

DEPARTMENT OF EDUCATION**Colorado State Board of Education****ADMINISTRATION OF STATEWIDE ACCOUNTABILITY MEASURES FOR THE COLORADO PUBLIC SCHOOL SYSTEM, CHARTER SCHOOL INSTITUTE, PUBLIC SCHOOL DISTRICTS AND PUBLIC SCHOOLS****1 CCR 301-1****1.0 Statement of Basis and Purpose**

The statutory basis for these rules is found in section 22-2-107(1)(c), C.R.S., concerning the Colorado State Board of Education's general rulemaking authority, section 22-11-104(1), concerning the board's authority to promulgate any rules it finds necessary for implementation of the Education Accountability Act of 2009, and in sections 22-11-103(4), 22-11-201 through 210, 22-11-303 through 306, 22-11-403 through 406, and 22-11-503, C.R.S. These rules establish requirements, criteria, and timelines related to the administration of a statewide accountability system to monitor and respond to the performance of Colorado's statewide education system, including the State Charter School Institute, school districts and public schools.

2.0 Definitions

- 2.01 Accreditation: Certification by the Colorado State Board of Education that a school district and the public schools of the school district, or the State Charter School Institute and the Institute charter schools meet the requirements established by section 22-11-101, C.R.S., et seq., and the rules promulgated thereunder. Accreditation includes the process for accrediting School Districts and the Institute and reviewing the performance of public schools as provided in sections 22-11-201 through 22-11-210, C.R.S., and the rules promulgated pursuant thereto.
- 2.02 Accreditation Contract:
- (1) The contract between the Colorado State Board of Education and a school district, as described in section 22-11-206, C.R.S. that includes, but is not limited to, the school district's obligation to manage the accreditation of the public schools of the school district consistent with the provisions of Article 11 of Title 22; or
 - (2) The contract between the Colorado State Board of Education and the State Charter School Institute, as described in section 22-11-206, C.R.S., that includes, but is not limited to the Charter School Institute's obligation to manage the accreditation of the of the Institute charter schools consistent with the provisions of Article 11 of Title 22.
- 2.03 BOCES: A Board of Cooperative Education Services, as defined by section 22-5-101, C.R.S., et seq
- 2.04 Commissioner: The office of the commissioner of education created and existing pursuant to Section 1 of Article IX of the state constitution.
- 2.05 Department: The department of education created and existing pursuant to section 24-1-115, C.R.S.
- 2.06 Demonstration Options: The methods by which a high school student may demonstrate college and career readiness as recommended in the high school graduation guidelines adopted by the state board pursuant to section 22-2-106(1)(a.5), C.R.S., and as specifically selected by the local

Commented [KL1]: Section 22-11-104(1), C.R.S., states, "The state board shall promulgate rules pursuant to the State Administrative Procedure Act, article 4 of title 24, as required in this article 11 and may promulgate such additional rules as it finds necessary for the implementation of this article 11..."

school board of the school district in which a student is enrolled or by the district charter high school or Institute charter high school in which a student is enrolled.

- 2.07 Detention Center: A center that addresses the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.
- 2.08 Facility: A day treatment center, residential child care facility, or other facility licensed by the Department of Human Services pursuant to section 26-6-104, C.R.S.
- 2.09 General Education Core Courses: The postsecondary general education core courses in reading, writing, and mathematics identified pursuant to section 23-1-125(3), C.R.S.
- 2.10 Improvement Plan:
- (1) The plan described in and adopted by a local school board pursuant to section 22-11-304, C.R.S., in which case it may also be referred to more specifically as a “district improvement plan”;
 - (2) The plan described in and adopted by the Institute pursuant to section 22-11-304, C.R.S., in which case it may also be referred to more specifically as an “Institute improvement plan”; or
 - (3) The plan described in and adopted by a public school pursuant to section 22-11-404, C.R.S., in which case it may also be referred to more specifically as a “school improvement plan.”
- 2.11 Institute: The State Charter School Institute created pursuant to section 22-30.5-503, C.R.S.
- 2.12 Institute Charter School: A charter school that is authorized by the State Charter School Institute pursuant to the provisions of part 5 of Article 30.5 of Title 22.
- 2.13 Local School Board: The board of education of a school district. “Local School Board” also includes the governing board of a board of cooperative services created pursuant to Article 5 of Title 22 if the board of cooperative services is operating a public school.
- 2.14 Neighborhood: The geographic area aligned with a public school’s student population, as defined by the school district or authorizer of the public school.
- 2.15 Online School: A full-time education school authorized pursuant to Title 22 that delivers a sequential program of synchronous or asynchronous instruction directed by a teacher, primarily through online digital learning strategies that provide students choice over time, place, and path, and teacher-guided modality, of learning. An online school has an assigned school code and operates with its own administrator, a separate budget, and a complete instructional program. An online school is responsible for fulfilling all reporting requirements and is held to state and federally mandated accountability processes.
- 2.16 Performance Indicators: The indicators specified in section 22-11-204, C.R.S., for measuring the performance of the state public education system, including each public school, each school district, the Institute, and the state as a whole.
- 2.17 Performance Plan:

PRELIMINARY DRAFT RULES 10.18.18

- (1) The plan described in and adopted by a local school board pursuant to section 22-11-303, C.R.S., in which case it may also be referred to more specifically as a “district performance plan”;
- (2) The plan described in and adopted by the Institute pursuant to section 22-11-303, C.R.S., in which case it may also be referred to more specifically as an “Institute performance plan”; or
- (3) The plan described in and adopted by a public school pursuant to section 22-11-403, C.R.S., in which case it may also be referred to more specifically as a “school performance plan.”

2.18 Performance Watch:

- (1) For a school district or the Institute, the period during which the school district or Institute performs at a level that results being accredited with priority improvement plan or lower, as described in section 22-11-207(4)(a), C.R.S.; and
- (2) For a public school, the during which the public school performs at a level that results in being required to adopt a priority improvement or turnaround plan, or... as described in section 22-11-210(1)(d)(I), C.R.S.

2.19 Priority Improvement Plan:

- (1) The plan described in and adopted by a local school board pursuant to section 22-11-305, C.R.S., in which case it may also be referred to more specifically as a “district priority improvement plan”;
- (2) The plan described in and adopted by the Institute pursuant to section 22-11-305, C.R.S., in which case it may also be referred to more specifically as an “Institute priority improvement plan”; or
- (3) The plan described in and adopted by a local school board pursuant to section 22-11-405, C.R.S., in which case it may also be referred to more specifically as a “school priority improvement plan.”

2.20 Public School: Has the same meaning as provided in section 22-1-101, C.R.S., and includes but is not limited to a district charter school, an Institute charter school and an online school as defined in section 22-30.7-102(9.5), C.R.S.

2.21 Quality Early Childhood Program: An early childhood program that has been rated as a 3, 4, or 5 by the Colorado Shines Rating System, accredited by the National Association for the Education of Young Children, or other similar agency as designated by the Colorado Department of Education.

2.22 School District or District: A school district authorized by Section 15 of Article IX of the state constitution and organized pursuant to Article 30 of Title 22. “School District” also includes a board of cooperative education services created pursuant to Article 5 of Title 22 if it is operating a public school.

2.23 State Board: The State Board of Education established pursuant to Section 1 of Article IX of the state constitution.

- 2.24 State-Operated Program: An approved school program supervised by the Department and operated by the Colorado School for the Deaf and Blind, the Department of Corrections, or the Department of Human Services, including but not limited to the Division of Youth Corrections and the Colorado Mental Health Institutes.
- 2.25 SchoolView: The Internet-based electronic data delivery system developed and maintained by the Department pursuant to section 22-11-502, C.R.S.
- 2.26 State Review Panel: The panel of education experts appointed by the commissioner pursuant to section 22-11-205, C.R.S., to assist the Department and the State Board in implementing provisions of Article 11 of Title 22.
- 2.27 Statewide Assessments: The assessments administered pursuant to section 22-7-1006.3, C.R.S.
- 2.28 Student Group: The grouping of students based on sex, socioeconomic status, race and ethnicity, disability, English language proficiency and gifted and talented status, as said groups are defined by state board rule or federal requirements, and any additional student groups that the state board may describe by rule to align with changes to federal requirement or to provide additional data for analysis of student learning.
- 2.29 Turnaround Plan:
 - (1) The plan described in and adopted by a local school board pursuant to section 22-11-306, C.R.S., in which case it may also be referred to more specifically as a “district turnaround plan”;
 - (2) The plan described in and adopted by the Institute pursuant to section 22-11-306, C.R.S., in which case it may also be referred to more specifically as an “Institute turnaround plan”; or
 - (3) The plan described in and adopted by a local school board pursuant to § 22-11-406, C.R.S., in which case it may also be referred to more specifically as a “school turnaround plan.”

