

The time is now for a new Kansas public education at-risk program

By David Dorsey
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The impact of the COVID-19 pandemic highlighted the need for the education community to adapt and change when necessity calls. But as the health crisis wanes, the academic crisis manifested in achievement gaps will not only persist, but likely increase. The existing at-risk program, which in theory is intended to improve achievement levels to reduce achievement gaps, has failed miserably. It is now time for the education community – including the Legislature, the Kansas State Department of Education (KSDE), and the Kansas State Board of Education – to recognize this and adapt and change the approach to serving at-risk students.

This paper proposes a model for replacing the ineffective Kansas K-12 at-risk program with an approach that is both effective and efficient which will increase achievement levels of those students the program is intended to serve, and subsequently close achievement gaps. Ample evidence is provided herein to justify such a change.

■ BACKGROUND

At-risk funding began in Kansas in 1992 as part of a new education finance formula passed into law. Funding for providing at-risk services was, and continues to be, a function of:

- students who qualify for free lunch under the guidelines of the United States Department of Agriculture and
- per-pupil base state aid provided to school districts by the state (now known as BASE – base aid for student excellence).

A weighted percentage is applied to those two factors and the product of all three determines the annual amount of at-risk funding each district receives. Since inception there have been marked increases in all three factors which has led to an increase of funding from just over \$13 million in the program’s first year to a staggering \$434 million in the 2019-2020 school year.

Two lawsuits aimed at increasing overall education funding have been responsible for much of the increase in at-risk dollars. As a result of *Montoy v. State of Kansas*, which was litigated from 1999 to 2005, dramatic increases in both per-pupil base state aid and the at-risk weightings led to a nearly seven-fold increase in at-risk

funding by the 2008-09 school year. *Montoy* was followed by *Gannon v. State* beginning in 2010. In response to several Kansas Supreme Court decisions pursuant to the *Gannon* case, the Legislature has once again increased the at-risk weighting and per-pupil base state aid. Those most recent changes have pushed at-risk funding to current levels. With statutory increases in BASE, at-risk funding is projected to be nearly \$460 million by the 2022-2023 school year.

The justification for using family income level – as defined by students’ eligibility for the federal government’s free lunch program – as a funding determinant lies in the philosophy that low-income students bring more learning challenges, thus the need for more money. Most states have some mode of at-risk funding and about half use some variation of the school lunch program as a factor in determining funding levels.

TABLE 1: Kansas At-risk Funding (\$ millions)

Year	At-risk	Year	At-risk
1992-93	\$13.1	2008-09	\$348.8
1993-94	\$18.1	2009-10	\$360.0
1994-95	\$19.0	2010-11	\$370.5
1995-96	\$19.5	2011-12	\$370.7
1996-97	\$19.7	2012-13	\$387.6
1997-98	\$26.6	2013-14	\$399.8
1998-99	\$32.4	2014-15	\$390.9
1999-00	\$36.4	2015-16*	\$390.9
2000-01	\$37.7	2016-17*	\$390.9
2001-02	\$44.1	2017-18	\$414.2
2002-03	\$50.2	2018-19	\$413.0
2003-04	\$50.2	2019-20	\$434.6
2004-05	\$52.1	2020-21**	\$433.1
2005-06	\$110.6	2021-22**	\$446.1
2006-07	\$198.4	2022-23**	\$459.3
2007-08	\$268.0		

*Estimates based on block grant funding

** Projected

Source: KSDE

Failure of the current program and need for a new approach.

KSDE defines the purpose of the current at-risk program “to provide at-risk students with additional educational opportunities, interventions, and evidence-based instructional services to assist in meeting State Board of Education outcomes.”¹ It is critical to understand that students who generate funding for the program through eligibility for free lunch are not necessarily defined as at-risk for receiving those “additional educational opportunities.” The fact that the term “at-risk” has two different definitions, one for funding purposes and the other for academic services, causes considerable confusion.

Among many criteria for determining who is at-risk academically as defined by KSDE, the program guidelines state:

*Predominantly, a student who is not working on grade level in either reading or mathematics is the major criteria used.*²

A student is also considered at-risk if he or she:

- is not working on academic grade level.
- has insufficient mastery of skills or is not meeting state standards.³

A reasonable assumption based on these criteria is that there would be a *stated goal* of removing students from being labeled at-risk by, at a minimum, providing them with reading and math skills to achieve academic grade level/meeting state standards. However, there is no such goal, neither specific nor implicit.

