

**Kentucky Coalition for Arts Education: Comment on proposed amendments to  
703 KAR 5:270 Kentucky’s Accountability Regulation    January 23, 2019**

The Kentucky Education Reform Act, precipitated by the Kentucky Supreme Court Rose Decision of 1989, clearly identified a firm grounding in the arts and a solid ability to apply core concepts in the arts as a fundamental capacity and goal of an equitable and adequate education. The keystone of that act was a statewide accountability system that, in part, would ensure that all students have access to arts instruction, and as a result could apply the core concepts and skills associated with those arts subjects deemed necessary for an “adequate” education. Therefore, it is critical that any assessment and accountability system incorporates accountability for arts instruction as basic to the schooling of every Kentucky child. Any accountability system that does less fails to achieve the fundamental purpose of the Assessment and Accountability system of Kentucky, the mandates of the Rose decision, and the Kentucky Revised Statutes.

Using the Rose decision and the mandates set forth in Kentucky Statutes as the standards for measuring the efficiency of any accountability system, we have concerns with the proposed amendment to **Kentucky Administrative Regulation 703 KAR 5:270** relating to the removal of the Opportunity and Access indicator and its components which include the Visual and Performing Arts.

**The proposed amendment removes any accountability for schools to provide equitable opportunity and access to Visual and Performing Arts instruction as a part of every child’s curriculum. We believe that it is the intent of the General Assembly that schools are to be held accountable on a statewide level for developing all of the capacities and goals set forth in legislation.**

During the recent KDE town hall meetings, and the KYEdListens process, hundreds of Kentuckians confirmed that our citizens expect and demand a well-rounded education that develops the whole child and that they expect schools to be held responsible for providing it. Further, there is statutory support for this premise:

**KRS 158.645 Capacities required of students in public education system.**

. . . It is the intent of the General Assembly to create a system of public education which shall allow and assist all students to acquire the following capacities:

. . . **(6) Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;**

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 162, sec. 2, effective July 14, 2000. -- Created 1990 Ky. Acts ch. 476, Pt. I, sec. 2, effective July 13, 1990.

The visual and performing arts hold not one but two places in our state goals for education:

**KRS 158.6451 Legislative declaration on goals for Commonwealth's schools -- Model curriculum framework.**

(1) The General Assembly finds, declares, and establishes that:

(a) Schools shall expect a high level of achievement of all students.

(b) Schools shall develop their students' ability to:

.....  
2. Apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives;

...  
7. Express their creative talents and interests in visual arts, music, dance, and dramatic arts.

Further, KRS 158:6453 (18)(a) ensures that visual and performing arts content are part of the Kentucky academic standards . . .

Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a comprehensive process for reviewing and revising the academic standards in visual and performing arts . . . The department shall develop review committees for the standards for each of the content areas that include representation from certified specialist public school teachers and postsecondary teachers in those subject areas.

Kentucky Administrative Regulation 704 KAR 3:303. (Required Academic Standards) Section 1 states that: “. . . Before graduating from a Kentucky public high school, a student shall meet the minimum content requirements established in the Kentucky academic standards” and that the “administrative regulation incorporates by reference the required [Kentucky] academic standards, which contain the general courses of study and academic content standards for use in Kentucky's common schools . . . .”

In short, all students are to be held accountable for meeting the minimum requirements of the Kentucky Academic Standards for Visual and Performing Arts.

Finally, in respect to Kentucky statute we note that the Kentucky Department of Education is held responsible for providing guidance to schools and ensuring accountability for the visual and performing arts:

**KRS 158:6453**

(18)(c) . . . The department shall provide to all schools guidelines for programs that incorporate the adopted academic standards in visual and performing arts . . . . The guidelines shall address program length and time, courses offered, staffing, resources, and facilities.

(20) (a) The Kentucky Department of Education, in consultation with the review committees described in subsection (18) of this section, shall develop a school profile report to be used by all schools to document how they will address the adopted academic standards in their implementation of the programs as described in subsection (18) of this section, which may include student opportunities and experiences in extracurricular activities

The Kentucky Department of Education is further given authority to develop visual and performing arts program standards:

(18)(d) The Kentucky Department of Education, in consultation with certified public school teachers of visual and performing arts, may develop program standards for the visual and performing arts.

