



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee  
**FROM:** John B. King, Jr.  
**SUBJECT:** Intervention In Chronically Underperforming School Districts  
**DATE:** November 5, 2010  
**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issue for Discussion**

Should the Board of Regents seek to expand the scope of its authority for intervening in chronically underperforming districts?

#### **Proposed Handling**

This item will come before the P-12 Education Committee for discussion at the November 2010 meeting.

#### **Procedural History**

In December 2009, the Board of Regents approved the following legislative recommendation: "Upon a determination by the Board of Regents that a school district has failed to improve the academic performance of students attending school in that district over a three-year period, the Education Commissioner shall appoint an independent fact-finding team to assess the reasons for the under-performance and the prospects for improvement. Upon review of the conclusions of the fact-finding team, the Regents may declare the district chronically under-performing. Following such a declaration, the Regents shall designate a three- member team who would assume the responsibilities of an Education Oversight Board of the district with all the powers of the School Board. NYSED would not directly manage the district. The Education Oversight Board will have the authority to choose a new superintendent should they so decide. The Education Oversight Board shall report directly to the Education Commissioner and serve at the discretion of the Commissioner."

Relevant legislation was proposed by the Executive Chamber in January 2010.

### Background Information

As the Board of Regents sets forth its reform agenda which calls for all school districts to examine their practices towards the goal of increasing the college and career readiness of our students, the leadership of the district governance team of the school board and the superintendent has never been more critical. School boards have played a critical role in the history of American public schools and they represent our society's firm belief in the importance of local governance. While effective school boards support and enhance staff instructional focus and student academic achievement, ineffective school boards can negatively impact all levels of district performance and fiscal stability. Although very few in numbers, chronically underperforming school districts are sometimes led by dysfunctional school boards driven by issues extraneous to their stated purpose and need to be addressed in an instructive manner.

Therefore, to emphasize the absolute need for school governance teams to focus on increasing student achievement and maintaining fiscal stability, Department staff encourage the Regents to adopt as a part of their legislative agenda an expansion of Education Law section 306 which governs the removal of board members under certain circumstances. Specifically, the Regents are encouraged to seek additional authority to implement a system of progressive intervention in chronically underachieving or fiscally distressed districts, which may in fact lead to the removal of a board member(s). The general framework will be determined through discussions with stakeholder groups including NYSSBA, NYSCOSS, school officials, parents and other community members.

New York would not be alone in this endeavor as the following examples demonstrate:

#### **Massachusetts**

In 2010, Massachusetts created *The Framework for District Accountability and Assistance*<sup>1</sup> (See Attachment A). Within *The Framework* the Department defines the roles and expectations of the district and the Department based on the performance of the district's schools. Every district in the Commonwealth is represented in one of five "levels" with districts requiring the least state intervention in Level 1 and districts requiring the most intervention in Level 5. Below is a brief description of each of the five levels:

- **Level 1** (*districts with no schools in corrective action or restructuring for subgroups and/or in the aggregate*): Districts in Level 1 require the least state support. They will be encouraged to engage in self-assessment measures and targeted improvement as needed.
- **Level 2** (*districts with schools identified for Corrective Action or Restructuring for subgroups and/or in the aggregate*): Districts in Level 2 will receive targeted assistance for identified student groups and access to Department-sponsored

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<sup>1</sup> See <http://www.doe.mass.edu/sda/framework/>

professional development opportunities. Districts in Level 2 are expected to use the District Analysis and Review Tool (DART) and other data to revise Improvement Plans.

