



Guidance for Schools and Districts

April 5, 2021

Senate Bill 128: Supplemental School Year Program

On March 24, Gov. Andy Beshear signed into law [Senate Bill 128](#), which creates the Supplemental School Year Program. This emergency legislation allows any K-12 student enrolled during the 2020-2021 school year to use the 2021-2022 school year as a supplemental year to retake or supplement courses the student already has taken.

Students have until May 1 to submit a request to their local board of education, and the local board has until June 1 to decide whether to accept all requests, or no requests. The local board must submit its implementation plan, along with any requests for regulatory waivers, to the Kentucky Board of Education (KBE) by June 16. The Kentucky Department of Education (KDE) is providing this guidance so districts may provide students, families and school officials with the relevant information as they make their decisions.

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Timeline and Process

Students have until May 1 to submit a request to their local board of education; the local board has until June 1 to decide whether to accept all requests or no requests. These student requests – and the district’s all-or-none decision – apply only to students enrolled in the district on May 1, 2021. A district may provide access to the Supplemental School Year Program for students who transfer into the district after that date, but is under no obligation to do so, and may otherwise treat these students as required by general operating conditions.

The local board must submit its implementation plan, along with any requests for regulatory waivers, to the Kentucky Board of Education (KBE) by June 16. Kentucky Department of Education (KDE) will provide an application template as part of future guidance on the supplemental school year.

SB 128 allows local school boards to apply to the KBE for waivers from administrative regulations for the Supplemental School Year Program. However, until those waivers are granted, districts must comply with all applicable statutes and administrative regulations. KBE waivers may be limited by applicable federal law. Furthermore, KBE does not have the authority under SB 128 to waive statutes.

Impact on Assessment and Accountability

Assessments

State and federal statutes establish assessment requirements for reading, mathematics, science, social studies, editing and mechanics, and writing. These assessments provide performance information related to the *Kentucky Academic Standards (KAS)*. Reading and mathematics assessments are required annually in grades 3-8, and once in high school. Science, social studies, editing and mechanics, and writing are required once per grade span. Other required assessments include a college readiness exam in high school, an English language proficiency exam for English learners and a screener for kindergarten students.



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Each state and federally required assessment is given at the appropriate grade level. KDE's Office of Assessment and Accountability (OAA) has established policies and procedures that require students who repeat a grade to repeat the assessment at that grade level. Based on the opportunity given to students in SB 128, K-12 students who request a supplemental school year are expected to be assessed in the state required assessments at that grade level. If enrolled students without an approved medical exemption do not test, the lowest score is entered for the student in the school data.

Graduation Rate

SB 128 will negatively impact the [graduation rate](#) of schools where students remain in high school for a supplemental year. The federal definition of the 4-year adjusted cohort graduation rate is defined as the number of students who graduate in four years with a regular high school diploma divided by the number of students who entered high school four years earlier. The OAA calculates the cohort graduation rate using data from Infinite Campus (IC) for first time 9th grade enrollment and with graduation codes (G-Codes) to identify when students graduate with a diploma and whether they do so within four years.

In order to monitor the impact on graduation rates, KDE will work with IC on a way to identify students who choose to remain in school for a supplemental year. Students who meet all graduation requirements in Spring 2021, but who choose to remain in school for the supplemental year, should be coded with the appropriate on-time G-Code. Students who currently are in 9th grade and above who choose to remain in school for a supplemental year will not be on track to be an on-time graduate, which will lower the future graduation rates unless the students complete their diploma requirements in four years.

Currently, schools with a 4-year graduation rate of less than 80% are classified as Comprehensive Support and Improvement (CSI) schools and the combined 4- and 5-year graduation rate is used as the Graduation Rate Indicator in the state accountability system.