3.0 Statewide Performance Indicators and Annual Targets

- 3.01 The State Board shall annually review the performance of the statewide public education system, including but not limited to reviewing the success of each Public School, each District, and the Institute on the four Performance Indicators of student academic achievement, student longitudinal academic growth, student academic growth to standards, and postsecondary and workforce readiness.
- 3.02 The State Board shall annually set, reaffirm or revise, as appropriate, ambitious but attainable targets for the measures used to determine success on the Performance Indicators. These targets shall be adopted in accordance with the requirements of section 22-11-201, C.R.S., by no later than November 15th of each year, or as soon as possible thereafter when new metrics are established or existing metrics are revised. Within 15 days of adopting such targets, the State Board shall publish the targets on SchoolView.
- 3.03 Student academic achievement shall be calculated as follows:
 - (1) The calculation shall be based on students’ academic performance relative to the grade-level state standards adopted pursuant to section 22-7-1005, C.R.S., as measured by

Commented [KL2]: The state board is required to adopt and publish an annual statement of targets in accordance with time frames set by state board rule. C.R.S. 22-11-201(3).

Commented [KL3]: The state board must specify by rule how the performance of each school, each district, the Institute and the state as a whole is calculated for each of the performance indicators. C.R.S. 22-11-204(1)(a)(III)(c).

performance on the Statewide Assessments, ensuring that the privacy of individual students is protected;

- (2) The calculation shall include consideration of the academic achievement of students enrolled in third and fourth grade who are identified as having significant reading deficiencies pursuant to section 22-7-1205, C.R.S., and provide additional credit for a Public School, District, or the Institute if it demonstrates higher levels of performance on the state reading assessment or the statewide English language arts assessment by said students; and
- (3) The calculation shall account separately for the performance of each Student Group. Disaggregated data shall be publicly reported where the data enables meaningful differentiation among the performance of Public Schools, Districts, and the Institute.

3.04 Student longitudinal academic growth shall be calculated as follows:

- (1) The calculation shall be based on students' academic progress on Statewide Assessments across school years and relative to students with similar assessment score histories, aggregated at the Public School-, District-, or Institute-level; and
- (2) The calculation shall account separately for the performance of each Student Group. Disaggregated data shall be publicly reported where the data enables meaningful differentiation among the performance of Public Schools, Districts, and the Institute.

3.05 Student academic growth to standards shall be calculated as follows:

- (1) By no later than November 1st of each year, the Department shall calculate, to the extent practicable, what will constitute adequate longitudinal academic growth for each student for that school year in each subject that is included in the Statewide Assessments;
- (2) The calculation shall be based on students' academic growth to standards, compared to incremental targets towards meeting for students who are not yet meeting expectations, and maintaining or increasing performance for students who are already meeting expectations or exceeding grade-level expectations; and
- (3) The calculation shall account separately for the performance of each Student Group. Disaggregated data shall be publicly reported where the data enables meaningful differentiation among the performance of Public Schools, Districts, and the Institute.

Commented [KL4]: The state board, by rule, must establish a date each year by which CDE will calculate, to the extent practicable, what will constitute adequate longitudinal academic growth for each student for that school year in each subject included in the statewide assessments. C.R.S. 22-11-203(1)(a).

3.06 Postsecondary and workforce readiness shall be calculated as follows:

- (1) The calculation shall include the percentage of students enrolled in the eleventh grade in each public high school, each District, and the Institute who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a Statewide Assessment or, following the adoption of a postsecondary and workforce readiness assessment, as described in section 22-7-1003(16), C.R.S., the percentage of students enrolled in each of the grade levels included in each public high school, each District, and the Institute who scores at each achievement level on said assessment.

PRELIMINARY DRAFT RULES 10.18.18

- (2) As soon as the data is available, the calculation shall include the percentage of students graduating from each public high school, each District, and the Institute who receive a diploma that includes a postsecondary and workforce readiness endorsement, as described in section 22-7-1009(1), C.R.S., and the percentage who receive a diploma that includes an endorsement for exemplary demonstration of postsecondary and workforce readiness, as described in section 22-7-1009(2), C.R.S.;
- (3) The calculation shall include the student dropout rate and the student graduation rate, as defined by section 12.00 of these rules;
- (4) The calculation shall include the percentage of students graduating from each public high school, each District, and the Institute who, in the year immediately following graduation from high school, enroll in a career and technical education program, community college, or four-year institute of higher education. As soon as the data is available, the calculation shall also include the percentage of students graduating from each public high school, each District, and the Institute who, in the year immediately following high school, enlist in the military. Each of the postsecondary enrollment options listed in this subparagraph (4) shall be weighted equally;
- (5) Beginning in the 2020-21 school year, the calculation shall include the percentage of students enrolled in each public high school who demonstrate college and career readiness, based on the Demonstration Options in English language arts and math available to the students enrolled in the public high school, District, or Institute, at the higher achievement level adopted by the State Board that indicates a student is prepared, without needing remediation, to enroll in General Education Core Courses;
- (6) Beginning in the 2020-21 school year, the calculation shall include the percentage of students enrolled in each public high school, each District, and the Institute who successfully complete an advanced placement course in a subject other than English language arts or math and earn a score of three or higher on the end-of-course advanced placement exam, the percentage of students who successfully complete a concurrent enrollment course in a subject other than English language arts or math and earn a grade of "B" or higher in the course, and the percentage of students who successfully complete an international baccalaureate course in a subject other than English language arts or math and earn a score of four or higher;
- (7) The calculation shall account separately for the performance of each Student Group. Disaggregated data shall be publicly reported where the data enables meaningful differentiation among the performance of Public Schools, Districts, and the Institute; and
- (8) The Department may modify these calculations in order to protect the privacy of individual students.

Commented [KL5]: The state board is required to define the graduation and dropout rates in rule. C.R.S. 22-11-204(4)(a)(III)

Commented [KL6]: This measure is required by SB 18-012.

Commented [KL7]: This measure is required by SB 17-272.

Commented [KL8]: This measure is required by HB 18-1019.

Commented [KL9]: C.R.S. 22-11-204(6)(a) provides that, "In calculating the levels of attainment of the performance indicators, the department shall ensure compliance with the federal statutes and regulations and may adjust the calculation methods as necessary to ensure said compliance." In order to protect the privacy of student information, CDE may use students' scale scores, rather than the percentage of students who score at particular achievement levels.

4.0 District and Institute Accountability Processes: Accreditation Contracts

- 4.01 Within 60 days of the Commissioner determining a final Accreditation Category for a District, the Commissioner and State Board shall enter into an Accreditation Contract with that District's

PRELIMINARY DRAFT RULES 10.18.18

Local School Board. Within 60 days of the Commissioner determining a final Accreditation Category for the Institute, the Commissioner and State Board shall enter into an Accreditation Contract with the Institute board.

