

**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))  
14 **DE Admin. Code** 103

**FINAL**

**REGULATORY IMPLEMENTING ORDER**

**103 Accountability for Schools, Districts and the State**

**I. Summary of the Evidence and Information Submitted**

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State related to the new Delaware Comprehensive Assessment System (DCAS) and changes in the accountability system driven by the new assessment system and federal regulation.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on April 1, 2011 in the form hereto attached as *Exhibit "A"*. The Department did not receive comments on the amendments to this regulation.

**II. Findings of Facts**

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State in order to make changes to be consistent with the new state assessment system.

**III. Decision to Amend the Regulation**

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

**IV. Text and Citation**

The text of 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State in the *Administrative Code of Regulations* for the Department of Education.

**V. Effective Date of Order**

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on May 19, 2011. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 19<sup>th</sup> day of May 2011.

**Department of Education**

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 19<sup>th</sup> day of May 2011

**State Board of Education**

Teri Quinn Gray, Ph.D., President  
Jorge L. Melendez, Vice President  
G. Patrick Heffernan  
Barbara B. Rutt

Gregory Coverdale  
Terry M. Whittaker, Ed.D.  
James L. Wilson, Ed.D.

## 103 Accountability for Schools, Districts and the State

### 1.0 Purpose and Definitions

1.1 Purpose: All public schools, including charter schools, reorganized and career technical school districts and the state shall be subject to the calculation and reporting of Adequate Yearly Progress (AYP) as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S. C.A. §6301 et seq. Additionally, public schools, including charter schools, reorganized and vocational technical school districts shall be subject to the applicable rewards, sanctions and other accountability activities as prescribed in this regulation.

1.2 Definitions:

**"Average Daily Attendance (ADA)"** shall mean aggregate number of days attended divided by the aggregated possible days of attendance as defined by the district or charter school calendar calculated for those students enrolled in grades Kindergarten through grade 8 of a school, district, or the state.

**"Charter School"** shall mean a charter school board established pursuant to Chapter 5 of Title 14 of the Delaware Code.

**"Department"** or **"Department of Education"** shall mean the Delaware Department of Education.

**"Delaware Comprehensive Assessment System (DCAS)"** means the statewide assessment used to measure student achievement of the Delaware academic content standards, including an alternate assessment based on alternate achievement standards for students with the most significant cognitive disabilities, used in the Delaware public schools, and a summative assessment measuring student achievement based solely on grade-level academic content standards or the alternate achievement standards, using only on grade-level items and passages.

**"Delaware Department of Education Achievement Metric"** or **"DDOE Achievement Metric"** shall mean the calculation that is based on the risk and need of each school as demonstrated by its performance on the ~~DSTP~~ or ~~successor~~ statewide assessment.

**"District"** shall mean a reorganized school district or vocational technical school district established pursuant to Chapter 10 of Title 14 of the Delaware Code.

**"Elementary School"**, for purposes of this regulation, shall mean a school with a grade configuration including any of the following: Kindergarten, grade 1, grade 2, grade 3, grade 4, grade 5, or grade 6. However, a school that has grade 6 as its lowest grade level may be considered a Middle School or Secondary School as those terms are defined in this regulation herein.

**"ESEA"** shall mean the Elementary and Secondary Education Act of 1965 or any reauthorization thereof.

**"High School"**, for purposes of this regulation, shall mean a school with a grade configuration including any of the following: grade 9, grade 10, grade 11, or grade 12. A High School shall also be considered a Secondary School as that term is defined herein.

**"Local Educational Agency"** or **"LEA"** means a public board of education or other public authority legally constituted within Delaware for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a school district, or for a combination of school districts. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

**"Middle School"**, for purposes of this regulation, shall mean a school with a grade configuration with more than one of the following: grade 6, grade 7, or grade 8, but that does not include any grade lower than grade 5.

**"Persistently low-achieving school"** means

- (i) Any Title I school in improvement, corrective action, or restructuring that:
  - (a) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or
  - (b) Is a high school that has had a graduation rate as defined in 34 CFR C.F.R. 200.19(b) that is less than 60 percent for two of the last three years; and
- (ii) Any secondary school that is eligible for, but does not receive, Title I funds that:
  - (a) is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or
  - (b) Is a high school that has had a graduation rate as defined in 34 CFR C.F.R. 200.19(b) that is less than 60 percent for two of the last three years; and

- (iii) Any non-Title I eligible secondary school that would be considered a persistently low-achieving school pursuant to one or more of the aforementioned requirements if it were eligible to receive Title I funds.

The determination shall be based on the academic achievement of the "all students" subgroup in the school in terms of proficiency on the assessments under section 1111(b)(3) of the ESEA in reading and mathematics combined; and the school's lack of progress on those assessments over a period of ~~three~~ multiple school years in the "all students" subgroup. Proficiency and lack of progress shall be weighted equally.

**"Secondary School"**, for purposes of this regulation, shall mean a school with a grade configuration including any of the following: grade 6, grade 7, grade 8, grade 9, grade 10, grade 11, or grade 12. However, a school that includes grade 6 may be considered an Elementary School or Middle School as those terms are defined in this regulation herein.

**"State Assessment System"** means the statewide assessment used to measure student achievement of the Delaware academic content standards including an alternate assessment based on alternate achievement standards for students with the most significant cognitive disabilities, and other assessments such as, but not limited to, the National Assessment for Educational Progress (NAEP), a college readiness assessment, an assessment for English Language Learners (ELL), a norm-referenced assessment that may be administered or required as determined by the Department of Education.

7 DE Reg. 57 (07/01/03)

10 DE Reg. 89 (07/01/06)

13 DE Reg. 1064 (02/01/10)

## 2.0 Adequate Yearly Progress (AYP)

2.1 Adequate Yearly Progress shall be determined by the Department of Education for all public schools, including charter schools, reorganized and career technical school districts and the State on an annual basis. In order for a public school, including a charter school, reorganized or vocational technical school district or the State to meet AYP, the aggregate student population and each subgroup of students as identified in ESEA, shall meet or exceed the target for percent proficient ~~using, with or without the use of a confidence interval to be determined by the Department of Education, and approved by U.S. Department of Education,~~ in the state assessments of reading/~~language arts~~ and mathematics; 95% of the students as an aggregate and within each subgroup shall participate in the state assessments of reading/~~language arts~~ and mathematics, and the respective entity shall meet the requirements of the Other Academic Indicator(s) as defined in 2.6. ~~In calculating the percent proficient each year, the state will average the most recent two years of percent proficient (including the current year's percent proficient) and compare the results to the current year percent proficient. The highest percent proficient score will be used to determine the school, district or State AYP status. Beginning 2011 (2010-11 school year), in calculating the percent proficient, the state shall compare the current year's percent proficient on the spring summative assessments to the state Annual Measurable Objectives (AMO) in reading and mathematics.~~

2.1.1 Adequate Yearly Progress shall include three levels: Above Target, Meets Target and Below Target.

2.1.1.1 Above Target shall mean that the school, district, or State in the aggregate student population and for each subgroup exceeds the ~~annual target~~ AMO in ~~English language arts reading~~ and mathematics for percent proficient as defined in 2.3 and further meets the criteria for participation as defined in 2.4 and Other Academic Indicator(s) as defined in 2.6.