Funding

Support Education Excellence in Kentucky (SEEK)

Students in the Supplemental School Year Program, including graduated students, are eligible for inclusion in the district's average daily attendance (ADA) for the purposes of calculating Support Education Excellence in Kentucky (SEEK) funds. For graduated students, SEEK eligibility for each of the two semesters is tied to the completion of courses during the semester and enrollment during the entirety of the semester. KDE's Office of Finance and Operations will provide additional guidance outlining how to remove graduated students who do not complete the semester so their attendance is not included in SEEK funding.



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SEEK Guaranteed Base Funding is calculated by multiplying the per-pupil funding amount, as established by the General Assembly, by the prior year ADA. Pursuant to HB 208, for school year 2021-2022, the department will calculate funding using the district attendance data the district selected pursuant to SB 177 (2020). School districts will receive funding for the 2021-2022 ADA, including growth factor, if applicable, during school year 2022-2023.

Elementary and Secondary School Emergency Relief Fund (ESSER)

ESSER funds may be used for students retaking or supplementing courses or grades pursuant to SB 128. For ESSER fund guidance, see [“ESSER Relief Fund Guidance for LEAs”](#) and [“Elementary and Secondary School Emergency Relief Fund II \(ESSER II\)”](#). Additionally, The American Rescue Plan Act of 2021 (ARPA) became law on March 11, 2021. ARPA contains funding for a third round of ESSER (ESSER III). KDE will provide ESSER III guidance at a future date.

Teaching and Learning

Addressing Student Learning Needs

Guidance was issued to schools and districts in the “Evaluating Students” section of the [“KDE COVID-19 Guidance 2.0”](#) on evaluating student learning needs, determining learning gaps and adjusting the local curriculum in order to accelerate student learning and implementing the formative assessment process to take responsive action. Guidance also was shared on KDE webpages to assist districts and schools in making decisions regarding promotion and retention.

Decisions Regarding Promotion or Retention

Whether or not a local board decides by June 1, 2020, to approve the requests of all students to have 2021-2022 as a supplemental year, students still can be retained pursuant to longstanding promotion and retention guidance. However, no student may be retained without prior consultation with the parents.

Graduated Students

Pursuant to [KRS 158.140\(2\)](#), students who meet all state and local graduation requirements are entitled to receive a high school diploma from the school district. Once the diploma is issued, the student’s final GPA should be calculated and should not be altered at a later date to reflect additional or updated coursework as part of the final GPA or credits toward graduation. High school transcripts must contain an accurate account of the student’s final academic standing at the time the diploma is issued.

SB 128 provides that graduated students returning for a supplemental year “shall not receive any additional credits or certifications as a result of coursework unless the student completes the



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course and remains enrolled in the program until the completion of such course.” Any credit awarded to an already graduated student, however, cannot be used toward high school graduation or be included in the student’s final GPA, as the student graduated and was awarded a diploma prior to completion of the supplemental course. However, the supplemental coursework and grades may be included in the student’s transcript for informational purposes.

All students in the Supplemental School Year Program, including graduated students, are considered secondary students. However, pursuant to guidance from the Kentucky Council on Postsecondary Education (CPE), graduated seniors who return and wish to take postsecondary coursework during the 2021-2022 year must pursue dual enrollment (defined within KRS 164.002), rather than dual credit coursework. Furthermore, and pursuant to guidance from the Kentucky Higher Education Assistance Authority (KHEAA), it should be noted that students who graduate from high school during the 2020-2021 year are no longer considered high school students for scholarship purposes and, therefore, are not eligible for Dual Credit or Work Ready Dual Credit scholarships during the 2021-2022 year. As such, tuition for courses taken by graduated students will be determined by the postsecondary institution. High school graduates who desire to use their KEES awards for postsecondary expenses must be enrolled at the postsecondary level as regular postsecondary students who are subject to full tuition rates. Please also be advised that this credit cannot be used toward high school graduation requirements and GPA for graduated students.

