

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 703 KAR 5:080. Administration Code for Kentucky's Educational Assessment Program.

6 RELATES TO: KRS 158.6453, 158.6455

7 STATUTORY AUTHORITY: KRS 156.070, 158.6453, 158.6455

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453~~[5]~~ requires the Kentucky Board of

9 Education to promulgate administrative regulations that minimize the number of days of testing and

10 outline the procedures to be used during the testing process to ensure test security, including procedures

11 for testing makeup days, and to comply with federal assessment requirements ~~[to establish a system for~~

12 ~~identifying and rewarding successful schools and to establish appropriate consequences for schools~~

13 ~~failing to meet or exceed their assistance line]~~. This administrative regulation establishes an

14 Administration Code for Kentucky's Educational Assessment Program for appropriate testing practices

15 for state required tests.

16 Section 1. Incorporation by Reference. (1) The "Administration Code for Kentucky's Educational

17 Assessment Program", August 2024 ~~[February 2014]~~, is incorporated by reference.

18 (2) This document may be inspected, copied, or obtained, subject to applicable copyright law, at the

19 Department of Education, Office of Assessment and Accountability, 5th Floor, 300 Sower Boulevard,

20 Frankfort, Kentucky, Monday through Friday, 8 a.m. through 4:30 p.m. This material may be viewed at:

21 https://www.education.ky.gov/AA/distsupp/Documents/703_KAR_5080.pdf.

- 1 (26 Ky.R. 667; eff. 11-1-1999; 35 Ky.R. 638; 2051; eff. 2-12-2009; 36 Ky.R. 159; 1024; eff. 9-14-2009;
- 2 40 Ky.R. 1439; 2186; eff. 5-2-2014; Cert eff. 10-23-2020; TAm eff. 3-8-2023.)

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).

APPROVED

Robbie Fletcher, Ed.D.
Commissioner of Education

Date

Sharon Porter Robinson, Ed.D., Chairperson
Kentucky Board of Education

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on {Month ##, 2024}, at 10:00 a.m., at the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 through {Month ##, 2024}. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Todd G. 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 .

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

703 KAR 5:080

Contact Person: Todd Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes administrative procedures and guidelines for administering state-required assessments included in accountability reporting.

(b) The necessity of this administrative regulation: KRS 158.6453 requires the Kentucky Board of Education to promulgate administrative regulations that minimize the number of days of testing and outline the procedures to be used during the testing process to ensure test security, including procedures for testing makeup days, and to comply with federal assessment requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes administrative procedures and guidelines for administering state-required assessments included in accountability reporting, including processes for ensuring test security.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specific details and guidance to ensure consistent implementation and security of the state-required assessments.

(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: The amendment updates language to reflect the transition from paper-based testing to primarily online testing and other updates that improve test security and test administration practices.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary due to a transition from primarily paper-based tests to primarily online tests and to provide clarity regarding test administration procedures.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes practices that protect the confidentiality and validity of the state-required tests.

(d) How the amendment will assist in the effective administration of the statutes: This amendment establishes procedures and guidelines for consistent implementation of the state-required tests in Kentucky's assessment program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local schools and districts and the Kentucky Department of Education are impacted by this administrative 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: The Kentucky Department of Education will update training materials. Minimal action is required by schools and districts as a result of the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to Kentucky's public schools or districts or the Kentucky Department of Education.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Protecting the security and validity of state-required assessments supports trust in the score results and the accountability results to which they contribute.

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

(a) Initially: Additional costs are not anticipated.

(b) On a continuing basis: Additional costs are not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Department of Education's general funds will be used for the implementation and enforcement of this administrative regulation.

(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 increase will be necessary.

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

(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 school districts.

FISCAL IMPACT STATEMENT

703 KAR 5:080

Contact Person: Todd Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453 requires the Kentucky Board of Education to promulgate administrative regulations that minimize the number of days of testing and outline the procedures to be used during the testing process to ensure test security, including procedures for testing makeup days, and to comply with federal assessment requirements.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Education is the promulgating agency. The Kentucky Department of Education.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are anticipated as a result of this administrative regulation.