2.1.1.2 Meets Target shall mean that the school, district, or State in the aggregate student population and for each subgroup meets the ~~annual target~~ AMO in ~~English language arts reading~~ and mathematics with or without the application of a confidence interval for percent proficient as defined in 2.3 or meets the criteria of Safe Harbor defined in 2.5, and further meets the criteria for participation as defined in 2.4 and Other Academic Indicator(s) as defined in 2.6.

2.1.1.3 Below Target shall mean that the school, district, or State in the aggregate student population and for each subgroup did not meet the ~~annual target~~ AMO in ~~English language arts reading~~ and mathematics through the application of a confidence interval for percent proficient as defined in 2.3 or does not meet the criteria of Safe Harbor defined in 2.5, or does not meet the criteria for participation as defined in 2.4 or does not meet the criteria of Other Academic Indicator(s) as defined in 2.6.

2.2 Full academic year for accountability:

2.2.1 For school accountability students enrolled continuously in the school from September 30 through ~~May 31~~ the end of the DCAS summative assessment window of a school year including those students identified in 3.1.1 and 3.1.2, shall be considered enrolled for a full academic year.

- 2.2.2 For district accountability students enrolled continuously in the district (but not necessarily the same school), from September 30 through ~~May 31~~ the end of the DCAS summative assessment window of a school year, including those students identified in 3.1.1 and 3.1.2, shall be considered enrolled for a full academic year.
- 2.2.3 For state accountability students enrolled continuously in the state (but not necessarily the same school or district) from September 30 through ~~May 31~~ the end of the DCAS summative assessment window of a school year shall be considered enrolled for a full academic year.
- 2.3 Proficient: For accountability purposes, students who score at Performance Level 3 (Meets the Standard) or above and who have met the requirements of a Full Academic Year as defined in 2.2 shall be deemed proficient. Students who score at Performance Level 2 (Below the Standard) or Level 1 (Well Below the Standard) who have met the requirements of a Full Academic Year as defined in 2.2 shall not meet the definition of proficient.
- 2.4 Participation Rate: ~~Beginning with the 2005-2006 school year~~ The participation rate for each subgroup shall be the number of students who participate in the DSTP DCAS in grades 3 through 8 inclusive and grade 10 divided by the number of students enrolled in these tested grades during the testing spring summative assessment period. Students exempted by 14 DE Admin. Code 101.9.0 shall be included in excluded from the participation rate calculation unless their medical condition prevents them from being in school during the testing period.
- 2.5 Safe Harbor: For accountability purposes if a school, district or the State fails to meet the ~~target~~ AMO for percent proficient for a given subgroup or for the entity in aggregate, Safe Harbor provisions shall be examined for that group. When the percentage of students in a subgroup not meeting the definition of proficient decreases by at least 10% when compared to the previous year's data, the participation rate for the population is at least 95%, and the subgroup meets the requirements of the Other Academic Indicator(s) as defined in 2.6. the subgroup will have met AYP.
- 2.6 Other Academic Indicator(s):
- 2.6.1 High School: For AYP purposes in 2011 only, the Other Academic Indicator(s) shall be graduation rate as defined as the number of students in one cohort in the aggregate or, as applicable, in a subgroup, who started in the school, the district or the State in 9<sup>th</sup> grade and graduated four years later or in the time frame specified in the Individual Education Program (IEP), excluding students who earn a GED certificate, divided by the same number plus those that have dropped out during the same four year period. Students who were enrolled, because of accountability sanctions, for a second year in 8th grade while attending high school and entered 10th grade the following year are included in the 9th grade cohort of the year they began attending classes in the high school.
- 2.6.1.1 The statewide target for the high school Other Academic Indicator shall be a graduation rate of 90% by the school year 2013-2014. The statewide target for ~~2009-2010 shall be 84%~~ 2010-2011 shall be 85.5% and shall increase by 1.5% percentage points each year until 90% is reached in 2013-2014. Beginning with the school year ~~2002-2003~~ 2009-2010, if the graduation rate is used for Safe Harbor purposes, the high school, or, as applicable, the subgroup, shall ~~maintain its graduation rate or show positive progress when compared to the previous year or meet or exceed the statewide target for that school year.~~ either demonstrate an increase of at least 2 percentage points from the previous year's rate, or meet the established graduation rate statewide target for that year.
- 2.6.1.2 A school, or, as applicable, the subgroup, that does not ~~maintain increase~~ increase its graduation rate ~~or show positive progress from the previous year or meet or exceed~~ the statewide target for that school year shall be considered as not meeting AYP for that year.
- 2.6.2 ~~Elementary and Middle School: For AYP purposes, the Other Academic Indicator for elementary and middle schools shall be determined by improvement of the scores of the low achieving students, defined as students performing below Performance Level 3, in reading and mathematics combined or a decrease in the percent of students scoring at Performance Level 1 in reading and mathematics. The average scale score for the students who perform at Performance Level 1 and 2 in reading and mathematics combined shall be determined for the current and previous years. The scores from the current year will be compared to the previous year to determine if the school has shown progress. A confidence interval determined by the Department of Education shall be applied to the average scale scores when making this determination. Students included in this calculation shall have been in the school for a full academic year.~~
- 2.6.2.1 The statewide target for the elementary and middle school Other Academic Indicator shall be 0% of students scoring at Performance Level 1 in reading and mathematics by the school year 2013-2014. Beginning with the school year 2003-2004, when compared to the previous year, the school or subgroup, if used for Safe Harbor purposes, shall maintain or show improvement of the scores

~~of the low achieving students in reading and mathematics combined or show that the percent of students at Performance Level 1 in reading and mathematics has decreased from the previous year.~~

~~2.6.2.2 An elementary or middle school that does not maintain or show improvement of the scores of the low achieving students in reading and mathematics combined or show that the percent of students at Performance Level 1 in reading and mathematics has decreased from the previous year shall be considered as not meeting AYP for that year.~~

2.6.2 High School: For AYP purposes beginning 2012 (2011-12 school year), the Other Academic Indicator shall be the graduation rate as defined by 34 C.F.R. 200.19.