The lack of an objective outcome is manifested in the failure of the state to reduce the incidence of students who are performing below grade level in the basic skills of math and reading. Evidence is found in the results from the last five state assessments. In 2015, Kansas transitioned to a new state assessment that is different from testing pursuant to the federal No Child Left

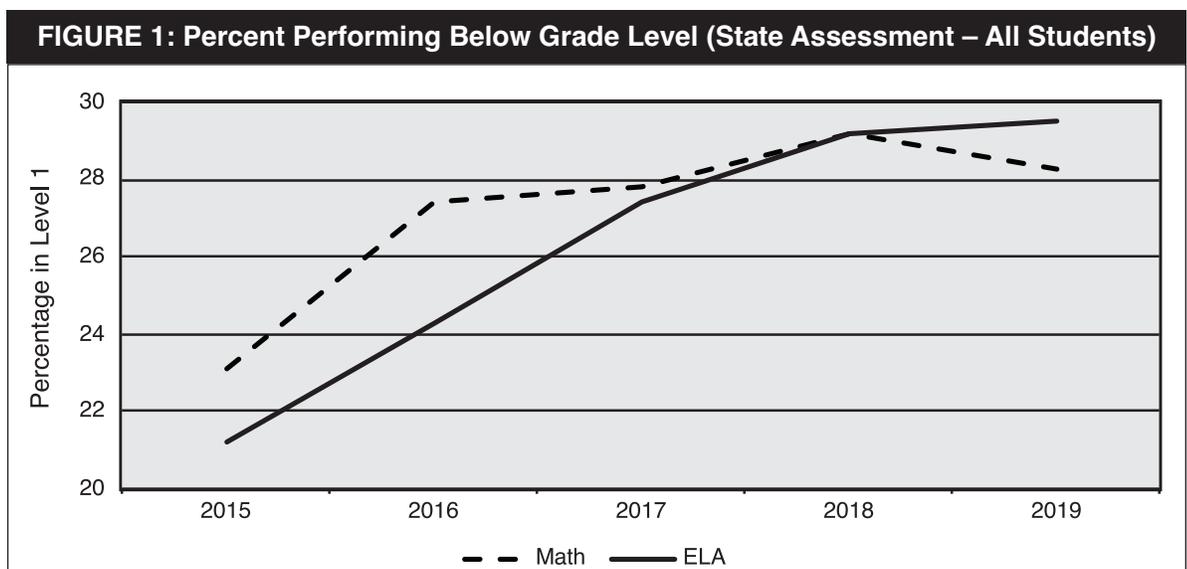
Behind program. The state initiated a new four-level performance indicator system. Level 1, the lowest level, is defined (full definitions available in End Notes, pg. 5):

*Level 1 indicates that a student shows a limited ability to understand and use the mathematics skills and knowledge needed for college and career readiness.*⁴

Students who score in Level 1 are clearly performing below grade level. Figure 1 shows that since the new state assessment has been administered, the percentage of students in Level 1 has increased, despite spending nearly \$2 billion dollars on the at-risk program during those five years. In English Language Arts (ELA – reading) the percentage of students in Level 1 has increased *every year*. And in math, despite a slight improvement in 2019, there has been an overall increase by more than five percentage points in those scoring in the lowest level. (*Note: due to COVID-19, there were no state assessments in 2020.*)

The National Assessment of Educational Progress (NAEP) is another indicator of the lack of improvement in reducing the incidence of low performing students. NAEP is administered by the U.S. Department of Education every two years to a sample of 4th and 8th graders, testing both math and reading skills. NAEP is also known as the Nation’s Report Card⁵ and KSDE considers NAEP the “gold standard”⁶ for measuring academic skills. Like the Kansas state assessments, NAEP also has four performance categories based on student scores.

Table 2 shows the percentages of students who scored in the bottom two categories – At Basic and Below Basic. NAEP defines At Basic as “denoting partial mastery of prerequisite knowledge and skills that are fundamental for proficient work at each grade assessed.”⁷ NAEP does not clearly define At Basic as on “grade level”, but Below Basic is inarguably not at “grade level.” (NAEP has no definition for Below Basic.) Since 2007, the first NAEP assessment after the



significant jump in at-risk funding pursuant to the *Montoy* lawsuit, the percentage of students scoring Below Basic has *increased* in both math and reading in both 4th and 8th grades. The 2019 NAEP results are the first time the percentage in Below Basic increased in all four categories from the previous test.