- 4.02 Each Contract shall have a term of one year and shall be automatically renewed each year so long as the District or the Institute remains in the Accreditation category of Accredited with Distinction or Accredited.
- 4.03 The parties to the Contract may renegotiate the Contract at any time during the term of the Contract, based upon appropriate and reasonable changes in circumstances upon which the original terms and conditions of the Contract were based.
- 4.04 Each Contract, at a minimum, shall address the following elements:
- (1) The District's or Institute's level of attainment on the Performance Indicators, as determined pursuant to section 22-11-204, C.R.S.;
 - (2) The District's or the Institute's adoption and implementation of its Performance Plan, Improvement Plan, Priority Improvement Plan or Turnaround Plan, whichever is appropriate based on the District's or Institute's Accreditation category;
 - (3) The District's implementation of its system for accrediting the District Public Schools or the Institute's implementation of its system for accrediting the Institute Charter Schools, which system shall emphasize school attainment of the four statewide Performance Indicators, and may, in the Local School Board's or Institute board's discretion, include additional Accreditation indicators and measures adopted by the District or Institute;
 - (4) The District's or Institute's system for accrediting Public Schools that meet the definition of an Online School, which system shall emphasize school attainment of the four statewide Performance Indicators, as well as the extent to which the Public School has met the quality standards outlined in section 22-30.7-105, C.R.S. and made progress in implementing any corrective actions required pursuant to sections 22-30.7-109(2)(B) and 22-30.7-110(2)(A), C.R.S., and may, in the Local School Board's or Institute Board's discretion, include additional Accreditation indicators and measures adopted by the District or Institute; and
 - (5) The District's or the Institute's substantial and good-faith compliance with the provisions of Title 22 and other statutory and regulatory requirements applicable to Districts or the Institute.
- 4.05 For purposes of monitoring a District's or the Institute's substantial and good-faith compliance with the provisions of Title 22 and other statutory and regulatory requirements applicable to Districts and the Institute, each Contract shall include the following:
- (1) An assurance that the District or Institute is in compliance with budgeting, accounting, and reporting requirements set forth in section 22-44-101, C.R.S., et seq. and section 22-45-101, C.R.S., et seq.;

Commented [KL10]: The state board rules must specify the contents and terms of the accreditation contract. C.R.S. 22-11-206(2).

PRELIMINARY DRAFT RULES 10.18.18

- (2) For Districts, an assurance that the District is in compliance with the provisions of § 22-32-109.1, C.R.S., concerning school safety, and the Gun Free Schools Act, 20 U.S.C. 7151;
- (3) For Districts, an assurance that the District and the District's Public Schools are in substantial, good-faith compliance with all statutory and regulatory requirements that apply to Districts;
- (4) For the Institute, an assurance that the Institute and the Institute's charter schools are in substantial, good-faith compliance with statutory and regulatory requirements that apply to the Institute; and
- (5) An assurance that the District and the District Public Schools or the Institute and the Institute Charter Schools shall comply with the assessment provisions set forth in section 22-7-1013(8), C.R.S., including:
 - (A) An assurance that the District and District Public Schools or the Institute and Institute Charter Schools will not impose negative consequences— including prohibiting school attendance, imposing an unexcused absence, or prohibiting participation in extracurricular activities—on a student or parent if the parent excuses his or her student from participating in a State Assessment. If a parent excuses his or her student from participating in a State Assessment, the District and the District Public Schools or the Institute and the Institute Charter Schools will not prohibit the student from participating in an activity, or receiving any other form of reward the District or District Public Schools or the Institute or Institute Charter Schools provide to students for participating in the State Assessment; and
 - (B) An assurance the District and District Public Schools or the Institute and Institute Charter Schools will not impose an unreasonable burden or requirement on a student that would discourage the student from taking a State Assessment or encourage the student's parent to excuse the student from taking the State Assessment.

Commented [KL11]: This language aligns with SB 18-011.

- 4.06 For purposes of monitoring a District's or the Institute's compliance with its Contract, the Department may request information or conduct site visits as needed.
- 4.07 If the Department has reason to believe that a District or the Institute is not in substantial compliance with one or more of the applicable statutory or regulatory requirements, the Department shall notify the Local School Board or the Institute that it has ninety (90) days after the date of notice to come into compliance. If, at the end of the ninety (90) day period, the Department finds that the District or the Institute is not substantially in compliance with the applicable statutory or regulatory requirements, meaning that the District or Institute has not yet taken the necessary measures to ensure that it shall meet the applicable legal requirements as soon as practicable, the District or the Institute may be subject to the interventions specified in sections 22-11-207 through 22-11-210, C.R.S.

5.0 District and Institute Accountability Processes: Accreditation Ratings

- 5.01 The State Board shall assign Districts and Institute to the following Accreditation categories:

Commented [KL12]: The state board must promulgate rules to establish accreditation categories that include, but need not be limited to the first 5 categories described below. The definition for each of the first 5 categories is a restatement of statute. C.R.S. 22-11-207(1)

PRELIMINARY DRAFT RULES 10.18.18

- (1) Accredited with Distinction, meaning the District or Institute meets or exceeds the statewide targets or targets annually set by the District or the Institute or exceeds statewide attainment on the Performance Indicators and is required to adopt and implement a performance plan as described in section 22-11-303, C.R.S.;
- (2) Accredited, meaning the District or Institute meets statewide attainment on the Performance Indicators and is required to adopt and implement a Performance Plan as described in section 22-11-303, C.R.S.;
- (3) Accredited with Improvement Plan, meaning the District or Institute is required to adopt and implement an Improvement Plan as provided in section 22-11-304, C.R.S.;
- (4) Accredited with Priority Improvement Plan, meaning the District or Institute is required to adopt and implement a Priority Improvement Plan as provided in section 22-11-305, C.R.S.;
- (5) Accredited with Turnaround Plan, meaning the District or the Institute is required to adopt, with the commissioner's approval, and implement a turnaround plan as provided in section 22-11-306, C.R.S.;
- (6) Insufficient State Data, meaning the District or Institute did not have sufficient data to publicly report results while protecting the privacy of students and therefore the District or Institute is required to adopt and implement the type of plan to which it was previously assigned. If the District or Institute was previously assigned to a Priority Improvement or Turnaround Plan and was on Performance Watch, the District or Institute will remain on Performance Watch but will exclude the current year from the calculation of the five (5) years of low performance described in section 22-11-207(4)(a), C.R.S.; or
- (7) Unaccredited.

5.02 By no later than August 31st of each year, the Department shall provide an initial assignment to each District and the Institute into one of the Accreditation Categories listed above.

5.03 In determining an initial accreditation category for each District and the Institute, the Department shall apply the following criteria:

- (1) The District's or Institute's level of attainment of the statewide targets on the Performance Indicators, calculated in accordance with section 3.0 of these rules.
 - (A) The Department shall determine whether the District or Institute exceeds, meets, approaches or does not meet statewide targets for each Performance Indicator.
 - (B) If a Local School Board or the Institute chooses not to endorse a high school diploma as described in section 22-7-1009(2), C.R.S., the District or Institute will not be penalized for such choice when it is assigned an Accreditation category assignment.

Commented [KL13]: The state board rules must include "objective, measurable criteria that the department shall apply in determining the appropriate accreditation category for each district, placing the greatest emphasis on attainment of the performance indicators." At a minimum the rules must take into consideration the measures included in sections (1) through (4). C.R.S. 22-11-207(2).

PRELIMINARY DRAFT RULES 10.18.18

(C) In evaluating the level of attainment on student dropout and graduation rates, the Department, to the extent practicable, shall ensure that Districts and the Institute are not penalized for re-engaging students and ensuring that all students successfully graduate;

- (2) The District's or the Institute's level of attainment of the Performance Indicators compared with statewide attainment of the Performance Indicators;
- (3) The District's or Institute's compliance with the other requirements specified in its Accreditation Contract;
- (4) The percentage of students enrolled in the District or Institute who are not tested on the Statewide Assessments; and
- (5) The District's or Institute's failure to administer Statewide Assessments in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance. The Commissioner shall determine whether a District or Institute has failed to administer statewide assessment results in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance and whether the failure was pervasive and egregious enough to warrant a change in the District's or Institute's accreditation rating. If the District or Institute otherwise would have been assigned to Accredited with Distinction, Accredited with Performance Plan, or Accredited with an Improvement Plan, it instead may be assigned to Accredited with Priority Improvement Plan. If the District or Institute otherwise would have been assigned to Accredited with Priority Improvement Plan, it instead may be assigned to Accredited with Turnaround Plan.

5.04 When applying the criteria above to determine an initial Accreditation category for each District and the Institute, the Department shall place the greatest emphasis on attainment of the Performance Indicators. When evaluating attainment of the Performance Indicators, the Department shall place the greatest emphasis on student longitudinal academic growth and postsecondary and workforce readiness.

Commented [KL14]: C.R.S. 22-11-207(2) requires that the criteria place the greatest weight on the performance indicators.