2.6.2.1 The statewide target for the high school Other Academic Indicator shall be a graduation rate of 90% by the school year 2013-2014. The statewide target for 2010-2011 shall be 85.5% and shall increase by 1.5 percentage points until 90% is reached in 2013-2014. Beginning with the school year 2009-2010, if the graduation rate is used for Safe Harbor purposes, the high school, or, as applicable, the subgroup, shall either demonstrate an increase of at least 2 percentage points from the previous year's rate, or meet the established graduation rate statewide target for that year.

2.6.2.2 A school, or, as applicable, the subgroup, that does not increase its graduation rate from the previous year or meet the statewide target for that school year shall be considered as not meeting AYP for that year.

2.6.3 Elementary and Middle School: For AYP purposes, the Other Academic Indicator (OAI) for elementary and middle schools shall be the Average Daily Attendance (ADA). The Other Academic Indicator annual statewide target shall be 90%.

~~2.6.34~~ For state and district accountability purposes, the state or a district shall be expected to meet the requirements in ~~2.6.1-2 and or 2.6.2-2 and 2.6.3.~~

2.7 Annual Measurable Objective (AMO): The annual measurable objectives for reading/language arts and mathematics shall be determined by the Department of Education and published annually. The annual measurable objectives shall be the same for all schools, districts and subgroups of students.

2.8 Intermediate Target: There shall be seven intermediate targets with the first intermediate target occurring in the 2004-2005 school year. The second intermediate target shall occur in 2006-2007; the third in 2008-2009; the fourth in 2009-2010; the fifth in 2010-2011, the sixth in 2011-2012 and the seventh in 2012-2013. By the end of the school year 2013-2014, all students in all subgroups shall be proficient in reading/~~language arts~~ and mathematics. The intermediate targets shall be calculated using the procedures as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C.A. §6301 et seq.

2.9 Starting Point: A single statewide starting point shall be calculated for reading/~~language arts~~ and a single statewide starting point shall be calculated for mathematics using the procedures as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C.A. §6301 et seq.

2.10 Subgroup categories: For AYP purposes, subgroup categories shall be delineated as follows: 1) Children with Disabilities (as per IDEA); 2) Economically Disadvantaged Students, as determined by eligibility for free and reduced lunch program; 3) ~~Students with Limited English Proficiency identified as English Language Learners (ELL)~~, as determined by the language proficiency assessment for English Language Learners (ELL); and 4) Race and ethnicity, to be further divided into African American ~~and or~~ Black, American Indian ~~and or~~ Alaska Native, Asian American ~~and~~ Native Hawaiian or other Pacific Islander, Hispanic or Latino, ~~and~~ White or Caucasian, and Multi-Racial. Such subgroup categories shall include all students eligible for the AYP calculation as further defined throughout this Chapter regulation. The "All" categories shall include all students in the entity for which AYP is calculated and who meet all other eligibility criteria for the AYP calculation.

2.11 AYP Determinations

2.11.1 For each public school, including charter schools, reorganized and career technical school districts, and the State, AYP shall be calculated annually.

2.11.2 School AYP: In order to meet AYP, the school shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings.

2.11.3 District AYP: In order to meet AYP, the district shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported and used to determine AYP status and accountability ratings.

2.11.4 State AYP: In order to meet AYP, the State shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported and used to determine AYP status and accountability ratings.

2.11.5 Under Improvement: A school or district shall be deemed Under Improvement if AYP is not met two consecutive years in the same content area of reading/language arts or mathematics for percent proficient or for participation rate, or if a school or district in the aggregate does not meet the requirements of the Other Academic Indicator(s) as defined in 2.6.

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**13 DE Reg. 1064 (02/01/10)**

### **3.0 Accountability School and Accountability District**

3.1 For AYP purposes, the school or district to which a student's performance is assigned for a full academic year shall be the Accountability School or Accountability District. No student shall have his/her total performance assigned to more than one Accountability School or Accountability District in a given school year.

3.1.1 For a student enrolled in an intradistrict intensive learning center, intradistrict special school, or intradistrict special school program operating within one or more existing school facilities, the district has the option of tracking the assessment scores of the students back to the school of residence or to the school or program that is providing the instruction. The school or program shall be the Accountability School. The district shall communicate its decision regarding this option to the ~~State~~ Department of Education by May 15th in any year when a district determines a change is needed. The option that the district decides for accountability purposes for one year shall remain the same for the second year. Further provided, the ~~State~~ Department of Education will monitor the assignment of students to ensure students are appropriately assigned. For a student enrolled in interdistrict special schools or programs that have an agreement to serve students from multiple school districts, the special school that provides the instructional program shall be considered the Accountability School for that student. For district accountability purposes, the district of residence shall be the district to which these special school students are included for accountability.

3.1.2 For a student enrolled in an alternative program pursuant to 14 **Del.C.** Ch.16 or the program serving pregnant students pursuant to 14 **Del.C.** §203, the Accountability School or District shall be the school/district that assigned such student to the program. The time the students were enrolled in the alternative or transitional program shall be credited to the Accountability School or District.

3.1.3 For a student who participates in a choice program the Accountability School or District shall be the school or district to which the student has ~~chosen~~ been enrolled for the given year.

3.1.4 For accountability purposes, a school shall be considered a new school if: less than sixty percent of the students would have been enrolled in the same school together without the creation of the new school; or it is the first year of operation of a charter school; or two or more grade levels have been added to the school or to a charter school's charter.

3.1.5 If a school is determined not to be a new school, the school shall receive the accountability rating and related consequences of the school in which the majority of students would attend in that year.