Revenues: No revenue will be generated as a result of this administrative regulation.

Cost Savings: Cost savings are not expected as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No differences in expenditures, revenues, or cost savings are expected as a result of this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): The affected local entities are Kentucky public school districts.

(a) Estimate the following for the first year:

Expenditures: Kentucky's public-school districts will not incur cost.

Revenues: No revenue will be generated as a result of this administrative regulation.

Cost Savings: This regulation will not generate cost savings for Kentucky's public-school districts.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No differences in expenditures, revenues, or cost savings are expected as a result of this administrative regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3):

There are no additional regulated entities not mentioned in questions 2 or 3.

(a) Estimate the following for the first year:

Expenditures: Not applicable

Revenues: Not applicable

Cost Savings: Not applicable

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not result in any new expenditures, revenues, or cost savings.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation does not result in any new expenditures, revenues, or cost savings.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: The administrative regulation is not anticipated to result in any new expenditures for the entities identified in questions (2) – (4).

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The Administration Code for Kentucky’s Educational Assessment Program is the 21-page document that describes the acceptable and unacceptable practices considered appropriate in preparing students for the assessments, in administering them, and in providing for proper security of the assessment materials. The Code applies to administrations of all assessments that are included in school accountability reporting.

Proposed amendments to the Administration Code for Kentucky’s Educational Assessment Program may be summarized as follows:

General

1. Throughout the document, where applicable, add examples of items considered to be secure test materials such as student test tickets and seal codes.
2. Where applicable, update language to account for differences between monitoring a paper-based administration and monitoring an online administration of a test.

Rationale

1. Clarify that field test administrations should also comply with the Administration Code procedures.
2. Delete “If the student refuses to sign the honor code, testing should move forward.”

Appropriate Assessment Practices

1. Clarify that Administration Code training is required annually for test administrators and every individual potentially involved in any component of the assessment.
2. Explain that first time test administrators should have more detailed training.

Test Security

1. Clarify that all assessment materials should be stored in a secure, double-locked location.
2. Clarify that only released test items should be used to help prepare students for testing.
3. Add technical support staff to the persons who must annually sign a nondisclosure form.
4. Clarify that test materials should not be shared through or saved to cloud-based or other drives or servers.
5. Add detail about the use of electronic devices (e.g., testing must occur on a school-managed device, only used to access test platform or for health monitoring purposes)

Classroom Materials

1. Add detail about the use of calculators (i.e., calculators where allowed are provided in the online platform; handheld may be provided as specified in students’ service plans)

Administration Practices

1. Add language prohibiting manipulation of student answers through coaching or correcting
2. Add detail about the test administrator role to actively monitor students during testing

3. Clarify that students should not be left unsupervised with secure test materials or in online test sessions.

Test Preparation and Student Motivation/Rewards

1. Eliminate section allowing schools to instruct students to rewrite responses to questions for disciplinary purposes, send rewritten response to KDE and submit original for scoring.
2. Add clarification about good faith effort checklists and rewards and punishments connected to testing (what can be included on checklists, prohibits monetary rewards, prohibits punishments for lack of good faith efforts)

Inclusion of Special Populations

No changes

Alternate Assessment

No changes

Procedure for Reporting Concerns Regarding Assessment Materials

1. Clarify language and add detail about how to report a concern with an online test item.

Violations of the 703 KAR 5:080 Administration Code for Kentucky's Educational Assessment Program

1. Add language requiring all testing violations to be reported through the allegation reporting system
2. Eliminate the Testing Board of Review in the allegation determination process.

Review of Secure Assessment Components by Parents and Persons not in the Employment of a Kentucky Public School District

1. Clarify that districts should not allow reviews of secure materials.

Proper Reporting of Student Data and Nonacademic Indicators

No changes

Signature Page

1. Update Signature Page to add "and read": *By signing, I acknowledge having received **and read** a copy of the Administration Code for Kentucky's Educational Assessment Program (703 KAR 5:080) and have participated in training for this regulation.*