business rules have been submitted and reviewed at the federal level and have been used as documentation in federal audits and state plans.

After careful consideration of the comments, the agency declines to amend the regulation on minimum n-count used for accountability.

In addition, the agency declines to incorporate the minimum n-count requirement into the Superintendent Gap Assurance. KRS 158.649 does not specify which data the district must use when creating their gap assurances. KDE's long-standing guidance has been that schools and districts can use whichever data source makes the most sense to them when setting any goal in the Comprehensive School or District Improvement Plan (CSIP/CDIP) processes, including their gap assurances. Furthermore, as gap assurances are locally controlled, the agency does not collect the specific gap targets through the CSIP/CDIP process. Superintendents are only required to report which schools in their district failed to meet their locally determined target.

## (2) Subject Matter: Postsecondary Readiness

(a) Comments: Commenters believe that the weighting for the Postsecondary Readiness indicator should remain at 30 percent for high school. Commenters state that Postsecondary Readiness is the most important measure in the accountability system to Kentucky's employers because it provides them with both academic and technical skills.

One commenter who submitted written comments on behalf of their Board states that they have serious opposition to anything that would reduce the focus on the state's accountability system on Postsecondary or Transition Readiness. The commenter explains that over the last few years, their alignment work and priorities has focused on helping more high school students earn industry-recognized credentials and college credit, along with getting more "real world" experiences through site visits, talks with employers, summer jobs, senior co-ops and apprenticeships. They believe that their work on "alignment" issues has been in fact totally "aligned" with the accountability system, which has placed a high value (30%) on how well schools achieve these goals through their "transition readiness" work. They believe that lowering this percentage rate will reduce the importance of work that they've been leading the last several years and it would be detrimental to the futures of thousands of our region's young people.

Another commenter states that a reduction in the Postsecondary Readiness weight and increase in the separate academic indicator creates a less meaningful accountability model at high school. The commenter states that Postsecondary Readiness is the pinnacle goal of high schools and that preparing students to be competitive in the global economy requires them to exhibit postsecondary college and/or career readiness. The commenter believes that decreasing the weight of the most critical aspect of preparedness is not conducive to personalizing learning pathways and moves the accountability system back to a traditional mindset of education. With the racial equity resolution passed by the KBE, the commenter believes de-emphasizing the personalized pathways, programs and experiences for students is going to disproportionately hurt students of color. The commenter states that the emphasis on career readiness in the accountability model has forced schools to personalize the high school experience for every student and move away from just tracking credits for a diploma. It is stated that students leave high school with more than a diploma as a result of this accountability indicator. It propels them toward postsecondary learning and/or earning like no other accomplishment outside of the actual diploma. It means more to employers and/or postsecondary than any other part of the accountability system, and it encour-

ages schools to engage directly with community partners, businesses, and companies that want to be a part of the educational foundation of what high school students experience.

The same commenter states that from a statistical perspective, based on the Accountability Summary file from 2018-2019, there was a 0.87 correlation between the Proficiency Indicator and the Separate Academic Indicator among Kentucky High schools. The association between Proficiency and Transition Readiness was 0.70. Thus, the Proficiency and Separate Academic Indicator assessments approach a statistical level of multicollinearity where the variables are almost redundant. The commenter argues that increasing the weight of the Separate Academic Indicator while decreasing the weight of Postsecondary Readiness is providing less information on school quality than the previous model.

Other comments received on Postsecondary Readiness include the following recommendations:

1. Page 3, line 15, add “following high school graduation” to the end of the sentence.
2. Page 6, lines 8-10, 8(g), add the words “successful completion of” so that the new sentence will read, “demonstration of academic readiness listed in paragraph 5(b)(1) of this section shall include successful completion of...” and also the word “course” after each item on the list.

Individuals speaking or offering written comments or concerns on this subject matter include: Judith Bradley, Travis Burton, Dena Dossett, Todd Dunn, Michael Gritton

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

After amending the accountability system to include the exclusive indicators required by Senate Bill (SB) 158 (2020) and after receiving feedback from advisory groups on the weights of the overall accountability system, the weight for the Postsecondary Readiness indicator was recommended to be 20 percent at high school. According to federal law, the indicators for State Assessment Results for Reading and Mathematics, and Graduation Rate must be greater than 50 percent. Many stakeholders agreed and stated that the State Assessment Results for Science, Social Studies and Writing should be weighted higher which reduced the weight for Postsecondary Readiness. In addition, the English Learner Progress indicator that is exclusively required by SB 158 (2020) must be assigned a weight and that was recommended to be five percent.