Why are more students scoring in the lowest levels? Why has there been no improvement in addressing the academic needs of at-risk students? Why is all that money not making a difference?

A significant piece of the answer is found in a Legislative Post Audit (LPA) analysis of the program that was released in December 2019.⁸ The 2018 legislation that most recently increased the weighting for at-risk students required an LPA audit of the at-risk program. What they found is particularly troubling, but not surprising. LPA reported that in the cross-section sample of districts they analyzed:

- *(M)ost at-risk spending was used for teachers and programs for all students and did not appear to specifically address at-risk students as required by state law.*⁹
- *Most of the at-risk funding we reviewed was spent on teachers and programs that serve all students rather than focusing on at-risk students.*¹⁰
- *The state’s new requirement that at-risk funding be spent on evidence-based practices is poorly managed at the state level and not adequately implemented at the district level.*¹¹

In short, LPA found that most of the at-risk money is nothing more than (a) a supplement to base state aid that (b) is spent on the salaries of general classroom teachers with (c) no focus on at-risk students. LPA’s findings mirror those reported in KPI’s *At-Risk Funding: Increased Money Fails to Increase Achievement*, which was published in November of 2015.¹²

Given that:

- the rate of below grade-level performance continues to rise despite an increase in at-risk funding, and
- LPA found that most at-risk money is spent on general classroom teachers,

there is only one reasonable solution going forward: *a significant and fundamental change in educating at-risk students is warranted.*

A new and better approach.

The framework necessary for the new at-risk program requires changes on multiple levels. A new *programmatic* approach is necessary in terms of defining who

TABLE 2: Kansas NAEP Percentage Scores (All Students 2000-2019)

Year	MATH				READING			
	4th Grade		8th Grade		4th Grade		8th Grade	
	Below Basic	At Basic						
2019	21	39	29	38	34	33	26	42
2017	18	40	26	38	30	33	22	41
2015	17	42	24	42	32	32	21	44
2013	11	41	21	39	29	34	22	42
2011	10	42	20	39	29	35	21	43
2009	11	43	21	40	28	37	20	47
2007	11	38	19	41	28	36	19	45
2005	12	41	23	42	34	34	22	43
2003	15	44	24	42	34	34	23	42

at-risk students are and the services they receive. The method of *financing* must change to ensure at-risk dollars are utilized to provide services to those who are at-risk of academic failure. And controls over *accountability and oversight* – which have been documented to be woefully inadequate – must be established to certify state laws are being followed. Without these fundamental changes, the status quo will continue unabated and the outcomes of at-risk students will not improve.

■ PART 1: PROGRAMMATIC

Eligibility

The first step in providing at-risk services is to effectively define who really is an at-risk student. Currently it is left to the 286 school districts across the state to determine eligibility. The following method is a comprehensive, uniform way to determine at-risk eligibility:

1. Expand the state assessment to include grades 1 through 11. (Currently the state assessment is given to students in grades 3-8 and 10.)
2. Students who score in Level 1 are deemed at-risk in the following school year.
3. Students who score in Levels 3 or 4 are not eligible for at-risk services.
4. At the beginning of each school year the following students will be given a diagnostic tool *developed by KSDE* to determine eligibility:
 - a. All students who scored in Level 2 on the state assessment the previous year.
 - b. All students who did not take the state assessment the previous year.
 - c. All students entering first grade.

KSDE will establish an appropriate “cut score” for each grade to determine at-risk eligibility. Results from the diagnostic tool will be immediately available to each

school to avoid a delay between the test and providing at-risk services. **Every district in the state will be required to follow this eligibility model as a condition of receiving at-risk funding.**

Provided Services

The new model will initiate a fundamental, student-centered change from the current approach. The existing program is a hodge-podge of different practices in which there is no way to verify that at-risk students are getting any additional services. This is supported by two findings from the LPA evaluation:

1. Most at-risk funding goes to supplement the salaries of general classroom teachers.
2. “Most of the approved practices and programs are not related to at-risk programs or at-risk students as required by state law.”¹³ To further the point, KSDE staff told LPA “if a practice was good for all students then it would be good for at-risk students.”¹⁴

Clearly, it is time to take at-risk services outside the general classroom by creating a pull-out program comparable to the approach that provides academic assistance to other special category students. In the new model, dedicated at-risk teachers will be charged with delivering services similar to what English language learner (ELL), Title I, and special education teachers do. The practice of using at-risk money to subsidize general classroom teachers will end. The programmatic focus will be on the standards tested in the state assessment which is given in the spring. Additionally, this new model includes a provision for teachers to earn more because an at-risk endorsement from the state (with an accompanying salary supplement) will now be part of the program.