Finally KRS 158:6453 expressly assigns the responsibility for creating and implementing a *balanced* statewide assessment program that measures students, schools and districts achievement of the goals set forth in KRS 158:654 and 158:6451 to the Kentucky Department of Education. It is noted that the exemption of “measuring a student’s ability to become a self-sufficient individual” implies that students, schools, and districts are to be held accountable on a statewide level for achievement of *all* other state goals which includes the visual and performing arts:

(3) (a) The Kentucky Board of Education shall be responsible for creating and implementing a balanced statewide assessment program that measures the students', schools', and districts' achievement of the goals set forth in KRS 158.645 and 158.6451, to ensure compliance with the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, and to ensure school accountability. . .

(d) The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; the Education Assessment and Accountability Review Subcommittee, and the National Technical Advisory Panel on Assessment and Accountability in the development of the assessment program. *The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.*

We believe, that Kentucky statutes and regulations overwhelmingly support that schools must be held responsible on a statewide level for providing the visual and performing arts instructional experiences that lead to achievement of the state visual and performing arts standards, goals and capacities.

Further, we believe that Kentucky was one of the cutting edge models for moving the narrowly-focused NCLB to the new Every Student Succeeds Act. That act is a paradigm shift from narrowly focused accountability on standardized tests and a few academic subjects to flexibility for balanced assessment and accountability systems that support a well-rounded education. Under Title I, Part A, Subpart 1, Section 1005, states must submit their plans to the USDOE outlining their state standards and detailing their assessment and accountability systems, showing how those systems support *equity of educational opportunity for all students*. The drafters of ESSA were so committed to the philosophy of well-roundedness that they require schools to provide at *least* one indicator of school quality or student success of which the arts are allowed a predominant role.

Prior to the Kentucky Education Reform Act, Kentucky required accountability in the arts through required minutes in those subjects at the K-8 level. Since the implementation of KERA, Kentucky has incorporated some form of statewide accountability for visual and performing arts

education including protecting time for the visual and performing arts with the high school graduation requirement, performance event testing, standardized student tests, and Program Reviews. In recent history, we have experienced both the benefits and deficiencies of the Kentucky visual and performing arts Program Review. At its best, when it was used by schools honestly and seriously, it was a powerful tool for improving not only access to arts instructional experiences, but actually improving the quality of those experiences and the programs that delivered them. At its worst, the reporting mechanism devised by the Kentucky Department of Education was too cumbersome and time consuming to avoid frustration and pushback; and the lack of effective training and absence of solid, defined program standards support made consistency and reliability difficult. Unfortunately, the concept, which was looked at across the nation as a promising approach to arts education accountability was abandoned rather than refined. That does not diminish the fact that program evaluations based on established best-practice program standards are time-tested methods for improving instruction and ensuring program accountability. The challenge is devising a way to streamline the process for statewide reporting, validity and reliability. We believe that lessons from the past and the current statutory support for defined standards could guide us to develop program assessments that lend themselves to a more amenable statewide reporting and accountability approach.

Data and reports from the field confirm that all children in the Commonwealth are not receiving the same level of arts education that is necessary to meet the standards established by the board and the expectation of 704 KAR 3:303. We do not have arts education equity and students from lower socio-economic demographics particularly suffer. As long as there is statewide accountability for math, English, science, social studies, school climate, gap, etc., without accountability for well-rounded subjects, there will never be equity of opportunity for children to have a well-rounded education that includes the arts. Time and resources will always go to those subjects and areas for which schools are held accountable.

The rationale presented by the recent Kentucky Department of Education report to the board that gathering data is too difficult for the visual and performing arts is a shallow argument given the fact that the entire accountability system predominantly rests on gathering much more difficult data than how many minutes children are allotted for arts instruction, how many classes are offered, how many students have access, how many resources are allotted to instruction, and the credentials of those teaching the visual and performing arts. These are simple opportunity and access data and basic fundamental program standards that precede measures of quality; and they are a valid and reliable measure of equity of opportunity for arts instruction. These are far simpler data than gap closer, growth formulas, cut scores and averages, or disaggregating demographic groups.