The Supplemental School Year Program was established for students to “retake or supplement courses or grades the student has already taken.” That is, courses taken during the supplemental year must be those the student previously was enrolled in or bear a reasonable connection to previous courses to be supplementary in nature. Students may not retake or supplement courses from any school year prior to the 2020-2021 school year. The Supplemental School Year Program also was not established for students to explore coursework they otherwise didn’t have the opportunity to take. Which courses satisfy a reasonable connection to previous courses and are supplementary in nature will be determined by the local district. For graduated seniors, local school districts may establish policies on grades, schedules, classifications, graduation ceremonies and other operational issues in offering the supplemental school year.

It is recommended that before students and parents make a decision about whether or not a graduated senior will request 2021-2022 as a supplemental year, they consult guidance provided by the [KHEAA](#), the [CPE](#) and the [Kentucky High School Athletic Association](#).

Supplemental Year Course Access

Students cannot earn credit for the same required *Kentucky Academic Standards (KAS)* content more than once. They must earn the minimum required 22 credits for graduation pursuant to [704 KAR 3:305](#) and meet any local graduation requirements of their district. If the student failed the course during 2020-2021 school year, the student is eligible for credit due to the prior failure.



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For example, a student is not permitted to take a required course for high school graduation (Algebra I, for example) twice, pass both times and earn 2 of the 4 required credits for the same course content. As another example, local schools or districts may decide to give elective credit for a high school math or English language arts (ELA) intervention course, which does cover previously covered KAS content, but they cannot give students an additional required math/ELA credit for intervention courses.

Early Graduation Program

If students want to participate in the [Early Graduation Program](#) established in [KRS 158.142](#) and have 2021-2022 as a supplemental year, the student still would need to meet the requirements of the Early Graduation Program in order to earn the Early Graduation Certificate.

- Students must notify the school principal within the first 30 days of the school year in which they intend to graduate.
- Students must enter the Early Graduation pathway prior to Oct. 1 of the year in which they intend to graduate early.
- Students must graduate in three years or less. Students exceeding three years do not qualify for the incentives identified with Early Graduation.

Dual Credit Scholarships

The KHEAA has provided the following guidance regarding Kentucky's Dual Credit and Work Ready scholarship programs:

Dual Credit Scholarship

- The Dual Credit Scholarship program is statutorily limited to two successfully completed dual credit courses. Students in grades 11 or 12 for the 2021-2022 academic year will be able to use whatever Dual Credit Scholarship eligibility they have remaining at the end of the 2020-2021 year.
 - Students who have only used one Dual Credit Scholarship and achieved a passing grade in the scholarship course will be eligible for their one remaining Dual Credit Scholarship next year *if* they are still in high school and not graduated.
 - Students who have used two Dual Credit Scholarships and achieved passing grades in both scholarship courses have exhausted their eligibility; they will not have any Dual Credit Scholarships available next year.
 - Students who used Dual Credit Scholarship this year and did not successfully complete their course (failure or withdrawal) will be eligible for another scholarship next year *if* they are still in high school and not graduated.
- As a reminder, Dual Credit Scholarship cannot be used for developmental courses, remedial courses or repeats of the same course.



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Work Ready Dual Credit Scholarship

- Students in grades 9-12 are eligible to receive two Work Ready Dual Credit scholarships each year for dual credit coursework that is part of a career and technical education pathway. Although the original intent of the Work Ready Dual Credit program was for students to receive two free courses each year of high school for a total of eight, the program's statutory language does not specify eight courses as a limit. This means that students repeating a grade level next year would be eligible for two Work Ready Dual Credit scholarships, the same as students advancing to a higher grade level.
- The same rules apply to Work Ready Dual Credit as Dual Credit Scholarship regarding no funding for developmental, remedial or repeated coursework.

For more information, [email Becky Gilpatrick](#), KHEAA's director of student of aid, or [email Kiley Whitaker](#), KDE assistant director and dual credit contact.