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**13 DE Reg. 1064 (02/01/10)**

### **4.0 Assessment Criteria**

4.1 ~~For accountability purposes, a~~ student who tests ~~with non-aggregable conditions using non standard accommodations~~ as defined in the Department of Education's *Guidelines for the Inclusion of Students with Disabilities and ~~Students with Limited English Proficiency-English Language Learners~~* shall:

4.1.1 Not have his/her the earned performance level included in the calculation of proficiency for AYP; and

4.1.2 Be considered a non-participant in the calculation of AYP participation.

4.2 For accountability purposes, ~~a student who tests but does not meet attemptedness rules as defined in the Department of Education's scoring specifications or otherwise receives an invalid score shall be deemed as not meeting proficiency~~ a student who answers at least one question, but does not complete that content area of the DCAS shall be assigned a Performance Level 1 (Well Below the Standard) and shall be included in the participation and proficiency calculations for that content area, as applicable, for AYP.

- 4.3 For accountability purposes, a student with an invalidation or special exemption shall be included in the AYP calculations pursuant to the provisions of 14 DE Admin. Code 101. 9.0.
- 4.34 For accountability purposes, a student participating in alternate assessments shall have her/his that student's earned performance level included in the AYP calculation consistent with the regulations as prescribed by the federal Elementary and Secondary Education Act (ESEA) 20 U.S. C.A. §6301 et seq. or Individuals with Disabilities Education Act (IDEA).
- 4.45 Schools with more than one tested grade shall receive a single accountability rating.
- 4.56 Student performance in a tested grade 3 shall be apportioned in equal weights to each grade in a standards cluster in grades 1, 2 and 3 (30% each respectively), except that and Kindergarten shall be weighted at 10% and grade 10 shall be weighted at 100%. Beginning with the school year 2005-2006 students in grades 4, 5, 6, 7, 8, and 10 will count 100%. Students in grade 3 will continue to be weighted to each grade in the K to 3 standards cluster.
- 4.67 For AYP purposes the reading/language arts percent proficient shall be based on 100% of the DSTP DCAS reading assessments.
- 4.78 For AYP purposes, the mathematics percent proficient shall be based on 100% of the DSTP DCAS mathematics assessments.

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**13 DE Reg. 1064 (02/01/10)**

## 5.0 State Progress Determinations (Repealed)

- 5.1 ~~Each school and district shall receive a State Progress Determination of Above Target, Meets Target or Below Target. The State Progress shall be determined by improvement in the composite score of the reading, mathematics, science and social studies DSTP assessments combined. The composite score range shall be from 25 to 125 and is determined by the following formula: Composite Score = 25 (reading score x reading weight) + (math score x math weight) + (science score x science weight) + (social studies score x social studies weight) where: Reading score = (5 x % of students in level 5 in reading) + (4 x % of students in level 4 in reading) + (3 x % of students in level 3 in reading) + (2 x % of students in level 2 in reading) + (1 x % of students in level 1 in reading); Math score = (5 x % of students in level 5 in math) + (4 x % of students in level 4 in math) + (3 x % of students in level 3 in math) + (2 x % of students in level 2 in math) + (1 x % of students in level 1 in math); Science score = (5 x % of students in level 5 in science) + (4 x % of students in level 4 in science) + (3 x % of students in level 3 in science) + (2 x % of students in level 2 in science) + (1 x % of students in level 1 in science); Social Studies = (5 x % of students in level 5 in social studies) + (4 x % of students in level 4 in social studies) + (3 x % of students in level 3 in social studies) + (2 x % of students in level 2 in social studies) + (1 x % of students in level 1 in social studies). Each of the subject areas shall be weighted equally at 25%. A two year average of the composite score shall be used if it is higher than the current year's composite score.~~
- 5.1.1 ~~Above Target shall mean that the school or district has a minimum composite score of 75.00 for the current year; or the school or district has demonstrated a growth of 6.00 or more points when comparing last year's composite score to the current year's composite score provided the composite score is 45.00 or more.~~
- 5.1.2 ~~Meets Target shall mean that the school or district with a composite score of 61.00 or less than 75.00 in the current year, shall demonstrate a growth of 1.00 or more points when comparing last year's composite score to the current year's composite score. For a school or district with a composite score of 45.00 but less than 61.00 in the current year, the school or district shall demonstrate a growth of 2.00 or more points when comparing last year's composite score to the current year's composite score.~~
- 5.1.3 ~~Below Target shall mean that the school or district has a composite score of less than 45.00; or the school or district does not meet the criteria of 5.1.2.~~

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**13 DE Reg. 1064 (02/01/10)**

## 6.0 Performance Classifications

- 6.1 Schools and districts shall receive one of five three levels of performance classification annually which shall be based on ~~a combination of AYP determinations and State Progress determinations.~~
- 6.1.1 ~~Superior: A school or district's performance is deemed excellent. Schools or districts in this category shall have met AYP while the school or district is not Under Improvement and is a combination of Above Target for AYP and Above Target for State Progress or Above Target for AYP and Meets Target for State~~

~~Progress or Meets Target for AYP and Above Target for State Progress be Above Target on AYP pursuant to 2.1.1.1.~~

- ~~6.1.2 Commendable: A school or district's performance is deemed above average. Schools or districts in this category shall have met AYP while the school or district is not Under Improvement. Combinations of Above Target for AYP and Below Target for State Progress or Meets Target for AYP and Meets Target for State Progress shall be rated as Commendable. A school or district with a combination of Meets Target for AYP and Below Target for State Progress shall be determined Commendable for no more than one year; if this same combination exists for the school or district in the following year, the school or district shall be rated Academic Review be Meets Target on AYP pursuant to 2.1.1.2.~~
- ~~6.1.3 Academic Review: A school or district's performance is deemed acceptable. Schools or districts in this category are not Under Improvement. Combinations of: Below Target for AYP and Above Target for State Progress; or Below Target for AYP and Meets Target for State Progress shall be rated as Academic Review for no more than one year; if the same combination exists for the school or district in the following year, the school or district shall be rated Academic Progress unless the provisions of 6.1.5 or 6.1.6 are met. A school or district with a combination of Below Target for AYP and Below Target for State Progress shall be rated as Academic Review unless the provisions of 6.5 and 6.6 are met.~~
- ~~6.1.4 Academic Progress: A school or district's performance is deemed as needing improvement. Schools or districts in this category shall not be Under Improvement as defined in 2.11.5.~~
- ~~6.1.5 Academic Progress Under Improvement: A school or district's performance is deemed as needing improvement. Schools or districts in this category shall have met AYP for one year while the school or district is Under Improvement. If a school or district was classified as Academic Watch the prior year, all accountability sanctions from that prior year remain in effect.~~
- ~~6.1.6 Academic Watch: A school or district's performance is deemed as unsatisfactory. Schools or districts in this category shall not be Under Improvement as defined in 2.11.5. Schools or districts in this category shall be Below Target on AYP pursuant to 2.1.1.3.~~
- ~~6.1.7 Academic Watch Under Improvement: A school or district's performance is deemed as unsatisfactory. Schools or districts in this category shall not have met AYP for two or more consecutive years in the same content area as described in 2.11.5 and shall be Under Improvement.~~