5.05 To accommodate the special circumstances of those Districts that include only a single Public School, the Commissioner may elect to apply the criteria for evaluating the performance of Public Schools, as described in section 8.02 of these rules, when evaluating such a District.

Commented [KL15]: This is not required by statute, but the State Board has the authority to specify how the indicators will be weighted. This language is consistent with the State Board's previous rules, which have placed the greatest emphasis on growth and PWR.

5.06 On or before the date that the Department notifies each District or the Institute of its initial Accreditation category, the Department shall also provide the data used by the Department to conduct its analysis of the District's or Institute's performance.

5.07 If a District or the Institute disagrees with the Department's initial Accreditation assignment, the District or Institute may submit to the Department a request for reconsideration. Such request shall be submitted by no later than October 15th.

5.08 Upon receiving a request to reconsider, the Department shall take the following information into account in determining the District's or Institute's final accreditation rating:

Commented [KL16]: The state board rules must specify the information the Department must take into account in determining a district or the Institute's final accreditation rating. C.R.S. 22-11-207(2.5)(a).

- (1) When available, achievement data from a nationally-normed assessment other than a Statewide Assessment and from a grade or subject that is not tested on a Statewide

Assessment, if the Department has determined that the supplemental data is valid and reliable and derived from assessments that are aligned with the state standards adopted pursuant to section 22-7-1005, C.R.S. Such data must be representative of the applicable population, meaning that ninety-five (95) percent or more of the applicable population was tested. The Department shall separately account for the performance of each Student Group when evaluating both assessment results and participation rates;

- (2) When available, growth analysis of the type of assessment data described in subparagraph (1) above;
- (3) Analysis of the length of time for which the District or Institute has been unable to meet the State Board's targets on the Performance Indicators and progress toward meeting the targets;
- (4) When available, measures of postsecondary and workforce readiness other than the measures described in section 3.06 of these rules when the data used for such measures is representative of at least ninety-five (95) percent of the applicable student population, as determined by the Department. This may include the percentages of students enrolled in a high school who, based on attainment of course credits or demonstrated competencies, are on schedule to graduate within four, five, six, or seven years;
- (5) Where applicable, the performance of students enrolled in the District's or Institute's alternative education campuses that have received a designation pursuant to section 22-7-604.5, C.R.S. The performance of these students shall be evaluated based on the following:
 - (A) Whether removing the data for students enrolled in the campus(es) from the calculations of the District's or Institute's attainment of the Performance Indicators would otherwise cause the District or Institute to receive a higher Accreditation rating; and
 - (B) Whether the campus(es) either:
 - (I) Has/have been assigned by the State Board to implement a School Improvement Plan on the alternative education campus school performance frameworks and the campus(es) has/have demonstrated improved performance over time, as demonstrated through the criteria for evaluating alternative education campuses, described in section 22-11-210(1)(b), C.R.S.;
 - (II) Has/have been assigned by the State Board to implement a School Performance Plan on the alternative education campus school performance frameworks; or
 - (III) The campus(es) no longer serve(s) students;
- (6) If the District or Institute has participation rates below eighty-five (85) percent on the Statewide Assessments, data showing how the students who participated in the

Commented [KL17]: The State Board rules must take into consideration the performance of students enrolled in a District's or the Institute's alternative education campuses. C.R.S. 22-11-207(2)(g).

PRELIMINARY DRAFT RULES 10.18.18

Statewide Assessments are not representative of the District's or Institute's total population;

- (7) If the District or Institute was lowered one Accreditation-level rating due to low student participation in Statewide Assessments, information concerning whether the District or Institute historically has attained ninety-five (95) percent participation rates, inadvertent test misadministrations occurred, or the District or Institute has a particularly small student population; and
- (8) Whether the District or Institute authorized a Public School with a Priority Improvement or Turnaround Plan type assignment and that Public School was closed or not reauthorized by the District or Institute.

5.09 When evaluating the information described above, the Department may accommodate systems with small student populations by allowing exceptions to the participation rate requirements described in section 5.08 of these rules and may allow the District or Institute to submit data for multiple years.

5.10 By no later than December 30th of each school year, the Department shall determine a final Accreditation category for each District and the Institute and shall notify the District or Institute of the Accreditation category to which it has been assigned.

Commented [KL18]: State board rules must include a timeline for notification of final accreditation ratings. C.R.S. 22-11-207(2.5)(b).

5.11 If a District or the Institute receives a final Accreditation category assignment of Accredited with Priority Improvement Plan or Accredited with Turnaround Plan, it has the right to appeal the Department's determination before the State Board.

Commented [KL19]: The State Board is required to promulgate rules to ensure a district's or the Institute's right to a hearing before the State Board to appeal placement in the accredited with turnaround plan category. C.R.S. 22-11-208(1)(e). The 2009 state board rules extended this option to a district placed in the category of accredited with priority improvement plan.

- (1) Within ten (10) days of receiving notification of the Department's final Accreditation category assignment, the District or Institute shall provide written notice to the State Board Office that the District or Institute wishes to appeal the Accreditation category assignment.
- (2) Within ten (10) days of receiving the notice of appeal, the State Board Office shall provide a scheduling notification to the District or Institute in writing. The scheduling notification shall provide the date of the next regularly scheduled State Board meeting. After conferring with the District or the Institute, the State Board Office shall include in the scheduling notification the filing deadlines for the appeal. The deadlines set forth below in this section 5.11 of these rules may be modified by agreement between the Department and the District or Institute with approval of the State Board Office.
- (3) Within fifteen (15) days of receipt of the scheduling notification, the District or Institute shall file a Position Statement setting forth the specific grounds for the assertion that the District or Institute should not be placed in the category of Accredited with Priority Improvement Plan or Accredited with Turnaround Plan. The District or the Institute shall provide a copy of the Position Statement to the Department.
- (4) Within fifteen (15) days of the date the Position Statement is filed with the State Board, the Department may file a Response to the Position Statement, and provide a copy of the Position Statement to the District or Institute.

- (5) The District or Institute shall file all relevant documents pertaining to the placement of the District or Institute in the category of Accredited with Priority Improvement Plan or Accredited with Turnaround Plan, which may include:
 - (A) Written document issued by the Department placing the District or Institute in the category of Accredited with Priority Improvement Plan or Accredited with Turnaround Plan;
 - (B) Written correspondence between the District or Institute and the Department concerning Accreditation; and
 - (C) Any other documents, reports, correspondence and other written or electronic materials related to the matters at issue.
- (6) The Department shall have ten (10) days from the date of receipt of the documents filed with the State Board to file any objections or proposed additions to the record. The State Board shall rule forthwith on any such objections or proposed additions, and such ruling shall be final.
- (7) The State Board shall hold a hearing on the matter at the earliest possible regularly scheduled board meeting.
- (8) Following the hearing, the State Board shall issue a written order regarding the District's or Institute's final Accreditation category within thirty (30) days of the date of the hearing, and provide a copy to the Local School Board or Institute and the Department.

6.0 District and Institute Accountability Processes: Contents of District and Institute Plans and Timelines for Adoption, Review, and Publication of Plans

6.01 Each Local School Board and the Institute board shall adopt a plan for improving student performance, which plan shall align with the District's or Institute's final Accreditation rating. If assigned to Accredited with Distinction or Accredited, the Local School Board or Institute board shall adopt a Performance Plan. If assigned to Accredited with Improvement Plan, the Local School Board or Institute board shall adopt an Improvement Plan. If assigned to Accredited with Priority Improvement Plan, the Local School Board or Institute board shall adopt a Priority Improvement Plan. If assigned to Accredited with Turnaround Plan, the Local School Board or Institute board shall adopt a Turnaround Plan. If assigned to "Insufficient State Data," the Local School Board or Institute shall adopt a plan that meets the requirements of the plan type to which the Local School Board or Institute was previously assigned.