In the previous accountability system at the high school level, the Transition Readiness combined Postsecondary Readiness and Growth of English language attainment for English learners. The combination was included into the accountability system at 30 percent. SB 158 elevated English Language Progress to a standalone indicator. With the removal of English language attainment from Transition Readiness, weight was decreased to attribute to the new English Language Progress indicator.

The new Postsecondary Readiness indicator does not include English language attainment. Therefore, maintaining the current level of 30 percent would be an increase to the postsecondary measure. With the requirements of federal law and including all the other indicators at high school, there is not much flexibility on increasing the weight for Postsecondary Readiness. After

careful consideration of the comments received, the agency declines to amend the regulation on the weight for Postsecondary Readiness.

In addition, the agency declines to add “following high school graduation” to the end of the definition of Postsecondary Readiness on page 3, line 15. After receiving guidance from the USED in fall of 2019, the agency was advised that Postsecondary Readiness must include all grade 12 students, not just those who graduate. The USED would not approve Kentucky’s Consolidated State Plan without including all grade 12 students in Postsecondary Readiness. Therefore, the agency declines to amend the definition.

However, the agency agrees to amend page 6, lines 8-10, to add the words “successful completion of” so that the new sentence will read, “demonstration of academic readiness listed in paragraph 5(b)(1) of this section shall include successful completion of...” and has inserted the word “course” after each item on the list.

### (3) Subject Matter: Overall Accountability System

(a) Comments: A commenter states that it is unclear from the proposed regulation how status and change combine to determine an indicator performance rating that can be multiplied by a weighting. The commenter states that while there are references to a standard setting process, the regulation should give more guidance on how the results from the standard setting process will be used.

Another commenter states that the elimination of Growth from elementary and middle school accountability creates an inequitable accountability system that is detrimental to high poverty schools. The commenter states that we need to design an accountability system that considers student level learning gains as a critical component of assessing school quality.

Commenters also made other recommendations regarding the overall accountability weighting and federal designations. The recommendations include:

1. Page 2, lines 8-10, delete the definition for “federal student group designation.” Consider adding the definitions for “additional targeted support and improvement”, “targeted support and improvement”, and “comprehensive support and improvement.”
2. Page 10, lines 10-13, add a definition for “subgroup of students.”
3. Page 13, line 10, consider changing “generate an overall performance” to generate an overall performance rating and overall performance.”
4. Page 14, line 20, for clarity, suggest making explicit what the “required federal designations” are and how they align with the definitions used in KRS 160.346.
5. Page 14, line 21, references identifying schools to determine required federal designations based on a school’s “overall performance on the accountability system.” It may be helpful that “overall performance” be more explicitly defined in Section 1 of the regulation. In addition, the commenter states that it would seem that “overall performance” would be a numerical value that is obtained from the accountability system.
6. Page 14, line 22, consider discussing how data from the “overall performance” of the accountability system will be publicly available.

Individuals speaking or offering written comments or concerns on this subject matter include:  
Dena Dossett, Marcia Ford Seiler

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

The agency agrees that the definition for “federal student group designation” should be deleted from Section 1, Definitions, and has amended the regulation.

KRS 160.346 defines the required federal designations of targeted support and improvement, additional targeted support and improvement, and comprehensive support and improvement. The agency has amended the regulation to reference KRS 160.346 and the lines now read, “Kentucky will identify schools to determine required federal designations as defined in KRS 160.346 based on the overall performance of the accountability system.” Since the terms are defined in statute, the agency declines to add the definitions of additional targeted support and improvement, targeted support and improvement, and comprehensive support and improvement to the regulation. In addition, since the term “subgroups of students” is not used throughout the regulation, the agency declines to add the definition.

Additional detail on Status and Change, and the standard setting process can be located in Kentucky’s Revised Consolidated State Plan Under The Every Student Succeeds Act that will be negotiated with the USED. To clarify, the agency has added the following language to the regulation “as a result of the standard setting process, the committee shall recommend the procedures for determining indicator and overall performance ratings, combining status and change and reflecting the indicator weights.”