Jane Dewey, fine arts coordinator for the Danville public schools and facilitator for the Kentucky Coalition for Arts Education put it succinctly when she noted, “We all know that test scores show a very small picture of what students are learning or what they remember. They are essentially a snapshot of learning on a given day at a given time and yet we infuse test scores with enormous amounts of meaning while questioning other forms of accountability. Until we as an educational community wrap our heads around truly looking at the "whole" child with regards to both instruction and accountability, our educational system will continue lagging and we'll continue with an incomplete picture of what our children know and are able to do.”

### **Our Recommendation**

We would request that the Kentucky Board of Education further amend the accountability system indicators to include a separate eighth indicator. Our suggestion is to title the indicator “well-rounded curricula” (to be consistent with ESSA language). The eighth indicator would hold schools accountable for providing instruction in those subjects that provide the “well-rounded” curriculum that ensures children gain all of the capacities, skills, and concepts set forth in Kentucky statute.

For measures within the indicator, the KDE should develop program standards as permitted in KRS 158:6453 (18)(d) including reporting on the number of students having access to the instruction, the amount of time allotted for instruction in these content areas, the percentage of qualified specialists teaching the content, and the facilities and resources allotted to the programs. Benchmarks could be established to identify basic programs and exemplary programs in order to provide some latitude for small schools or those with fewer resources. The measure could easily be grown over time to include “quality” indicators through the incorporation of the school profiles and the Kentucky Department of Education recommendations for these programs as described in Senate Bill 1, 2017. This indicator should count equally or at least in some meaningful ratio with other indicators in the five-star rating and should be included in the school report card.

For the visual and performing arts in particular, the KDE should develop a task force comprised of representatives of the arts education associations, the arts community, arts teachers, experts in program standard evaluation, and administrators to develop arts program standards, and devise an effective, efficient, and reliable accountability tool for reporting program accountability and guiding schools to improve arts programs. The same tool could be used in identifying exemplary programs and models. With defined program standards, reporting can be made simpler and more reliable. This could be incorporated into the school profile reports.

Additional actions for strengthening programs and ensuring equity may fall outside of the assessment and accountability system. These additional measures would be impactful in strengthening arts instruction in Kentucky. They might include:

1. Ensure that the EPSB can accurately gather data on the specific teaching certifications of those teaching the visual and performing arts. Review course codes to align with teacher certifications that ensure that truly qualified specialist teachers are teaching the visual and performing arts, particularly at the elementary level.
2. Consider a legislative agenda (or regulation) that requires:
  1. a minimum of 120 minutes per week of standards-based arts study at the elementary level
  2. a minimum of 150 minutes per week of standards-based arts study at the middle school level. (A highly qualified teacher and protected time will go a long way toward improving arts education equity).
  3. Regardless of the acceptance or rejection of our suggested eighth accountability indicator, amend KRS 158:6453 (17)(a) to include the reporting of school profile reports on the school report card.

We have two final concerns regarding the proposed regulation. First, regarding the text of the regulation, please note that on pg. 8, line 18, the appropriate term should be “visual and performing arts” rather than “arts and humanities” in order to be consistent with changes in the academic standards for visual and performing arts and additional other citations in KDE documents that have been updated to reflect the correct terminology.

Second, we believe that the “School climate” indicator does not provide the same degree of implementation detail as the other indicators in the regulation, nor does it clarify how that indicator will be incorporated into the accountability system. We believe that the substituted “school climate” component lacks the specificity required of this regulation thus rendering the amendment incomplete and making the adoption of this regulation premature.

We appreciate the opportunity to address our concerns with the proposed regulation, and appreciate the Kentucky Department of Education’s continued efforts to create a fair and equitable accountability system that values whole child learning. We commit our arts education associations and the entire arts education community to assist you in developing frameworks that support equitable arts instruction for all students.

**The Kentucky Coalition for Arts Education** (a coalition of the: Kentucky Music Educators Association, Kentucky Art Education Association, Kentucky Theatre Association, and Kentucky Association for Physical Education, Recreation and Dance)

Jane Dewey, Facilitator