6.02 Each District and Institute plan shall:

- (1) Reflect on the targets that were set by the District or Institute in its prior plan;
- (2) Set, affirm, or revise, as appropriate, ambitious but attainable targets that the District, including District Public Schools, or the Institute, including Institute Charter Schools, shall attain on the Performance Indicators. The Local School Board or the Institute board shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 3.02 of these rules. These targets must include targets

Commented [KL20]: Statute outlines minimum requirements for district plans, but gives the state board authority to add additional requirements. C.R.S. 22-11-303(3)(f), 22-11-304(3)(f), 22-11-305(3)(f), and 22-11-306(3)(f).

that the District, including the District Public Schools, or the Institute, including the Institute Charter Schools, shall attain in reducing the number of students who are identified, pursuant to section 22-7-1205, C.R.S., as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

- (3) Identify positive and negative trends for District Public Schools as a group and individually or for Institute Charter Schools as a group and individually in the levels of attainment by the Public Schools as a group and individually on the Performance Indicators;
- (4) Assess and prioritize the District's or Institute's most significant student performance challenges;
- (5) Assess and prioritize the root causes of any low-performance for the District and for the individual District Public Schools or for the Institute and for the individual Institute Charter Schools that must be addressed to raise the levels of attainment on the Performance Indicators by the District Public Schools or the Institute Charter Schools and to improve school readiness in District Public Schools or Institute Charter Schools that serve students in preschool and Kindergarten. For a District's Priority Improvement Plan or Turnaround Plan, if the District or Institute authorizes a Public School that is operating under a Priority Improvement or Turnaround Plan and enrolls students in Kindergarten or any of grades one through three, the needs assessment shall include, but shall not be limited to, the early childhood learning needs assessment described in section 22-11-305(4), C.R.S.;
- (6) Identify specific, research-based strategies to address the District's or Institute's root causes of any low-performance. These strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205, C.R.S., as having significant reading deficiencies.

For a District Turnaround Plan, such strategies shall, at a minimum, include one or more of the following:

- (A) Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the Turnaround Plan and shall serve as a liaison to other school partners;
- (B) Reorganizing the oversight and management structure within the District or the Institute to provide greater, more effective support for Public Schools;
- (C) For a District, recognizing individual District Public Schools as innovation schools or clustering District Public Schools with similar governance or management structures into one or more innovation school zones and seeking designation as a District of innovation pursuant to Article 32.5 of Title 22;

PRELIMINARY DRAFT RULES 10.18.18

- (D) Hiring an entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to operate one or more District Public Schools or Institute Charter Schools pursuant to a contract with the Local School Board or the Institute;
 - (E) For a District, converting one or more District Public School to charter schools;
 - (F) For the Institute, renegotiating and significantly restructuring an Institute Charter School's charter contract;
 - (G) Closing District Public Schools or Institute Charter Schools; and
 - (H) Other actions of comparable or greater significance or effect;
- (7) Identify the local, state and federal resources that the District or the Institute will use to implement the identified strategies with fidelity;
- (8) Identify implementation benchmarks and interim measures to assess whether the identified strategies are carried out with fidelity and adjust practice;
- (9) For any Priority Improvement or Turnaround Plan that a District or the Institute adopts for the fourth year in which the District or Institute is on Performance Watch, include a general explanation for how the District or Institute may put into effect each of the actions described in section 22-11-209(2)(a)(I), C.R.S. for a District or section 22-11-209(2)(a)(II), C.R.S., for the Institute; and
- (10) Address any other issues raised by the Department through the Accreditation process described in sections 4.00 and 5.00 of these rules.

6.03 If a District or the Institute is required to implement a Priority Improvement Plan or a Turnaround Plan, the Local School Board or the Institute board shall adopt such plan and submit it to the Department by no later than January 15th of the academic school year in which it is directed to adopt the plan.

- (1) For a Priority Improvement Plan, the Commissioner shall review the plan and may assign the State Review Panel to critically evaluate the plan, which may include one or more site visits, as described in section 22-11-208(3), C.R.S. The Commissioner may recommend modifications to the plan. The Department shall post the plan on SchoolView by April 15th. If the Commissioner recommends modifications to the plan and the Local School Board or Institute board revise the plan, the Local School Board or Institute board shall submit an updated plan by a date negotiated between the District or Institute and the Department and no later than August 15th. The Department shall post any updated plan on SchoolView within two weeks of receiving it. The Local School Board or the Institute shall ensure that the District or Institute and the District's or Institute's Public Schools implement the plan by the start of the academic school year following the year in which the school was assigned to a Priority Improvement Plan.
- (2) For a Turnaround Plan, the Commissioner shall review the plan and may assign the State Review Panel to critically evaluate the plan, which may include one or more site visits, as

Commented [KL21]: This plan requirement was added by HB 18-1355, and is now in C.R.S. 22-11-207(6).

Commented [KL22]: The state board rules must establish the time frames in which districts and the Institute must adopt their respective plans and submit them for review and publication on the data portal. C.R.S. 22-11-208(1)(d).

Commented [KL23]: The state board rules must specify a timeline for when plans must be in effect. C.R.S. 22-11-305(1)(d).

described in section 22-11-208(3), C.R.S. If the Commissioner approves the plan, the Department shall post the plan on SchoolView by April 15th. If the Commissioner suggests modifications to the plan, the Local School Board or Institute board shall revise the plan and resubmit an updated plan for approval by a date negotiated between the District or Institute and the Department and no later than August 15th. The Department shall post the updated plan on SchoolView within two weeks of receiving it. The Local School Board or the Institute shall ensure that the District or Institute and the District's or Institute's Public Schools implement the plan by the start of the academic school year following the year in which the school was assigned to a Turnaround Plan.

- 6.04 If a District or the Institute is required to adopt a Performance Plan or an Improvement Plan while on Performance Watch, the Local School Board or the Institute board shall adopt and submit such plan to the Department by no later than January 15th. The Department shall post the plan on SchoolView by April 15th. If the Commissioner recommends modifications to the plan and the Local School Board or Institute board revise the plan, the Local School Board or Institute board shall submit an updated plan by a date negotiated between the District or Institute and the Department and no later than August 15th. The Department shall post the updated plan on SchoolView within two weeks of receiving it. The Local School Board or the Institute shall ensure that the District or Institute and the District's or Institute's Public Schools implement the plan by the start of the academic school year following the year in which the school was assigned to a Performance Plan or Improvement Plan .
- 6.05 If a District or the Institute is required to adopt a Performance Plan or an Improvement Plan and is not on Performance Watch, the Local School Board or the Institute board shall adopt and submit such plan to the Department no later than April 15th. The Department shall post the plan on SchoolView within two weeks of receiving it. The Local School Board or the Institute shall ensure that the District or Institute and the District's or Institute's Public Schools implement the plan by the start of the academic school year following the year in which the school was assigned to a Performance Plan or Improvement Plan.
- 6.06 So long as a District or the Institute maintains the status of Accredited or Accredited with Distinction, the Local School Board or Institute board may adopt and submit a District Performance Plan every two years. This flexibility shall not apply to any district on Performance Watch.
- 6.07 A District with 1,000 students or fewer may submit a single plan to satisfy both the District plan requirements and any Public School plan requirements, so long as the plan meets all state and federal requirements for the District and Public Schools included in the plan. A District with 1,000 but fewer than 1,200 students may, upon request and at the Department's discretion, submit a single plan to satisfy the District plan requirements and any Public School plan requirements, so long as the plan meets all state and federal requirements. A District that is authorized to submit a single plan and that, as described in section 6.06 of these rules, is also authorized to submit a two-year plan may submit a single plan to satisfy both District and Public School requirements only if each of the Public Schools that is included in the plan also have been authorized, as described in section 9.07 of these rules, to submit a two-year Performance Plan.

Commented [KL24]: This flexibility is authorized by C.R.S. 22-11-303(4).

Commented [KL25]: This flexibility is authorized by C.R.S. 22-11-210(2).