Special Populations

Special Education

Currently, Kentucky provides state funding for students with disabilities up to the age of 21. However, students with disabilities may stay enrolled through age 21 at the discretion of the local district. Local districts make this decision based on the needs of the individual student. Historically, a very small number of students remain in school through age 21, as local districts work to ensure students meet learning targets. The Supplemental School Year Program will allow for an additional year for all students, including those past 21. This same flexibility remains under SB 128.

However, once a student turns 22, the district cannot use IDEA funds to pay for educational services since free appropriation public education (FAPE) is not required. The district may use ESSER funds to continue services to students age 22 and beyond.

Compensatory education requires a local district to provide a student with appropriate educational services to compensate for the failure, or inability, to provide the student with a FAPE. The purpose of compensatory education is to place the student in the position the student would have been in if appropriate services had been provided. Students with disabilities are general education students first and are entitled to these same opportunities. Students with disabilities also are entitled to the additional services described in their individual education programs (IEPs). It would be inappropriate to use a recovery program offered to all students to fulfill the duty to provide compensatory education. Retaking a year is completely voluntary and cannot be a substitute for the provision of compensatory education.



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Homeless and Foster Care Youth

Homeless and foster care youth have a right to attend their “school of origin,” or the school the student attended when they were permanently housed or the school in which the child was last enrolled. Subtitle VII-B of the McKinney-Vento Homeless Assistance Act requires districts to allow homeless youth to remain in their school of origin and to continue attending their school of origin the entire time they are homeless and until the end of any academic year in which they become permanently housed. If a student becomes homeless over the summer, the district must allow them to attend their school of origin for the following school year. When considering whether to create a Supplemental School Year Program, districts should consider the impact of the program on these school of origin provisions and create a plan to facilitate the continued education of homeless and foster care youth.

English Learners

Title VI of the U.S. Civil Rights Act requires that, to the extent practical, districts communicate information about opportunities and changes to school policies to families in their home language. When considering whether to create a Supplemental School Year Program, districts should consider their capacity to fully communicate the requirements and application procedures to English learners and their families.

Additionally, districts should consider the impact of the Supplemental School Year Program on the English Learner Program Service Plan (PSP). PSP committees will need to meet to discuss and update the individual PSP for students who choose to participate in the Supplemental School Year Program.

Gifted and Talented

Students who elect to participate in the Supplemental School Year Program and previously were identified as “exceptional students” per [KRS 157.200\(1\)\(n\)](#) must continue to have access to the established gifted and talented program.

[KRS 157.200\(1\)\(n\)](#) includes within the definition of “exceptional children” a category of “exceptional students” who are identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts. [KRS 157.230](#) requires all school districts to operate programs for resident exceptional children, primary – grade twelve 12. [704 KAR 3:285](#) establishes the requirements for programs for gifted and talented students.

SBDM Councils



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When considering the creation of a Supplemental School Year Program, districts should consider the impact of the program on the staffing allocation and Section 6 funds distributed and overseen by school-based decision making (SBDM) councils. Pursuant to [702 KAR 3:246](#), final staffing allocations are due to SBDM councils by May 1. In contrast, school districts are not required to make a final determination regarding the implementation of a Supplemental School Year Program until June 1. Staffing allocations are used to determine projected full-time equivalence (FTE). Students who choose to participate in Supplemental School Year Program would impact the amount of Section 6 funding awarded to SBDM councils. Districts should consider and communicate a plan to provide updated staffing allocations to councils once school begins, and by Sept. 15 if there is an increase (or decrease) in enrollment.

Districts are likely to know the accuracy of the projected FTE well before the start of the school year. Districts should consider setting aside other funding sources to supplement the Section 6 funds in schools where the projected FTE will require additional staff. Schools should be given access to additional staffing funds over the summer to ensure appropriate staffing is in place at the start of the school year.

Additionally, the policies of individual SBDM councils may be impacted by the creation of a Supplemental School Year Program. Policies that govern issues such as class sizes, teacher time and workload, and scheduling and space allocation may be impacted. Districts should solicit feedback from SBDM councils regarding the impact of the Supplemental School Year Program before a district-level decision is made.

