Regulation 703 KAR 5:270 governing

The Kentucky Coalition for Arts Education recognizes the arduous task of developing an accountability system that is equitable and efficient as well as appropriate in terms of the proportion of time and resources allotted to the process in relation to the larger picture of daily teaching and learning. We like that the Kentucky Department of Education has listened to citizens’ and stakeholders’ beliefs about what should constitute a child’s education, and what should be in an accountability system, and that it has attempted to build a system responsive to those concerns. In relation to our particular concern with Visual and Performing arts education, we have noted that citizens at town hall meetings across the state overwhelmingly supported a well-rounded education that includes visual and performing arts instruction. Although we can see evidence in the new accountability regulation that a well-rounded education is acknowledged as a part of school accountability, we are deeply troubled and concerned that the measures for holding schools accountable for providing standards-based visual and performing arts instruction appear to weigh so insignificantly in the system that they provide no incentive for schools to provide such instructions when that instruction must compete for instructional dollars with other subjects (particularly those that are tested).

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 for a statewide accountability system to ensure that all students have access to arts instruction, and as a result could apply the core concepts and skills associated with those subjects deemed necessary for an “adequate” education (which included the arts). Therefore, it is critical that any assessment and accountability system incorporates accountability for arts instruction—not as an extra or enrichment—but 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 and the mandates of the Rose decision.

Over the course of the twenty-five years since the passage of KERA, the accountability system has undergone several changes, each of which has diminished a school’s accountability for providing high quality arts education for all students. Those of us who have experienced the history of the system note the authentic performance testing in the arts at the onset of accountability, to paper pencil tests, to program evaluation, and now with this proposed regulation simply counting the number of students that show up to visual and performing art classes, the time they spend in that class, and an option for potential accountability credit if they have a competent teacher trained in those subjects. Although we agree that the most important
predictors of student success in a subject are adequate instructional time and a qualified teacher, certainly this singular measure and optional staff measure in the new regulation is a considerable philosophical distance from assessing what students know and are able to do in the arts to ensure their firm grounding in the subjects.

The new accountability system provides for seven indicators by which schools will be measured: (1) proficiency (tests on math and reading/writing); (2) a separate academic indicator (test on science and social studies); (3) growth at the elementary and middle levels (individual student improvement and English proficiency by English learners); (4) achievement gap closure (between groups regarding the above four tested subjects); (5) opportunity and access (to rich curricula, equitable access for gifted and talented students, school quality, and “whole child supports”); (6) transition readiness; and (7) graduation rate. It appears the indicators will count equally, so opportunity and access will account for 1/7th of a school’s overall rating of one through five stars.

There are many aspects of the regulation that we like in terms of general accountability. Particularly, we like the elimination of ranking schools against a single score, we like the dashboard approach to reporting school performance in all seven areas and that additional reporting and data can be provided within those dashboards, and we like that schools are measured on other non-academic indicators that support quality instruction, and we like that the data reporting can serve to inform future decision-making.

However, our first concern with this regulation is that accountability for visual and performing (found within the “rich curricula” measure of the opportunity and access indicator) is grouped with other measures that deal primarily with offering student services or developing school climates—not with measuring academic rigor of standards-based subjects that directly contribute to the achievement of student capacities and learner goals. We believe academic, standards-based subjects should hold some form of academic weight in the accounting rather than being buried in attendance and staffing data. That being set aside, we are concerned that if all measures of the opportunity and access indicator outlined on pages 6–8 of the regulation are considered equally, then visual and performing art instruction could count in the overall accountability structure as little as one percent. Compared to the almost five percent weight of program reviews for the arts in Unbridled Learning, or the 5-7.25% in the CATS testing, incentive for schools to teach the arts is greatly diminished, despite the appearance of support in the regulation. Page 17, lines 8–16 of the regulation vaguely implies some hope that at least rich curriculum subjects “could” be weighted to have some greater incentive, depending on interpretation.