7.0 District and Institute Accountability Processes: Directed Action and Removal of Accreditation

7.01 If a District or the Institute is Accredited with a Turnaround Plan and the Department determines that the District or Institute has failed to make substantial progress under its Turnaround Plan or if the District or Institute has been on Performance Watch for the full five (5) years, the Commissioner shall assign the State Review Panel to critically evaluate the District's or the Institute's performance and to recommend one or more of the following actions:

- (1) If the recommendation applies to a District:
 - (A) That the District's accreditation be removed;
 - (B) That the District be reorganized pursuant to article 30 of this title 22, which reorganization may include consolidation;
 - (C) That a private or public entity, with the agreement of the District serve as a lead partner in the management of the District or partially or wholly manage one or more of the District schools. The Local School Board and the Department shall ensure that the private or public entity uses research-based strategies and has a proven record of success working with school districts and schools under similar circumstances;
 - (D) That one or more of the District schools be converted to a charter school;
 - (E) That one or more of the District school's be granted status as an innovation school pursuant to section 22-32.5-104, C.R.S., or that the Local School Board recognize a group of District schools as an innovation school zone pursuant to section 22-32.5-104, C.R.S.;
 - (F) Or that one or more of the District schools be closed.
- (2) If the recommendation applies to the Institute:
 - (A) That the Institute's Accreditation be removed;
 - (B) That the Institute board be abolished and that the governor appoint a new Institute board pursuant to section 22-30.5-505, C.R.S.;
 - (C) That a public or private entity take over management of the Institute or management of one or more of the Institute Charter Schools;
 - (D) Or that one or more of the Institute Charter Schools be closed.

7.02 After critically evaluating the District's or Institute's performance, the State Review Panel shall submit a written recommendation to the Commissioner. The Department shall forward the written recommendation to the Office of the State Board, the applicable Local School Board or Institute board, and District or Institute staff.

7.03 Following the release of the Department's initial Accreditation ratings that place a District or the Institute in the fifth year of Performance Watch, the Department shall provide a copy of a written recommendation from the Commissioner to the Office of the State Board of Education

Commented [KL26]: This following list of possible directed actions for Districts and the Institute is prescribed by statute, in C.R.S. 22-11-209(2).

concerning one or more of the actions described in section 7.01 of these rules. The Department shall send a copy of the written recommendation to the applicable Local School Board or Institute board and District or Institute staff.

- 7.04 The State Board shall hold a public hearing to consider the recommendations of the State Review Panel and the Commissioner for a District or the Institute, if it has been on Performance Watch for five (5) years. The public hearing shall be held between October 1st and March 30th of the academic school year in which the District or Institute is Accredited with a Priority Improvement or Turnaround Plan for the fifth year while on Performance Watch.

Prior to the public hearing, the District or Institute shall have the opportunity to submit to the State Board a written report detailing the District's or Institute's preferred course of action, based on the available options described in section 7.01 of these rules and which best addresses the root cause(s) for persistent low student performance. At the public hearing, the District or Institute and the Department shall have an opportunity to present information to the State Board. At the conclusion of the public hearing, the State Board may ask the District or Institute and the Department to submit proposed written final determinations for the State Board's consideration at a subsequent meeting.

Commented [KL27]: State board rules must include "a timeline by which the state board directs a school district to put into effect one or more of the statutorily required actions, ensuring that timeline is designed to allow the district to reasonably put into effect any of the actions by the beginning of the school year immediately following the school year in which the state board directs the action." C.R.S. 22-11-209(4)(b)

- 7.05 Per section 22-11-209(3.5), C.R.S., if a District or the Institute continues to be Accredited with Priority Improvement or Turnaround Plan after the State Board initially directs action as described in sections 7.01 – 7.04 of these rules, then the Commissioner may in any year, but shall every two years, assign the State Review Panel to critically evaluate the District's or Institute's performance and recommend one of actions described in section 7.01 of these rules. The State Board shall consider the State Review Panel's recommendations, the previously-directed actions, the fidelity with which the District or Institute has implemented the directed actions, and whether the amount of time to implement the previously directed actions is reasonably sufficient to achieve results. The State Board shall require the District or the Institute either to continue the previously directed actions or to undertake additional or different actions outlined in section 7.01 of these rules.

- 7.06 If the Department recommends to the Commissioner and State Board that the State Board remove a District's or the Institute's Accreditation for the reasons outlined in section 22-11-209(1)(c), C.R.S., concerning budget and financial policies and procedures or accounting and financial reporting, the District or Institute shall have the right to appeal to the State Board before the State Board takes action to remove the District's or the Institute's accreditation. Any such appeal shall proceed as follows:

- (1) The District or Institute shall file with the State Board within ten (10) days of receipt of the Department's written recommendation notice that the District or Institute wishes to appeal the recommendation.
- (2) The State Board Office shall notify the District or Institute in writing within ten (10) days of receipt of the notice of appeal. The scheduling notification shall provide the date of the next regularly scheduled State Board meeting. After conferring with the District or the Institute, the State Board Office shall include in the scheduling notification the filing deadlines for the appeal. The deadlines set forth in below in this section 7.03 of the

rules may be modified by agreement between the Department and the District or Institute with approval of the State Board Office.

- (3) Within fifteen (15) days of receipt of the scheduling notification, the District or Institute shall file a position statement setting forth the specific grounds for the assertion that the District or Institute should not have its Accreditation removed. The District or the Institute shall provide a copy of the position statement to the Department.
- (4) Within fifteen (15) days of the date the position statement is filed with the State Board, the Department may file a Response to the position statement, and provide a copy of the position statement to the District or Institute.
- (5) The District or Institute shall file all relevant documents pertaining to the removal of the District's or Institute's Accreditation, which may include:
 - (A) Written document issued by the Department recommending removal of Accreditation;
 - (B) Written correspondence between the District or Institute concerning Accreditation; and
 - (C) Any other documents, reports, correspondence and other written or electronic materials related to the matters at issue.
- (6) The Department shall have ten (10) days from the date of receipt of the documents filed with the State Board to file any objections or proposed additions to the record. The State Board shall rule forthwith on any such objections or proposed additions, and such ruling shall be final.
- (7) The State Board shall hold a hearing on the matter at the earliest possible regularly scheduled board meeting.
- (8) Following the hearing, the State Board shall issue a written final determination on the removal of the District's or Institute's Accreditation within thirty (30) days of the date of the hearing, and provide a copy to the District or Institute and the Department. The written determination shall be final.

7.07 If a District's or the Institute's Accreditation is removed and the District or the Institute is reorganized and takes any other actions directed by the State Board, the State Board shall reinstate the District's or the Institute's Accreditation at the Accreditation category deemed appropriate by the State Board.

8.0 Public School Accountability Processes: Plan Type Assignments

8.01 By no later than August 31st of each year, the Department shall provide to Public School authorizers an initial recommendation for each of the authorizer's Public Schools as to whether the Public School must implement a Performance Plan, Improvement Plan, Priority Improvement Plan or Turnaround Plan.

Commented [KL28]: State board rule must establish the time frames within which the Department shall review each public school's performance. C.R.S. 22-11-210(1)(e).

PRELIMINARY DRAFT RULES 10.18.18

8.02 In determining an initial recommendation for each Public School, the Department shall apply the following criteria:

- (1) The Public School's level of attainment of the statewide targets on the Performance Indicators, calculated in accordance with section 3.0 of these rules.
 - (A) The Department shall determine whether the Public School exceeds, meets, approaches or does not meet statewide targets for each Performance Indicator.
 - (B) If the Public School's authorizer chooses not to endorse a high school diploma as described in section 22-7-1009(2), C.R.S., the Public School will not be penalized for such choice when it is assigned to a plan type.
 - (C) In evaluating the level of attainment on student dropout and graduation rates, the Department, to the extent practicable, shall ensure that the Public School is not penalized for re-engaging students and ensuring that all students successfully graduate;
- (2) The percentage of students enrolled in the Public School who are not tested on the Statewide Assessments; and
- (3) The Public School's failure to administer Statewide Assessments in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance. The Commissioner shall determine whether a Public School has failed to administer statewide assessment results in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance and whether the failure was pervasive and egregious enough to warrant a change in the Public School's accreditation rating. If the Public School otherwise would have been directed to implement a Performance Plan or Improvement Plan, it instead may be directed to implement a Priority Improvement Plan. If the Public School otherwise would have been directed to implement a Priority Improvement Plan, it instead may be directed to implement a Turnaround Plan.

8.03 When applying the criteria above to determine an initial recommendation for the type of plan each Public School shall implement, the Department shall place the greatest emphasis on attainment of the Performance Indicators. When evaluating attainment of the Performance Indicators, the Department shall place the greatest emphasis on student longitudinal academic growth and postsecondary and workforce readiness.