Senate Bill (SB) 158 (2020) amended the requirements set forth in KRS 158.6455(1)(b) which exclusively defines Kentucky’s state indicators used in the accountability system. KRS 158.6455(1)(b) states that “the accountability system shall include an annual meaningful differentiation of all public schools in the state using multiple measures that describe the overall performance of each district, school, and student subgroup. Performance shall be based on a combination of academic and school quality indicators and measures, hereinafter called “state indicators.” The state indicators shall exclusively include: 1.) student assessment results; 2.) progress toward achieving English proficiency by limited English proficiency students; 3.) quality of school climate and safety; 4.) high school graduation rates; 5.) postsecondary readiness for each high school student; and 6.) any other factor mandated by the federal Every Student Succeeds Act of 2015, or its successor.” With the amendments made to this statute, the Growth indicator was removed from elementary and middle schools because it was not listed as an exclusive indicator.

KRS 158.6455(1)(d) requires that the KDE develop an online display of the accountability system results hereinafter called a “dashboard.” A color-coded performance level for each state indicator shall be displayed in a straightforward manner on the dashboard for overall performance, status, and change by district, school, and individual subgroups. Overall performance shall aggregate all available data for the state indicators.

Final plans for publicly reporting the new accountability system in the School Report Card are not finalized at this time. However, it is the intent of the statute to emphasize color in reporting

and not a numerical value that could be used to rank schools against each other. After careful consideration of the comments, the agency declines to amend the regulation.

(4) Subject Matter: State Assessment Results

(a) Comments: A commenter makes recommendations on the specific language written on state assessment results. The recommendations include:

1. Page 4, lines 4 and 6, refer to the measures of the academic status or performance on state assessments. The commenter recommends omitting the “status or” in both instances.
2. Page 4, line 22, and Page 5, line 2 refer to “state tests.” The commenter recommends replacing “state tests” with “state assessments.”
3. Page 8, line 19, the commenter recommends changing “results for science, social studies and writing shall be rated in elementary...” to “results for science, social studies, and writing shall be rated equally in elementary...” to align with language in the preceding subsection.

Individuals speaking or offering written comments or concerns on this subject matter include:  
Marcia Ford Seiler

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

The agency agrees with the recommendations received on state assessment results and has amended the regulation.

(5) Subject Matter: Quality of School Climate and Safety

(a) Comments: A commenter is concerned that the proposed regulation does not discuss how the quality of school climate and safety indicator will be calculated. Furthermore, the commenter states that the quality of school climate and safety indicator does not include what measures will be included and that it is unclear who shall be surveyed with these instruments or whether the indicator may include measures of school safety such as suspensions.

Individuals speaking or offering written comments or concerns on this subject matter include:  
Marcia Ford Seiler

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

The regulation currently states that the KBE shall approve the measures of the quality of school climate and safety indicator. The agency has amended the regulation and added the following language to the regulation on the quality of school climate and safety indicator: “Data collected for individual students shall be aggregated to calculate school and district level scores for climate, safety, and overall climate and safety indicator.”

(6) Subject Matter: English Learner Progress

(a) Comments: A commenter is concerned about the definition for the English learner progress indicator and makes a recommendation to consider replacing the sentence “For all other in-

dicators, it means students currently identified and those who continue to be monitored” with “For all other indicators, English learners means students currently identified and those who continue to be monitored as English learners.”

Individuals speaking or offering written comments or concerns on this subject matter include:  
Marcia Ford Seiler

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

The agency agrees with the commenter’s recommendation and has amended the regulation.

#### (7) Subject Matter: Miscellaneous Comments

(a) Comments: Commenters make recommendations on specific language and formatting throughout the regulation. The recommendations include:

1. Page 1, line 6, add KRS 158.649 and KRS 160.346 since they both relate to regulation.
2. Page 8, lines 2, 5, and 10 refer to “federal student group designations.” Consider replacing “quality of school climate and safety; and federal student group designation” with “and quality of school climate and safety.”
3. Page 9, lines 1-5, consider moving Section 4(2)(a) and (b) to their own subsection. Or as an alternative, Sections 4(1) and 4(2) could be combined into one subsection (possibly 4(1)(a) and 4(1)(b)).
4. Page 9, line 4, there is reference to a chart. The commenter recommends “value table” instead of “chart.”
5. Page 13, line 1 should be Section 4(10)(a) not Section 4(10).

Another recommendation made by a commenter is to add the Kentucky State Advisory Council for Exceptional Children to the list of groups to advise to the regulation. The commenter asks that the KBE ensure that representatives of the disability community and especially students with disabilities be included in the review process of regulations.

Individuals speaking or offering written comments or concerns on this subject matter include:  
Judith Bradley, Marcia Ford Seiler

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

The agency agrees with the commenter’s recommendations in comments 1-5 listed above and has amended the regulation.

