



Wayne D. Lewis, Ph.D.
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov

Kentucky's public school statewide accountability system depends on the testing of each and every student. Testing all students helps the state and local districts ensure that schools are serving all students and that gaps in categories of students are identified, addressed, and closed.

In Kentucky, districts are not permitted to honor a parent's request to opt-out of the Kentucky Academic Standards (KAS) or statewide testing. There is no authority in state or federal law allowing parents to opt-out of the standards or statewide assessment system. The Every Student Succeeds Act (ESSA) requires 95% participation of all students and each student group in the federally mandated state assessments. If fewer than 95% of students participate federal funding and waivers could be jeopardized. Testing all students allows us to identify trends for student groups that may otherwise go unseen. This provides educators the information needed to ensure all students' educational needs are being met. Based on the data from our state assessments, we can identify the disparity in performance between groups and work toward closing achievement gaps.

State Academic Standards

Senate Bill 1 (2009), which was overwhelmingly supported by a bi-partisan majority of the Kentucky House and Senate, mandated common standards. Senate Bill 1 (2017) reaffirmed the requirement of common standards for the purpose of increasing transition readiness. The Kentucky Board of Education (KBE) is charged with approving and implementing such standards, and it has adopted new standards in reading/writing, mathematics, health education, physical education, as well as science. Since the standards are passed in regulation, the expectation is that all students are provided instruction and opportunity to learn these standards in the public schools.

State Assessments

In 1997, the Kentucky Court of Appeals affirmed the state's authority to require all students in public schools to participate in standardized assessments.¹ While the 14th Amendment gives parents the general right to direct the upbringing and education of their children, the federal courts have not expanded this right to include controlling every aspect of a child's public school education. Parents have the right to choose between public and private schools or home schools, but they do not have the right to pick and choose the provisions of public education with which they will comply.²

Students may only be excused from statewide assessments upon completion and approval of the Medical Nonparticipation Form or Extraordinary Circumstances Nonparticipation Form. Both forms

¹ *Triplett v. Livingston County Board of Education*, 967 S.W.2d 25 (Ky. App. 1997)

² *Parker v. Hurley*, 514 F.3d 87, 102 (1st Cir. 2008)

can be found on the KDE [website](#).

Schools will not provide alternative learning activities during the state assessment testing times. ALL students are expected to make a good faith effort to complete the state assessments to the best of their ability. Students who do not participate in the statewide accountability system will receive a “0” score which will be included in the school’s accountability calculation. The student also may be subject to discipline under school or district policies including the code of conduct or behavior.

Data Sharing

The Kentucky Department of Education (KDE) and local schools and districts in Kentucky adhere to the Family Education Rights and Privacy Act (FERPA). Pursuant to 34 CFR Part 99, FERPA does not prohibit transmission of testing data from the local school to the KDE. In fact, the department has instituted policy and protocol which expressly protect against the disclosure of student information.

Questions

If you have any additional questions, please contact the Office of Standards, Assessment and Accountability at dacinfo@education.ky.gov.