8.04 If the Public School does not have sufficient data to publicly report results while protecting the privacy of students, the Public School shall be directed to adopt a plan that meets the requirements of the plan type to which the Public School was previously assigned. If the Public School was previously assigned to a Priority Improvement or Turnaround Plan and was on Performance Watch, the Public School will remain on Performance Watch but will exclude the current year from the calculation of the five (5) years of low performance described in section 22-11-210(1)(d)(I), C.R.S.

8.05 If a Public School splits into two or more new schools and fifty (50) percent or more of the population of a new school came from the old school, student performance data and accountability history and status from the old school will carry over to the new school.

Commented [KL29]: The state board rules must include objective, measurable criteria that the department shall apply in recommending to the state board that the school implement a performance, improvement, priority improvement or turnaround plan. C.R.S. 22-11-210(1)(a).

Commented [KL30]: Statute requires that the greatest emphasis be placed on attainment of the Performance Indicators. C.R.S. 22-11-210(1)(a).

Commented [KL31]: This is not required by statute, but the State Board has the authority to specify how the indicators will be weighted. This language is consistent with the State Board's previous rules, which have placed the greatest emphasis on growth and PWR.

PRELIMINARY DRAFT RULES 10.18.18

- 8.06 On or before the date that the Department notifies each Public School authorizer of the initial recommendation for the type of plan the authorizer's Public Schools shall implement, the Department shall also provide the data used by the Department to conduct its analysis of each Public School's performance.
- 8.07 If a District or the Institute disagrees with one or more of the Department's initial recommendations for the type of plan a Public School shall implement, the District or Institute may submit to the Department a request for reconsideration. Such request shall be submitted by no later than October 15th.
- 8.08 Upon receiving a request for reconsideration, the Department shall take the following information into account in determining a final plan type recommendation:
- (1) When available, achievement data from a nationally-normed assessment other than a Statewide Assessment from a grade or subject that is not tested on a Statewide Assessment, if the Department has reviewed the assessment to determine the extent to which it aligns with the Colorado Academic Standards. Such data must be representative of the applicable population, meaning that ninety-five (95) percent or more of applicable population was tested. The Department CDE shall separately account for the performance of each Student Group when evaluating both assessment results and participation rates;
 - (2) When available, growth analysis of the type of assessment data described in subparagraph (1) above;
 - (3) Review of this information shall include analysis of the length of time for which the Public School has been unable to meet the State Board's targets on the Performance Indicators and progress toward meeting the targets;
 - (4) When available, measures of postsecondary and workforce readiness other than the measures described in section 3.06 of these rules when the data used for such measures is representative of at least ninety-five (95) percent of the applicable student population, as determined by the Department. This may include the percentages of students enrolled in a high school who, based on attainment of course credits or demonstrated competencies, are on schedule to graduate within four, five, six, or seven years;
 - (5) If the Public School has participation rates below eighty-five (85) percent on the Statewide Assessments, data showing how the students who participated in the Statewide Assessments are not representative of the Public School's total population.
 - (6) If the Public School's plan type assignment was lowered one level due to low student participation in Statewide Assessments, information concerning whether the Public School historically has attained ninety-five (95) percent participation rates, inadvertent test misadministrations occurred, or the Public School has a particularly small student population.
- 8.09 When evaluating the information described above, the Department may accommodate Public Schools with small student populations by allowing exceptions to the participation rate

Commented [KL32]: The state board rules must specify the information the Department must take into account in determining a the final plan recommendation. C.R.S. 22-11-210(1)(a.5)

requirements described in section 8.08 of these rules and may allow the Public School to submit data for multiple years.

8.10 By no later than December 15th of each school year, the Department shall submit final school plan type recommendations to the State Board for the State Board’s approval. By no later than December 30th of each school year, the Department shall notify Public Schools, School Districts and the Institute of the type of plan the Public Schools shall implement.

Commented [KL33]: State board rule must establish the time frames within which the department shall submit recommendations to the state board, and report to the public school and to the school's local school board or the Institute the state board's determination regarding the type of plan the public school shall implement. C.R.S. 22-11-210(1)(e).

9.0 Public School Accountability Processes: Contents of School Plans and Timelines for Adoption, Review, and Publication of School Plans

9.01 If a District Public School is directed to implement a Performance Plan or Improvement Plan, the school principal and District superintendent, or his or her designee, shall adopt the plan. The Local School Board is encouraged to review and approve such plan and to consider in its local policies whether it would like to require the school principal and District superintendent or designee to submit the plan to the Local School Board for approval. If a District Public School is directed to implement a Priority Improvement Plan or Turnaround Plan, the Local School Board shall adopt the plan.

Commented [KL34]: Statute allows performance plans and improvement plans to be adopted by a principal and superintendent, instead of needing approval from the local board. The rules clarify that we recommend that the local board also review and approve such plan.

9.02 If an Institute Charter School is directed to implement a Performance Plan or Improvement Plan, the school principal shall adopt the plan. The Institute Charter School’s board and the Institute board are encouraged to review and approve such plan. The Institute is encouraged to consider whether it would like to require the Institute Charter School’s board and the school principal to submit the plan to the Institute board for approval. If an Institute Charter School is directed to implement a Priority Improvement Plan or Turnaround Plan, the Institute board shall adopt the plan.

9.03 Each Public School plan shall:

Commented [KL35]: Statute outlines minimum requirements for district plans, but gives the state board authority to add additional plan requirements. C.R.S. 22-11-303(3)(f), 22-11-304(3)(f), 22-11-305(3)(f) and 22-11-306(3)(f).

- (1) Reflect on the targets that were set by the Public School in its prior plan;
- (2) Set, affirm, or revise, as appropriate, ambitious but attainable targets that the Public School shall attain on the Performance Indicators. The targets shall be aligned with the statewide targets set by the State Board, as described in section 3.02 of these rules. If the Public School serves students in Kindergarten and first, second, and third grades, these targets must include targets that the Public School shall attain in reducing the number of students who are identified, pursuant to section 22-7-1205, C.R.S., as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;
- (3) Identify positive and negative trends in the levels of attainment by the Public School on the Performance Indicators;
- (4) Assess and prioritize the Public School’s most significant student performance challenges;
- (5) Assess and prioritize the root causes of any low-performance for the Public School that must be addressed to raise the levels of attainment on the Performance Indicators by Public School and to improve school readiness, if the Public School serves students in

preschool or Kindergarten. If the Public School serves students in preschool or Kindergarten and is directed to implement a Priority Improvement Plan or Turnaround Plan, the needs assessment shall include, but shall not be limited to, the early childhood learning needs assessment described in section 22-11-305(4), C.R.S.;

- (6) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the Public School's root causes of any low-performance. If the Public School serves students in Kindergarten and first, second, and third grades, these strategies must include the strategies to be used in addressing the needs of students enrolled in Kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205, C.R.S., as having significant reading deficiencies. For a Priority Improvement Plan or Turnaround Plan, these strategies must incorporate strategies to increase parent engagement in the Public School. For a Turnaround Plan, such strategies shall, at a minimum, include one or more of the following:
- (A) Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the Turnaround Plan and shall serve as a liaison to other school partners;
 - (B) Reorganizing the oversight and management structure within the Public School to provide greater, more effective support;
 - (C) For a District Public School, seeking recognition as an innovation schools or clustering with other District Public Schools that have similar governance or management structures to form an innovation school zones and seeking designation as a District of innovation pursuant to Article 32.5 of Title 22;
 - (D) Hiring a public or private entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to manage the Public School pursuant to a contract with the Local School Board or the Institute;
 - (E) For a District Public School that is not a charter school, converting to a charter school;
 - (F) For a District charter school or an Institute Charter School, renegotiating and significantly restructuring the charter school's charter contract;
 - (G) For a Public School that serves students enrolled in Kindergarten or any of grades one through three, that the Public School invest in research-based strategies focused on early learning and development to address any deficiencies identified in the early childhood learning needs assessment described in section 22-11-305(4), C.R.S., if the cause of the Public School's low performance is directly related to lack of school readiness and access to quality early learning opportunities, as demonstrated by student achievement data for the early elementary grades, and the Public School has not successfully implemented these strategies in the preceding school years. A public school

PRELIMINARY DRAFT RULES 10.18.18

shall implement such strategies focused on early learning and development in combination with at least one other research-based strategy described in this subsection 9.03(6) of these rules; and

(H) Other actions of comparable or greater significance or effect;

- (7) Identify the local, state, and federal resources that the Public School will use to implement the identified strategies with fidelity;
- (8) Identify implementation benchmarks and interim measures to assess whether the identified strategies are carried out with fidelity and adjust practice;
- (9) For any Priority Improvement or Turnaround Plan that a Public School adopts for the fourth year in which the Public School is on Performance Watch, include a general explanation for how the Public School may put into effect the applicable actions described in section 22-11-210(5)(a), C.R.S.; and
- (10) Address any other issues raised by the Department through the performance review described in section 8.00 of these rules.