Alternative Programs

When considering whether to offer a Supplemental School Year Program, districts should consider the impact of transient students who seek a supplemental school year and interact with alternative programs. As each district has been given the autonomy to determine if it will accept supplemental school year requests, districts should give forethought to how they will direct alternative program students who may move between schools or districts during the school year.

Additionally, districts should consider the impact of the supplemental school year on students enrolled in alternative programs. One key consideration is whether students have been placed in the alternative setting voluntarily or involuntarily. Districts may need to review and amend alternative program policies mandated by [704 KAR 19:002](#) to create procedures for routing supplemental students into or out of alternative programs through voluntary or involuntary means.

Finally, districts should consider the impact of a supplemental school year on the Individual Learning Plan Addendum (ILPA). If a student placed in an alternative setting seeks a supplemental school year, the ILPA must be amended to reflect the impact of the supplemental school year.



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Federal Program Eligibility

When considering the impact of the supplemental school year on local budgets, districts should consider whether students will generate funds for federal programs. Some students, due to age, may not be able to be counted for eligibility for some federal programs. Some specific instances are itemized below:

- **Title I Part A** – In part, allocations are based on census estimates of students ages 5-17. Census estimates will not include students over age 17.
- **Title I Part C** – Kentucky allows students through the age of 21 to receive a free public education. If any qualifying students were enrolled in the Supplemental School Year Program, the student's eligibility for services under this program will end on their 22nd birthday.
- **Title I Part D** – Once an eligible Title I Part D student turns 18, the student cannot be counted in the annual child count survey. The annual child count survey is used to generate funds for this program. Districts should consider the impact of returning 18-year-old students on their Title I Part D allocation.
- **IDEA** – If the supplemental year allows for a student to continue their education beyond age 21 and considers that student to be in a secondary educational program, then that student would be included in the calculations used by the IDEA to determine allocations to local districts. However, IDEA funds would not be allowed for students who are older than 21.

There may be further unknown impacts to federal program allocations based on the Supplemental School Year Program. This document will be updated as KDE learns of new program restrictions or impacts.

Equitable Services to Non-Public Schools

The amount of dollars generated for equitable services is determined by Title I, Part A allocations, and are based, in part, on the estimated count of students ages 5-17 within districts' boundaries. Students older than age 18 who return for a supplemental school year would not be included in the allocation formula. Non-public schools who accept supplemental school year students may see a decreased per-pupil allocation due to this restriction.

Pending Guidance

In some cases, the provisions established within SB 128 still are being evaluated for their potential impact on a number of important topics related to secondary education students. These topics include, but are not limited to:

- Early postsecondary opportunities (articulated postsecondary credit, industry certifications, CTE end-of-program assessments, Advanced Placement, International Baccalaureate and Cambridge);



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- Federal Perkins funding and accountability; and
- Kentucky Educational Excellence Scholarship (KEES) funding.

The regulatory authority associated with many of these topics does not lie solely with KDE, thus, collaborative discussions are underway with other partner agencies, such as KHEAA, the CPE and the Kentucky Community and Technical College System (KCTCS) to determine appropriate guidance and next steps. Additional details will be forthcoming to districts on these matters as they are determined and resolved. In the interim, questions may be [emailed to Leslie Slaughter](#), KDE executive adviser within the Office of Career and Technical Education.

Points of Contact

- **Timeline and Process:** [Meredith Brewer](#)
- **Assessment and Accountability:** [Michael Hackworth](#)
- **Funding:** [Matt Ross](#)
- **Teaching and Learning:** [Micki Ray](#)
- **Dual Credit Scholarships:** [Leslie Slaughter](#)
- **Special Populations:** [Thomas Williams](#) or [Tracy Goff Herman](#)
- **SBDM, Alternative Programs, Federal Program Eligibility:** [Matthew Courtney](#)