Second, we would like to address the regulation in regard to “whole child supports” (pg. 6, line 18 for elementary; pg. 7, line 13 for middle; and pg. 8, line 10 for high) which is one of the four measures within the opportunity and access indicator. Depending on the instruction level there are either five or six support descriptors in the “whole child supports” measure addressing a school’s provision of specialized staffing including: school counselor, health care professional,
librarian, family resource/youth services center, percentage of teachers teaching in specialized content areas who are certified specialists in those content areas, and (for middle and high) career counselor; all to enhance the quality of student services and learning experiences. We are pleased to see in this list a descriptor for certified content specialists teachers that includes visual and performing arts specialist teachers. We have advocated repeatedly for the necessity of having visual and performing arts content specialist teaching in these areas. However, we suggest that the language found on pg. 6 lines 23–24 and identical wording on pages 7 and 8, lines 18–19 and 15–16 respectively, be clarified so that teachers who are certified to teach these subjects are not confused with certified specialists in these content areas. Our suggestion is to substitute in all three instances the following: “Teachers with specialist certifications in the content areas of visual arts, music, dance, theatre, media arts, physical education, health, and world languages.” The more precise language will ensure the intent of the KDE as detailed in its opportunity and access information document of 8/14/17.

Of particular concern to us is: pg. 6, line 18; pg. 7, line 13; and pg. 8, line 10, where the regulation directs that schools will select two descriptors from the “whole child supports” measure to count toward the school’s score.

We believe that the expectation of a school to employ only two of these described staff positions sets the bar far too low to serve as a motivator to strengthen these “Whole Child” staff supports. Further, at least two of these staff descriptors are already, to an extent, required by statute and other regulations. For example, the regulation only states “library media specialist,” yet a minimum of a half-time librarian is required by law. Likewise, we also question the inclusion of family resource/youth services centers in this list of staff descriptors for which a school can receive Whole Child Support points. According to Kentucky statute 156.496, family resource centers and youth services centers “shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals.” According to the Kentucky Department of Education’s 2016–17 Qualifying Data Report for free and reduced lunch,¹ only five elementary schools in the state would not already be doing this by law. We fail to understand why schools should be given the opportunity to gain accountability points for providing a service that is required by law. Schools will already have fulfilled the two criteria because they are mandated by law to have a librarian and resource center. They will have no incentive to add a third or more “whole child supports” because they are only required to implement two. That is a disservice for the children in that school.

The “whole child supports” measure of the regulation needs to be strengthened with more precise language, and with provisions for a higher level of expectation. To make this expectation more meaningful while keeping it fair to all schools, we believe the number of staff supports minimum

should be increased, perhaps even giving schools credit for all they do while maintaining a minimum requirement.

Moreover, and perhaps most important, we note that the entire regulation provides tables and spells out points and percentages for all seven indicators with the exception of the opportunity and access indicator. Page 17, lines 8–16 provide only a generalized directive on calculating the multiple measures of the opportunity and access indicator to arrive at a rating. Specifically, the regulation provides that the “Opportunity and access school calculation shall sum the total number of points [not established in the regulation] for the categories for rich curricula, equitable access, school quality, and “whole child supports”, and that the “Kentucky Board of Education shall approve the measures of opportunity and access including the accumulation of credit.”

Additionally, line 14 states “A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to determine very low to very high performance levels within the opportunity and access.” Given that no specific expectations for the other measures in opportunity and access are set in regulation, and that the details of the calculation of the indicator and establishing its performance levels is assigned entirely to the policy level; it seems more prudent to leave a specific number for “whole child supports” staff descriptors out of the regulation entirely, and to defer the establishment of that expectation to the policy level where the policy group could more equitably balance all measures of the indicator, only possible if the “whole child supports” number was not pre-set in regulation.. This would also provide the flexibility to grow the expectation of the measure over time, after review of school performance without revisiting the regulation.

The Kentucky Coalition for Arts Education represents thousands of Kentucky dance, music, theatre and visual arts educators across the Commonwealth. Today’s concerns have been formulated with input from our individual members and much research on the part of the KCAE Steering Committee. We appreciate your time today and the KDE’s continued efforts in creating an accountability system that values whole child learning. Please let us know if you have questions or if we can help in any way. Thank you.