■ PART 2: FINANCIAL

Under this new model, the method of using free lunch status as a basis for funding will end. A replacement formula based on the academically at-risk population as defined in the new program will replace the income-based proxy method. There will no longer be a need for proxy funding, because identifying students as academically at-risk eliminates that need.

However, if a different at-risk funding mechanism were *immediately* established to finance the new program, there would undoubtedly be significant and instant changes in the amount of revenue for school districts. Some districts would see dramatic increases in funding while others would see lower levels of at-risk dollars.

In order to mitigate the impact of such an instant change, the most prudent way to initially finance the new program is to maintain current funding levels for the *first three years* of the new program, including amounts related to adjustments due to increases in BASE. During the initial three-year period a new formula will be established. The new formula takes effect beginning in year four and will be based on two factors:

- the number of at-risk students served by the districts, and
- the success of schools in reducing their at-risk population.

It is imperative that the new at-risk funding formula include a results-based factor. Academic gains seen in at-risk populations should be rewarded in such a way as to financially reward those closest to the students achieving the gains. For students in schools that fail to move the at-risk needle, there must be school choice alternatives that allow those students to find better educational opportunities.

This initial three-year period will also allow teachers time to earn an at-risk endorsement through the state.

The important consideration is that despite little change in the amount of money districts will receive in the beginning, the spending *patterns* will change dramatically with the focus on improving the academic success of at-risk students as exhibited through state assessment results.

■ PART 3: OVERSIGHT/ACCOUNTABILITY

There is virtually no oversight on the part of the state in the existing at-risk program, be it KSDE, the state board, or the Legislature. That is evident not only in the language of state law, but in the findings of the LPA report. Prior to the new 2018 law, KSDE did not even provide programmatic guidance to school districts. The recently passed legislation does little, if anything, to improve accountability in the at-risk program. As described earlier, LPA found that the so-called “evidence-based practices” of delivering at-risk services is both poorly managed and inadequately implemented by the districts.

The new at-risk model will substantially change the role of the state from passive guidance to active involvement. It includes these key elements:

- KSDE will establish a dedicated ‘Office of At-risk’ to direct and monitor districts statewide.
- The state will create and provide a programmatic framework that districts will be required to follow. Districts shall be obligated to submit an at-risk plan for approval that identifies specific approaches (e.g., pull-out programs, after school programs, summer school, etc.) and a budget that includes itemizing staff who provide direct at-risk services. After the initial three-year period, the program will only fund teachers with at-risk endorsements.
- KSDE shall be required to present the Legislature with a detailed annual report that specifies student outcomes, not programmatic inputs. Ultimately, the Legislature needs to know what academic progress is being made with at-risk dollars.
- After the initial three-year transitional period, students in low-performing districts – in terms of changes in

frequency of at-risk students – will be allowed to leave that school/district. A portion of state funding, including at-risk dollars, will follow the student.

- Districts will continue to have the freedom to administer their own curriculum within the programmatic framework provided by KSDE.

Summarizing in plain language, the districts' practice of using the vast majority of at-risk money to supplement general classroom teachers will end. According to the LPA report¹⁵, the districts' claim that spending the money to reduce class size leads to better achievement does not hold water.

■ SUMMARY

In one way, it is disingenuous to consider this a model for a new at-risk *program*. That presumes there is an existing program. In reality, as revealed by the LPA audit, the current use of at-risk funding is nothing more than a mechanism to supplement per-pupil BASE. Plus, consider the fact that funding has grown exponentially since inception, while the frequency of academically at-risk students has actually *increased*. To borrow a phrase, there is no “there there.” Not only has there been a lack of improvement in the incidence of students performing below grade level, LPA found that schools believe they have a financial incentive *not* to improve student achievement. According to the report, stakeholders (school officials) told LPA:

*using academic measures, such as state assessments, can have problems. Doing so often results in reduced funding as students' academic outcomes improve.*¹⁶

That is clearly an admission that schools hold a perverse, and wholly unacceptable financial incentive to keep from improving student outcomes. This attitude indicates they see at-risk funding as being institution-centered, not student-centered.