Commented [KL36]: Required by HB 18-1355, C.R.S. 22-11-210(5)(d).

9.04 If a Public School is directed to implement a Priority Improvement Plan or a Turnaround Plan, the Local School Board or the Institute board shall adopt and submit such plan to the Department by no later than January 15th of the academic school year in which the Public School is assigned to that plan type.

- (1) For a Priority Improvement Plan, the Commissioner may assign the State Review Panel to evaluate a Priority Improvement Plan to critically evaluate the plan, which may include one or more site visits, subject to available appropriations and as described in section 22-11-210(4), C.R.S. The Commissioner may recommend modifications to the plan. The Department shall post the updated plan on SchoolView within two weeks of receiving it. If the Commissioner recommends modifications to the plan and the Local School Board or Institute board revises the plan, the Local School Board or Institute board shall resubmit an updated plan to the Commissioner by a date negotiated between the District or Institute and the Department and no later than August 15th. The Department shall post the updated plan on SchoolView by no later than August 15th.
- (2) For a Turnaround Plan, the State Review Panel shall critically evaluate the plan, which may include one or more site visits, as described in section 22-11-210(4), C.R.S. If the Commissioner does not suggest modifications to the plan, the Department shall post the plan on SchoolView by April 15th. If the commissioner suggests modifications to the plan, the Commissioner may require that those plan modifications be made by a date negotiated between the District or Institute and the Department and no later than August 15th. The Local School Board or Institute board shall revise the plan, if necessary, and resubmit the plan for approval by a date negotiated with the Department and no later than August 15th. The Department shall post the updated plan on SchoolView within two weeks of receiving it.

Commented [KL37]: The state board rules must establish the time frames in which public schools or the local school boards or the Institute board must adopt school plans and submit them to the department C.R.S. 22-11-210(1)(e).

Commented [KL38]: Authorized by C.R.S. 22-11-405(3).

Commented [KL39]: Within the time frames specified in state board rule, the local school board shall submit the adopted school turnaround plan to the commissioner for evaluation by the state review panel. The commissioner may require C.R.S. 22-11-406(1)(c).

Commented [KL40]: This is authorized by C.R.S. 22-11-406(1)(c).

- 9.05 If a Public School is directed to implement a Performance Plan or Improvement Plan while on Performance Watch, the Local School Board or Institute board shall adopt and submit such plan to the Department by no later than January 15th of the academic school year in which the Public School is assigned to that plan type. The Department shall post the plan on SchoolView by April 15th. If the Commissioner recommends modifications to the plan and the Local School Board or Institute board revises the plan, the Local School Board or Institute board shall resubmit an updated plan to the Commissioner by a date negotiated between the District or Institute and the Department and no later than August 15th. The Department shall post the updated plan on SchoolView within two weeks of receiving it. For a District Public School, the principal and the superintendent or his or her designee shall ensure that the plan is in effect for the Public School by the start of the academic school year following the year in which the school was assigned to a Performance Plan or Improvement Plan. For an Institute Charter School, the principal shall ensure the plan is in effect for the Institute Charter School by the start of the academic school year following the year in which the school was assigned to a Performance Plan or Improvement Plan.
- 9.06 If a Public School is directed to adopt a Performance Plan or an Improvement Plan and is not on Performance Watch, the Local School Board or Institute board shall submit such plan to the Department by no later than April 15th. The Department shall post the updated plan on SchoolView within two weeks of receiving it. For a District Public School, the principal and the superintendent or his or her designee shall ensure that the plan is in effect for the Public School by the start of the academic school year following the year in which the school was assigned to a Performance Plan or Improvement Plan. For an Institute Charter School, the principal shall ensure the plan is in effect for the Institute Charter School by the start of the academic school year following the year in which the school was assigned to a Performance Plan or Improvement Plan.
- 9.07 So long as a Public School continues to be directed to implement a Performance Plan, the school principal and District superintendent or designee, for a District Public School, or the school principal for an Institute Charter School, may adopt and submit a Performance Plan every two years. This flexibility shall not apply to any Public School on Performance Watch.

Commented [KL41]: This flexibility is authorized by C.R.S. 22-11-403(5).

10.0 Public School Accountability Processes: Directed Action

- 10.01 If a public school fails to make adequate progress under its Turnaround Plan or continues on Performance Watch for the full five (5) years, the Commissioner shall assign the State Review Panel to critically evaluate the Public School's performance through an on-site visit to the Public School and a review of documents. Upon completing the evaluation, the State Review Panel shall determine which of the following actions to recommend:

Commented [KL42]: This following list of possible directed actions for schools is prescribed by statute, in C.R.S. 22-11-210.

- (1) If the recommendation applies to a District Public School that is not a Charter School:
- (A) That the Public School be partially or wholly managed by a private or public entity other than the District. The Local School Board and the Department shall ensure that the private or public entity uses research-based strategies and has a proven record of success working with school districts and schools under similar circumstances; that the Public School be converted to a Charter School;

PRELIMINARY DRAFT RULES 10.18.18

(B) That the Public School be granted status as an innovation school pursuant to section 22-32.5-104, C.R.S.; or

(C) That the Public School be closed.

(2) If the recommendation applies to a District or Institute Charter School:

(A) That the public or private entity operating the Charter School or the governing board of the Charter School be replaced by a different public or private entity or governing board; or

(B) That the Public School's charter be revoked.

10.02 The State Review Panel shall submit a written recommendation to the Commissioner. The Department shall send a copy of the written recommendation to the Office of the State Board, the applicable Local School Board or Institute board, and District or Institute staff.

10.03 The State Board must hold a public hearing to consider the recommendation of the State Review Panel for a Public School that has been on Performance Watch for five (5) years. The public hearing shall be held between October 1st and March 30th of the academic school year in which the Public School is in its 5th year of a Priority Improvement or Turnaround Plan type while on Performance Watch.

10.04 Prior to the public hearing, the District or Institute shall have the opportunity to submit to the State Board a written report detailing the District's or Institute's preferred course of action for the Public School under consideration, based on the available options described in section 10.01 of these rules and which best addresses the root cause(s) for persistent low student performance. At the public hearing, the District or Institute and the Department shall have an opportunity to present information to the State Board. At the conclusion of the public hearing, the State Board may ask the District or Institute to submit, with support from the Department, a proposed written final determination for the State Board's consideration.

10.05 Per section 22-11-210(5.5), C.R.S., if a Public School continues to be required to implement a Priority Improvement or Turnaround Plan after the State Board initially directs action as described in sections 10.01 – 10.04 of these rules, then the Commissioner may in any year, but shall every two years, assign the State Review Panel to critically evaluate the Public School's performance and recommend one of actions described in section 10.01 of these rules. The State Board shall consider the State Review Panel's recommendations, the previously-directed actions, the fidelity with which the authorizing District or Institute and the Public School have implemented the directed actions, and whether the amount of time to implement the previously directed actions is reasonably sufficient to achieve results. The State Board shall require the Local School Board or the Institute board either to continue the previously directed actions or to undertake additional or different actions as provided in section 10.01 of these rules.

Commented [KL43]: State board rules must include "a timeline by which the state board directs a school district to put into effect one or more of the statutorily required actions for its school, ensuring that timeline is designed to allow the district or Institute to reasonably put into effect any of the actions by the beginning of the school year immediately following the school year in which the state board directs the action." C.R.S. 22-11-210(5)(e)

11.0 Performance Reporting

Commented [KL44]: This section 11.0 ("Performance Reporting") and section 12.0 ("Data Collection Calculations and End-of-Year Data Collection Process") have been renumbered and reformatted, but are otherwise identical to what was included in the State Board's previous rules.