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**13 DE Reg. 1064 (02/01/10)**

## **7.0 Accountability for Schools that are Under Improvement**

- 7.1 Under Improvement Phase 1 -- A school that meets the definition of "Under Improvement" found in 2.11.5 shall, in the first school year after meeting the definition of Under Improvement, be considered in "Under Improvement Phase 1." A school that is in Under Improvement Phase I shall:
  - 7.1.1 Develop a School Success Plan or rReview and modify its current School Improvement Success Plan, outlining specific school improvement activities to be implemented; and
  - 7.1.2 If a school is designated Title I, offer ESEA choice.
- 7.2 Under Improvement Phase 2 - A school that is identified as Under Improvement Phase 1 pursuant to 7.1 and fails to meet AYP for an additional year shall be considered "Under Improvement Phase 2." Such schools shall:
  - 7.2.1 Amend the School Improvement Success Plan to add, at a minimum, one or more of the following options deemed appropriate, if permitted by State and Federal law; and that should be closely aligned with the areas in which the school failed to make AYP. Districts and charter schools may use federal, state or local funding, as permitted by State and Federal law, ~~and may request funding from the Department to implement these initiatives:~~
    - 7.2.1.1 Development of community partnerships for after school opportunities/tutoring, increasing parental involvement;
    - 7.2.1.2 Educator professional development or mentoring;
    - 7.2.1.3 Supplemental Educational sServices as defined in 7.2.2 or other nontraditional services such as credit recovery programs;
    - 7.2.1.4 Performance incentives for Highly Effective Teachers, as defined in 14 **DE Admin. Code** 106A;
    - 7.2.1.5 Use of family crisis therapists and/or counseling and support programs for students;
    - 7.2.1.6 Technical assistance ~~to assist with on~~ budget development/usage, professional development and evaluation, engaging parents and the community;
    - 7.2.1.7 Attendance and school climate initiatives.

- 7.2.2 Schools designated as Title I shall continue to provide ~~ESEA school C~~choice as defined by ESEA and shall offer eligible students ~~S~~supplemental Educational Sservices, as defined by ESEA. Supplemental Educational Services are defined as tutoring and other supplemental academic enrichment services that are designed to increase the academic achievement of students, and are offered in addition to instruction provided during the school day and are of high quality and research-based.
- 7.3 Corrective Action Phase 1 - A school that is identified as Under Improvement Phase 2 pursuant to 7.2 and fails to meet AYP for an additional year shall enter "Corrective Action Phase 1" status. Districts having schools in this category and charter schools in this category shall:
- 7.3.1 Develop and implement a Corrective Action Plan for the school that should be closely aligned with the areas in which the school failed to make AYP and that includes at least one of the following, if permitted by State law:
- 7.3.1.1 Extend the school year or school day for the school;
- 7.3.1.2 Significantly decrease management authority at school level;
- 7.3.1.3 Appoint outside expert to advise school on its progress toward making AYP based on its school plan;
- 7.3.1.4 Restructure internal organizational structure of school;
- 7.3.1.5 Replace school staff relevant to failure to achieve AYP; or
- 7.3.1.6 Adopt and fully implement new curriculum including providing appropriate professional development for all relevant staff that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students.
- 7.3.2 In addition, districts and charter schools shall examine and include one or more of the following items in their Corrective Action Plan as they deem appropriate, if permitted by State law. Districts and charter schools may use federal, state or local funding, if permitted by State and Federal law ~~and may request funding from the Department~~ to implement these initiatives:
- 7.3.2.1 Institute flexible funding at school level to the extent authorized by applicable law;
- 7.3.2.2 Provide performance incentives for teachers and principals based in significant part on student achievement;
- 7.3.2.3 Renegotiate collective bargaining agreements to permit hiring without regard to seniority;
- 7.3.2.4 Decrease class size;
- 7.3.2.5 Implement comprehensive instructional reform, including improved instructional program and differentiated instruction;
- 7.3.2.6 Make changes to scheduling to increase learning time for students and maximize collaboration time for teachers - consider extended learning time, modified or block scheduling; and
- 7.3.2.7 Increase community-oriented supports, create partnerships with community services programs providing assistance to students outside of school hours, and implement a community-based school model, by which the school would partner with community groups in utilizing school facility to provide extended services to students and the community, which may include permitting student activities at the school after the end of the school day and offering services and support to parents.
- 7.3.3 Schools designated as Title I shall continue to offer ~~S~~supplemental Educational Sservices (as defined in 7.2.2) and ~~C~~choice as required by ESEA.
- 7.4 Corrective Action Phase 2 -- A school that is identified as Corrective Action Phase 1 pursuant to 7.3 and fails to meet AYP for an additional year shall enter "Corrective Action Phase 2" status. Districts with schools and charter schools in Corrective Action Phase 2 shall, if permitted by State law:
- 7.4.1 Continue with the activities of Corrective Action Phase 1 at the school; and
- 7.4.2 Provide retention incentives for effective educators at the school, subject to funding availability; and
- 7.4.3 Develop a Restructuring Plan pursuant to 7.5. The district or charter school shall select from the category of options based on the school's outcome on the DOE Achievement Metric based on the assessments taken during Corrective Action Phase 1.
- 7.4.4 Schools designated as Title I shall continue to offer ~~s~~Supplemental Educational sServices and choice as required by ESEA.
- 7.5 Restructuring - A school that is identified as Corrective Action Phase 2 pursuant to 7.4 and that fails to make AYP for an additional year shall be considered in "Restructuring," unless that school falls within the category of Partnership Zone schools addressed in 7.6. Districts having schools in Restructuring shall work with the schools to implement the Restructuring Plan developed pursuant to 7.4.3. Charter schools in this category shall implement the Restructuring Plan developed pursuant to 7.4.3. The District or charter school may request

funding from the Department for implementation of these provisions. The Restructuring Plan shall include one of the following, if permitted by State law:

- 7.5.1 For district schools, reopening the school as a public charter school;
  - 7.5.2 Entering a contract with a private management company approved by the Department to operate the school;
  - 7.5.3 Closing the school
  - 7.5.4 Replacing all or most of the school staff (which may include, but may not be limited to, replacing the principal) who are relevant to the school's failure to make AYP; or
  - 7.5.5 Implementing a major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance and longer school days, to improve student academic achievement in the school and that has substantial promise of enabling the school to make AYP. Whether or not a particular school is showing growth on the DOE Achievement Metric shall be a significant factor in the determination of what type of major restructuring is required pursuant to this provision.
- 7.6 Partnership Zone Schools - A school that is a Persistently Low-Achieving School and that is determined by the Secretary as likely to benefit from assignment to Partnership Zone Schools status shall be designated as a Partnership Zone School by the Secretary. The Secretary shall determine which Persistently Low-Achieving Schools would benefit from Partnership Zone School status through consideration of the academic achievement of the "all students" group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined, (ii) the school's lack of progress on those assessments over a number of years and qualitative measures as determined by the Secretary. in consultation with the State Board of Education, Chief School Officers Association, and Delaware State Education Association.
- 7.6.1 Districts with a Partnership Zone school and Partnership Zone charter schools shall enter a memorandum of understanding ("MOU") between the Department and the district or the charter school. The Partnership Zone MOU shall include the following provisions:
    - 7.6.1.1 Selection of one of the models outlined in section 7.6.2;
    - 7.6.1.2 Provisions for regular oversight of the Partnership Zone school by the Department or its designee;
    - 7.6.1.3 For schools at which a collective bargaining agreement governs its employees, a further agreement between and among the district or charter school, the collective bargaining unit, and the Department addressing those subjects, if any, that may inhibit the schools' successful implementation of its model, including but not limited to:
      - 7.6.1.3.1 Limitations on hiring, reassigning and transferring covered employees into and out of the Partnership Zone school, such as seniority limitations;
      - 7.6.1.3.2 The methodology for determining which teachers will be transferred or reassigned as part of the model;
      - 7.6.1.3.3 Work rules relating to the educational calendar and scheduling of instructional time and non-instructional time,
      - 7.6.1.3.4 Instructional reform;
      - 7.6.1.3.5 Professional development requirements and other specialized training;
      - 7.6.1.3.6 Retention and employment incentives, including performance incentives for effective teachers and principals; and
      - 7.6.1.3.7 Any other subject required by these regulations to be addressed in the Partnership Zone school's selected model.
    - 7.6.1.4 In the event the parties are not able to reach the agreement required by 7.6.1.3 within seventy-five (75) days of notice as a Partnership Zone school, each party shall present its last best offer on the areas of disagreement along with a draft agreement, to the Secretary of the Department, who shall accept one of the last best offers, or reject all of them. Should the Secretary reject all offers, the parties shall have thirty (30) days to confer and present the Secretary revised offers for re-consideration pursuant to this section.
    - 7.6.1.5 Other provisions required by the model or mutually agreed upon by the Department and the district or charter school, which may include the following:
      - 7.6.1.5.1 Instituting flexible funding at school level and oversight of same;
      - 7.6.1.5.2 Engagement of a partner, consultant, education management organization or other alternative leadership structure; and

- 7.6.1.5.3 Extending learning time and community-oriented supports, including more learning time for students, collaboration time for teachers, enrichment activities, and mechanisms for family and community engagement.
- 7.6.1.6 Schools designated as Title I shall continue to offer Supplemental Educational Services and choice as required by ESEA.
- 7.6.1.7 Partnership Zone schools that are not making AYP by the end of the second school year following implementation of the Restructuring Plan shall renegotiate the MOU or select one of the other available models under 7.6.2.
- 7.6.2 Districts having Partnership Zone schools and Partnership Zone charter schools shall work with the Department to implement a plan from the list below. The District may request funding from the Department for implementation of these provisions.
  - 7.6.2.1 School Closure Model, in which a district closes a school and enrolls the students who attended that school in other schools in the district that are higher achieving that are within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available;
  - 7.6.2.2 Restart Model, in which a district converts a school into a public charter school pursuant to the requirements of Chapter 5 of Title 14 of the Delaware Code, or closes and reopens a school under a charter school operator, a charter management organization or an education management organization that has been selected through a rigorous review process. A restart model shall enroll, within the grades it serves, any former student who wishes to attend the school.
  - 7.6.2.3 Turnaround Model, in which
    - 7.6.2.3.1 A district or charter school shall:
      - 7.6.2.3.1.1 Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;
      - 7.6.2.3.1.2 Using the Delaware Performance Appraisal system II or any locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students, (a) screen all existing staff and rehire no more than 50 percent; and (b) select new staff;
      - 7.6.2.3.1.3 Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;
      - 7.6.2.3.1.4 Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;
      - 7.6.2.3.1.5 Adopt a new governance structure, which includes, but is not limited to, requiring the school to report to a liaison of the Department or directly to the Secretary;
      - 7.6.2.3.1.6 Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards;
      - 7.6.2.3.1.7 Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;
      - 7.6.2.3.1.8 Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and provide appropriate social-emotional and community-oriented services and supports for students.
    - 7.6.2.3.2 A district may implement other strategies, such as:
      - 7.6.2.3.2.1 Any of the required and permissible activities under the transformation model; or
      - 7.6.2.3.2.2 A new school model (e.g., themed, dual language academy).
  - 7.6.2.4 Transformational Model, in which
    - 7.6.2.4.1 A district or charter school shall:
      - 7.6.2.4.1.1 Replace the principal who led the school prior to commencement of the transformation model;

- 7.6.2.4.1.2 Use rigorous, transparent, and equitable evaluation systems for teachers and principals that-
    - 7.6.2.4.1.2.1 Take into account data on student growth (as defined in this notice) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and
    - 7.6.2.4.1.2.2 Are designed and developed with teacher and principal involvement;
  - 7.6.2.4.1.3 Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high-school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, pursuant to the Delaware Performance Appraisal System II or any successor thereto, have not done so;
  - 7.6.2.4.1.4 Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;
  - 7.6.2.4.1.5 Implement new financial incentives and increase opportunities for promotion and career growth of effective teachers, and provide more flexible work conditions designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school;
  - 7.6.2.4.1.6 Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards;
  - 7.6.2.4.1.7 Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;
  - 7.6.2.4.1.8 Establish schedules and implement strategies that provide increased learning time, which means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects, including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects;
  - 7.6.2.4.1.9 Provide ongoing mechanisms for family and community engagement;
  - 7.6.2.4.1.10 Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates;
  - 7.6.2.4.1.11 Ensure that the school receives ongoing, intensive technical assistance and related support from the district, the Department, or a designated external lead partner organization.
- 7.6.2.4.2 A district may:
- 7.6.2.4.2.1 Provide additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;
  - 7.6.2.4.2.2 Institute a system for measuring changes in instructional practices resulting from professional development;
  - 7.6.2.4.2.3 Ensure that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority;
  - 7.6.2.4.2.4 Conduct periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;
  - 7.6.2.4.2.5 Implement a schoolwide "response-to-intervention" model;
  - 7.6.2.4.2.6 Provide additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least

restrictive environment and to ensure that ~~limited English proficient~~ English Language Learner (ELL) students acquire language skills to master academic content;