Given these realities, doing nothing to change the lack of attention to improving the outcomes of low-achieving students is not only intolerable, but also clearly misfeasance on the part of the state. Students, families, and taxpayers of Kansas deserve better. The time is now to do something about it.

■ ABOUT THE AUTHOR

David Dorsey is Senior Education Policy Fellow with Kansas Policy Institute. David's primary emphasis is policy research on issues related to K-12 finance, student achievement, and education reform. David is a 20-year teaching veteran, the last 17 in Kansas public schools, and previously worked in local and state government in Arizona.

■ END NOTES

- ¹ The current State Board of Education outcomes are the Kansans Can objectives. These are:
 - Social-emotional growth measured locally
 - Kindergarten readiness
 - Individual Plan of Study based on career interest
 - High school graduation
 - Postsecondary success
- ² https://www.ksde.org/Portals/0/School%20Finance/guidelines_manuals/At%20Risk%20guidelines%2019-20.pdf
- ³ Id
- ⁴ http://ksreportcard.ksde.org/assessment_results.aspx?org_no=State&rptType=3, The ELA definitions are similar. All definitions are taken from KSDE:
 - Level 1 indicates that a student shows a limited ability to understand and use the mathematics skills and knowledge needed for college and career readiness.
 - Level 2 indicates that a student shows a basic ability to understand and use the mathematics/ELA skills and knowledge needed for Postsecondary Readiness.
 - Level 3 indicates that a student shows an effective ability to understand and use the mathematics/ELA skills and knowledge needed for Postsecondary Readiness.
 - Level 4 indicates that a student shows an excellent ability to understand and use the mathematics/ELA skills and knowledge needed for Postsecondary Readiness.
- ⁵ <https://nces.ed.gov/nationsreportcard/>
- ⁶ <https://www.ksde.org/Agency/Division-of-Learning-Services/Career-Standards-and-Assessment-Services/CSAS-Home/Assessments/National-Assessment-of-Educational-Progress-NAEP>
- ⁷ https://nces.ed.gov/nationsreportcard/ndehelp/webhelp/achievement_levels.htm
- ⁸ <https://www.kslpa.org/audit-report-library/k-12-education-evaluating-at-risk-student-counts-weights-and-expenditures/>
- ⁹ Id, p. 6
- ¹⁰ Id, p. 8
- ¹¹ Id, p. 18
- ¹² <https://kansaspolicy.org/kpi-paper-at-risk-funding-increased-money-fails-to-increase-achievement/>
- ¹³ LPA report, p. 12
- ¹⁴ Id
- ¹⁵ Id, p. 10
- ¹⁶ Id, p. 17

TABLE 3: Side-by-side comparison of the current at-risk approach with the new model.

Current Approach	New Program Model
PROGRAMMATIC:	PROGRAMMATIC:
No uniform way to identify academically at-risk students.	State-wide, uniform method of identifying academically at-risk students by using state assessments and a supplemental diagnostic test.
Most at-risk “services” provided in regular ed classrooms.	At-risk services provided outside the regular ed classrooms similar to ELL and special education.
No programmatic guidance from the state.	KSDE creates and provides a uniform programmatic framework school districts are obligated to follow.
No specialty at-risk teachers.	Specialized at-risk teachers with endorsement similar to ELL teachers along with a salary premium.
FINANCIAL:	FINANCIAL:
At-risk funding based on federal school lunch program.	Funding unchanged for initial 3-year period. Beginning in year four funding based on: <ul style="list-style-type: none"> • number of academically at-risk students, and • school performance.
OVERSIGHT/ACCOUNTABILITY:	OVERSIGHT/ACCOUNTABILITY:
No functional oversight at the state level of at-risk program.	<ul style="list-style-type: none"> • New ‘Office of At-risk’ in KSDE. • Detailed annual report to the Legislature and state board focusing on student outcomes and school performance. • Students in poor performing schools can leave school with at-risk dollars and other state funding following the student.



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