

IN THE SUPREME COURT OF THE STATE OF KANSAS

LUKE GANNON, *et al*,
Plaintiffs/Appellees,

v.

THE STATE OF KANSAS, *et al*.
Defendants/Appellants.

Case No. 15-113267-S

RESPONSE TO PLAINTIFFS' RULE 6.09(b) LETTER

Plaintiffs' "Rule 6.09 letter" inviting this Court to compare the 2011 and 2015 state assessment test results should be disregarded because it does not provide "persuasive or controlling authority," nor was the subject matter "published or filed after the date of oral argument." Further, Plaintiffs' chart is misleading and unhelpful for fundamental reasons: First, there is no evidence that the state assessment tests measure the "minimum education" described by the *Rose* standards. Second, the 2011 and 2015 test results cannot be meaningfully compared because those results are as different as coconuts and kiwis, *i.e.*, in some respects arguably superficially similar, but indisputably very different in fundamental respects. The Kansas State Department of Education specifically identified and explained this important point:

The state assessment Kansas schools administered in spring 2015 marks the first time our students were assessed against the state's more rigorous academic standards.¹ *Because this is a new assessment geared towards a new set of academic standards, the results cannot be compared to any*

¹ The new tests were first administered in spring 2014, but the results were found invalid because the testing computer systems were hacked. Vol. 45, p. 97. *See also* Appx. 9 to State's Opening Brief, filed 11/23/15.

previous years. Instead, these results are simply the benchmark by which to measure future growth.

....

It is an expected outcome that when the bar is raised, there will be a lower percentage of students reaching that higher standard, initially.² This is not an indication that student performance has declined; it is simply a product of asking them to perform at higher levels. As with any change, there is a period of adjustment as teachers and students get used to the new standards and tests.

Exhibit A, <http://ksreportcard.ksde.org/default.aspx> (emphasis added) (accessed September 26, 2016).

Respectfully submitted,

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² KSDE warned in advance that assessment test scores were likely to drop—precisely because of the increase in standards—even before the 2015 tests were administered. *See* Vol. 25, p. 3209.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 28th day of September 2016, the above Response was filed with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to registered participants, and a copy was electronically mailed to:

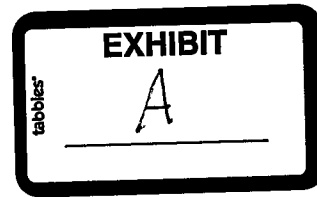
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Stay Informed and Get Engaged

In Kansas, we believe in the need for high quality, meaningful assessments that are aligned to college and career ready academic standards and that challenge students to demonstrate the depths of their knowledge. The state assessment Kansas schools administered in spring 2015 marks the first time our students were assessed against the state's more rigorous academic standards. Because this is a new assessment geared towards a new set of academic standards, the results cannot be compared to any previous years. Instead, these results are simply the benchmark by which to measure future growth.

While assessments should not be viewed as the "end all, be all," they do provide a critical piece of information that helps to inform instruction and provide consistent benchmarking to ensure students are prepared for whatever path they choose after graduation. State assessments provide an opportunity for teachers, parents and students alike to check in on the student's academic progress, but should only be viewed as one piece of the overall picture of a student.

It is an expected outcome that when the bar is raised, there will be a lower percentage of students reaching that higher standard, initially. This is not an indication that student performance has declined; it is simply a product of asking them to perform at higher levels. As with any change, there is a period of adjustment as teachers and students get used to the new standards and tests.

We are proud of the dedication of our talented Kansas educators and support their efforts to prepare Kansas students for future success.

The Official "Kansans Can" Video



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