7.6.2.4.2.7 Use and integrate technology-based supports and interventions as part of the instructional program;

7.6.2.4.2.8 In secondary schools-

7.6.2.4.2.8.1 Increase rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

7.6.2.4.2.8.2 Improve student transition from middle to high school through summer transition programs or freshman academies;

7.6.2.4.2.8.3 Increase graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills;

7.6.2.4.2.8.4 Establish early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

7.6.2.4.2.9 Extend learning time and create community-oriented schools, by

7.6.2.4.2.9.1 Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

7.6.2.4.2.9.2 Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

7.6.2.4.2.9.3 Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

7.6.2.4.2.9.4 Expanding the school program to offer full-day kindergarten or pre-kindergarten.

7.6.2.4.2.10 Allowing the school to be run under a new governance arrangement; or

7.6.2.4.2.11 Implementing a per-pupil school-based budget formula that is weighted based on student needs.

7.6.2.5 If a school identified as a Persistently Low-Achieving School has implemented within the last two years an intervention that meets the requirements of the Turnaround, Restart, or Transformation models, the school may continue or complete the intervention being implemented.

7.6.2.6 If elements of the model adopted by a Partnership Zone school with the approval of the Department require funding and are not funded or require statutory authorization and are not so authorized, the school may apply to the Department for an annual waiver of said requirement, and such waiver shall be granted only insofar as compliance with said requirement is rendered impracticable thereby.

**13 DE Reg. 1064 (02/01/10)**

**14 DE Reg. 647 (01/01/11)**

## **8.0 Frozen Hold Status**

A school in Under Improvement, Corrective Action, Restructuring, or Persistently Low-Achieving School status that meets AYP for one year shall ~~freeze~~ hold at its then current level and shall continue to implement the School ~~Improvement~~ Success Plan for one year. If the school again meets AYP after the year during which it was ~~frozen~~ held, the school shall be removed from Under Improvement, Corrective Action, Restructuring or Persistently Low-Achieving School status and shall no longer be subject to the requirements of 7.0. A school that does not meet AYP after the year during which it was ~~frozen~~ held shall move to the next category in the continuum without regard to the ~~frozen~~ held year.

**13 DE Reg. 1064 (02/01/10)**

## **9.0 Department Responsibilities for Schools Under Restructuring and for Persistently Low-Achieving Schools**

- 9.1 The Department shall provide continuing technical assistance to schools that are in any of the above categories.
- 9.2 The Department shall assign a School Support Team to schools beginning with Under Improvement Phase 2 and continuing through the Restructuring or Persistently Low-Achieving School phase. The School Support Team shall monitor the school's progress, ensure that all technical assistance and any other supports available are provided to the school, assist the school in developing and implementing its improvement plans, act as a liaison between the Department and the school, and take any other actions deemed appropriate by the Team to provide support to the school.

**13 DE Reg. 1064 (02/01/10)**

**10.0 Process**

- 10.1 The Department shall provide districts and schools with preliminary notification of a school's identification pursuant to 7.0 no later than the end of July following the school year on which the identification is based, and final notice shall be given no later than August 1st.
- 10.2 Notice -- A district that includes a school or a charter school identified as Under Improvement shall, at least 14 days prior to the start of the upcoming school year, provide the following notification to parents of students enrolled in that school:
  - 10.2.1 Information regarding the school's identification and reason for its identification;
  - 10.2.2 For Title I schools, their right to enroll their child(ren) in a different school as prescribed by ESEA, and for non-Title I schools, information on the Statewide Choice program as prescribed in 14 Del.C., Chapter 4;
  - 10.2.3 For Title I schools, their right to have their child receive Supplemental Educational Services, as prescribed by ESEA, and for non-Title I schools, supplemental services if provided for in §103.7.0;
  - 10.2.4 How they can be involved in addressing the academic issues that led to identification; and
  - 10.2.5 Any other notifications required by the ESEA regulations.
- 10.3 Plan Development, Approval, and Modification
  - 10.3.1 Schools receiving notice that they are identified as Under Improvement Phase I shall develop or revise their School Improvement Success Plan within three months of their preliminary notification. Schools identified as Title I shall also ensure that the ten (10) requirements for schools under improvement, as required in Section 1116(b)(3)(A) of the ESEA, are incorporated in the Success Plan. Schools and shall provide the Plan to the district in which the school is located for approval or to the body that granted its charter in the case of a charter school, to the charter school's board. The district or charter school board shall, within 45 days of receiving a revised School Success Plan from a Title I school, establish a peer review process to assist with review of the Plan. The district or charter school board must promptly review the School Success Plan, work with the school as necessary, and approve the School Success Plan if it meets the ten (10) requirements for schools under improvement as required in Section 1116(b)(3)(A) of the ESEA. The school shall then work with the district to make any necessary revisions such that final approval from the district is received within 45 days of submission. The Plan shall be implemented immediately upon approval.
  - 10.3.2 Schools receiving notice that they are identified as Under Improvement Phase II shall modify their School Improvement School Success Plan as necessary within ~~two~~ three months of their preliminary notification and submit said modifications to the Department. Following submission, the Department shall review the plan, make comment, and require revisions, if needed, by the school within 30 calendar days. The Plan shall be implemented immediately.
  - 10.3.3 Districts having schools that are identified as in Corrective Action Phase I and charter schools so identified shall develop their Corrective Action Plan within ~~three months~~ six weeks of their preliminary notification and shall provide the Plan to the Department for approval. Following submission, the Department shall collaborate with the school and the district and make any necessary revisions such that the Corrective Action Plan is approved within ~~45 days~~ six weeks of submission. If the school, the district and the Department are unable to agree on the Corrective Action Plan at the end of the ~~45 day~~ six week period, then the Department shall develop the Corrective Action Plan within ~~2~~ 4 weeks of that deadline. ~~The Plan shall be implemented immediately.~~
  - 10.3.4 Districts having schools that are identified as in Corrective Action Phase II and charter schools so identified shall develop the Restructuring Plan required in 7.5 within three months of their preliminary notification and provide the Restructuring Plan to the Department for review and approval. Prior to the date of submission, the district or charter school shall have performed all necessary steps to ensure that the restructuring choice selected is viable and will be implemented, subject only to approval by the Department. Such Plan shall be submitted to the Department by April 30th of the Corrective Action Phase II year. Prior to the date