KRS 158.6455(1)(g) states that prior to promulgating administrative regulations to revise the accountability system, the board shall seek advice from the School Curriculum, Assessment, and Accountability Council; the Office of Education Accountability; the Education Assessment and Accountability Review Subcommittee; and the National Technical Advisory Panel on Assessment and Accountability.



As regulations move through the regulatory process, the agency agrees that it is important that various groups advise on the development and revisions of administrative regulations. For this regulation, many groups were consulted, and each had the opportunity to provide advice and recommendations. These groups included the Local Superintendents Advisory Council (LSAC), School Curriculum, Assessment and Accountability Council (SCAAC), Teacher's Advisory Council (TAC), Principal Advisory Council (PAC), and the Commissioner's Parent Advisory Council. Members who serve on these advisory groups represent various students and student groups throughout the state. In the future, the agency will seek advice from the Kentucky State Advisory Council for Exceptional Children when necessary and if they are scheduled to meet.

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 held for the above regulation on April 22, 2021 at 10 a.m. Eastern Time at the Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky. Written comments were accepted through April 30, 2021. The agency responded to the comments and amends the regulation as follows:

Page 1

Line 6

After “158.6455,” insert the following “158.649, 160.346,”

Page 2

Section 1

Line 6

Delete the word “it” and replace with “English learners”

Page 2

Section 1

Line 7

After the words “continue to be monitored” delete the “.” and insert the following words “as English Learners.”

Page 2

Section 1

Lines 8-9

Delete the following “(2) [(4)] “Federal student group designation” means targeted support and improvement, and additional targeted [~~comprehensive~~] support and improvement as provided in KRS 160.346.”

Pages 2-4

Section 1

Line 14

Renumber definitions 2-16 due to the removal of the “Federal student group designation” definition.

Page 4

Section 1

Line 4

After the word “academic” delete the words “status or”

Page 4

Section 1

Line 6

After the word “academic” delete the words “status or”

Page 4

Section 2  
Line 22  
Delete the word “tests” and replace with “assessments”

Page 5  
Section 2  
Line 2  
Delete the word “tests” and replace with “assessments”

Page 6  
Section 2  
Line 8  
After the words “shall include” insert the words “successful completion of”

Page 6  
Section 2  
Line 9  
After the words “quantitative reasoning or natural sciences” insert the word “course”

Page 6  
Section 2  
Line 9  
After the words “written or oral communication” insert the word “course”

Page 6  
Section 2  
Line 10  
After the words “visual and performing arts” insert the word “course”

Page 6  
Section 2  
Line 10  
After the word “humanities” insert the word “course”

Page 6  
Section 2  
Line 10  
After the words “social and behavioral sciences learning outcomes” insert the word “course”

Page 8  
Section 3  
Lines 1-2  
Insert the word “and” before “quality of school climate and safety” and place at “.” after the word “safety”  
Page 8  
Section 3  
Lines 1-2  
After “quality of school climate and safety;” delete “; and federal student group designation.”

Page 8

Section 3

Line 5

Insert the word “and” before “quality of school climate and safety” and place at “.” after the word “safety”

Page 8

Section 3

Lines 5-6

After “quality of school climate and safety;” delete “; and federal student group designation.”

Page 8

Section 3

Lines 9-10

Insert the word “and” before “quality of school climate and safety” and place at “.” after the word “safety”

Page 8

Section 3

Line 10

After “quality of school climate and safety;” delete “; and federal student group designation.”

Page 8

Section 4

Line 15

After “(1)” insert “(a)”

Page 8

Section 4

Line 18

Delete “(2)” and replace with “(b)”

Page 8

Section 4

Line 19

After the words “shall be rated” insert the word “equally”

Page 9

Section 4

Line 1

Insert a “(2)” before “(a)”

Page 9

Section 4

Line 4

Delete the word “chart” and replace with “value table”

Page 11

Section 4

Line 8

After the sentence “The Kentucky Board of Education shall approve the measures of quality of school climate and safety.” insert the following new sentence “Data collected for individual students shall be aggregated to calculate school and district level scores for climate, safety, and overall climate and safety indicator.”

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Section 4

Line 1

After “(10)” insert “(a)”

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Section 4

Lines 11-12

After “(c)” insert the following sentence “As a result of the standard setting process, the committee shall recommend the procedures for determining indicator and overall performance ratings, combining status and change and reflecting the indicator weights.” and delete the following sentence “Indicator and overall performance color ratings shall be recommended during standards setting.”

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Section 4

Line 20

After the words “required federal designations” enter the words “as defined in KRS 160.346”