~~of submission, the district or charter school shall have performed all necessary steps to ensure that the restructuring choice selected is viable and will be implemented, subject only to approval by the Department. The Department, in consultation with the State Board of Education, shall review and approve the Restructuring Plan, or make comment, and require revisions, if needed, within 60 days of submission. If revisions are required, the district or Charter school must submit a final revised Restructuring Plan to the Department by April 30<sup>th</sup> of the Corrective Action Phase II year for final review and approval. The Department and shall approve or disapprove the revised Restructuring Plan within 60 days of submission. If the Department disapproves the Restructuring Plan, the district or charter school submitting the Restructuring Plan shall make another selection from among the Restructuring options in 7.5.1. Department approval of the Restructuring Plan shall be subject to the results of that year's accountability activities. Upon receipt of the final identification for that year, if results show that the school is in Restructuring, the district or charter school shall immediately implement the Restructuring Plan.~~

- 10.3.5 Schools that are selected by the Department for participation in the Partnership Zone shall be notified of such selection by September 1st. The district or charter school shall immediately begin negotiating the MOU required by 7.6.1. If the parties to the MOU are unable to agree on the MOU within 120 days, the district or charter school shall select from the Restructuring models found in 7.5.1, 7.5.2, or 7.5.3.
- 10.3.6 All plans submitted by schools and districts pursuant to 7.0 shall be developed with input from parents, teachers, and outside experts. Such plans shall establish measurable goals/benchmarks for the school. Once a plan is approved, information regarding the plan shall be provided to parents.
- 10.3.7 In evaluating School Improvement Success Plans, Corrective Action Plans, and Restructuring Plans, the Department shall ensure that each such plan satisfies applicable law, reflects input required in 10.3.6, includes measurable goals/benchmarks for the school, and is likely to result in the school improving its performance classification and exiting "under improvement" status.
- 10.3.8 Provisions in this section are in addition to, and not in lieu of, existing ESEA requirements for Title I schools.

**13 DE Reg. 1064 (02/01/10)**

**11.0 Accountability for Districts that are classified as Under Improvement:**

- 11.1 Under Improvement Phase 1 - A district that meets the definition of Under Improvement found in 2.11.5 shall, in the first school year after meeting the definition of Under Improvement, be considered in "Under Improvement Phase 1." A district that is in Under Improvement Phase I shall ~~develop and implement a revise~~ their District Improvement Success Plan within three months of its identification. Districts receiving Title I funds shall also ensure that the 8 requirements for Districts under improvement, as required in Section 1116(c)(7)(A) of the ESEA, are incorporated in the District Success Plan.
- 11.2 Under Improvement Phase 2 - A district that is identified as Under Improvement Phase 1 pursuant to 11.1 and fails to meet AYP for an additional year shall be considered "Under Improvement Phase 2." Such districts shall evaluate and modify the District Improvement Success Plan ~~and shall incorporate such plan into the Consolidated Application of the Education Success Planning and Evaluation System.~~
- 11.3 Corrective Action Phase 1 - A district that is identified as Under Improvement Phase 2 pursuant to 11.2 and fails to meet AYP for an additional year shall enter "Corrective Action Phase 1" status. The Department shall develop a ~~e~~Corrective ~~a~~Action ~~p~~Plan for the district as outlined by Federal ESEA requirements. The Secretary of Education shall investigate the reasons for the continued deficiency of the district's performance and shall consult with the State Board of Education prior to finalizing the Corrective Action Plan. The ~~e~~Corrective ~~a~~Action ~~p~~Plan may include requirements found in 20 U.S.C.A. Section 6316(c)(10)(C) as permitted by State law and may also include implementation of provisions found in 7.0. The district shall implement the ~~e~~Corrective ~~a~~Action ~~p~~Plan immediately upon Department approval.
- 11.4 Under Improvement greater than Corrective Action Phase 2, ~~a~~ A district shall continue with the activities as outlined in 11.3. In addition the Department of Education shall evaluate the ~~e~~Corrective ~~a~~Action ~~p~~Plan and make appropriate modifications as needed.
- 11.5 ~~District Improvement Plans shall be submitted to the Department within three (3) months of identification.~~

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**12 DE Reg. 202 (08/01/08)**

**13 DE Reg. 1064 (02/01/10)**

**12.0 Review Process**

A school or district may review school or district level data, including academic assessment data upon which the proposed AYP classification is based. The school or district shall present statistical evidence or other substantive reasons why the AYP classification should be changed before the final classification will be determined.

- 12.1 The school or district shall file a written notice of review with the Secretary no later than 15 calendar days after receiving preliminary notification of its proposed AYP classification. The request for review shall state with specificity the grounds for the review, and shall be signed by the principal or lead authority of the school, or ~~the signature of~~ by the Superintendent of the district. This request for review shall include all supporting evidence and documentation and shall be clear and concise.
- 12.2 Upon receipt of a written notice of review, the Secretary shall refer the review to his or her designee.
  - 12.2.1 The designee shall be responsible for bringing the review forward to the Review Advisory Committee. The Review Advisory Committee shall be composed of a minimum of three members and assigned by the Secretary.
  - 12.2.2 The Review Advisory Committee shall conduct a review of the statistical evidence or other substantive reasons presented by the school or district.
  - 12.2.3 The Review Advisory Committee shall make a recommendation to the Secretary about whether the proposed AYP classification should remain as is or should be changed.
- 12.3 The Department of Education shall make a final determination within 30 calendar days from the written notice of review on the proposed AYP classification of the school or district based on the evidence or other substantive reasons presented by the school or district.

**7 DE Reg. 1692 (06/01/04)**

**10 DE Reg. 89 (07/01/06)**

**10 DE Reg. 1795 (06/01/07)**

**13 DE Reg. 1064 (02/01/10)**

**14 DE Reg. 647 (01/01/11)**

**14 DE Reg. 1353 (06/01/11) (Final)**