- **Level 3** (*districts with one or more schools among the lowest-performing 20% based on quantitative indicators*): Districts in Level 3 will be required to complete a district self-assessment process aligned with the District Standards and Essential Conditions for School Effectiveness. Level 3 districts will be given high priority for Department assistance, including resources to assist their efforts to implement the Essential Conditions at each identified school.
- **Level 4** (*districts identified by quantitative and qualitative indicators through a district review; districts with one or more schools among the lowest-performing and least improving 2% based on quantitative indicators*): Level 4 districts (identified through a district review) must develop an Intervention Plan addressing priority District Standards and Indicators. Level 4 districts (with one or more Level 4 schools) must complete Turnaround Plans for their Level 4 schools. The Department will assign an Accountability Monitor to monitor district planning and improvement and an Assistance Liaison to coordinate interventions including grant funding.
- **Level 5** (*districts or schools declared by the Board as requiring "Joint District-ESE Governance"*): BESE will appoint a body to share responsibility for major budgetary, personnel, and policy decisions at the school and/or district level as needed.

## **New Jersey**

New Jersey also holds members of boards of education accountable under the *School Ethics Act* and specifically the *Ethics for School Board Members* as set forth in section 5 of P.L.2001, c.178<sup>2</sup> under which a board member may be removed for violation of any of the tenets of this act.

New Jersey also holds the entire board accountable for their district's performance under New Jersey Education Law<sup>3</sup> which implements the *Quality Single Accountability Continuum* for the evaluation of the performance of school districts. Under this law, the state may provide a continuum of services to districts ranging from technical assistance to full state intervention.

## **Recommended Approach in New York - Progressive Intervention**

The general framework for progressive intervention should seek to build the capacity of the board of education as a whole and its individual members through professional development/training and through the assistance of accomplished practitioners who can assist the board in regaining the appropriate focus on governance towards maximizing student achievement. To this end, upon certification from the Office(s) of Accountability, Audits Services, School Operations and/or School

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<sup>2</sup> See <http://www.state.nj.us/education/ethics/act.htm>

<sup>3</sup> N.J.S.A. 18A:7A-3. See <http://www.state.nj.us/education/genfo/qsac/regs/chap30.pdf>

Operations and Management Services that a district has demonstrated consistent failure to improve academic performance in all or substantially all of its schools, or consistent failure to develop and maintain fiscal stability (and therefore identified as a district in fiscal distress), a district will be placed in Stage 1 status and may progress to Stage 2 and Stage 3 depending on the level and length of underperformance.

### **Stage 1 – Focused Accountability**

**Academic Status** – after being identified for accountability status by the Office of Accountability, a district will be required to be reviewed by a Joint Intervention Team (JIT) which will identify specific issues of underperformance, articulate the issues in writing and present them to the district. Within sixty days, the district shall submit a Corrective Action Plan (Plan)\* which will identify current benchmarks, key goals, key indicators of success and an action plan that will reasonably allow the board to achieve the stated goal(s). Technical assistance will be provided by the educational expert of the JIT as well as the SED Office of Accountability and Office of Innovative School Models.

**Fiscal Status** – after being identified by the Office of Audit Services or the Office of School Organization and Management Services as a district consistently in fiscal distress, a district will be placed in Stage 1 status and must complete a Plan as noted above. Technical assistance will be provided by the SED Office of School Operations and Management Services. If a district has been identified as being in fiscal distress by the Office of the State Comptroller, SED will work collaboratively with this agency to determine whether or not the district should be placed in Stage 1 status.

\*These plans, which shall be submitted on a form prescribed by the Commissioner, must be supported by targeted technical assistance and professional development from an approved external provider at an expense to be borne by the district. The district will be required to submit periodic reports to SED for review and may be subject to monitoring if progress towards goals is not at an acceptable level. A district will be removed from Stage 1 status after it meets and maintains the Plan goals for 2 consecutive years<sup>4</sup>. However, if at any time during the course of the year the district is found to be in non-compliance with the Plan or is unwilling or unable to make substantial progress towards accomplishing the goals of the Plan, the Commissioner reserves the right to move the district into Stage 2 status.

### **Stage 2 – External Technical Assistance**

**Academic Status** - if the district is shown to be unwilling, incapable or struggling to meet its defined student achievement goals, the Commissioner may assign a Distinguished Educator (DE)\* to assist the board in meeting their goals.

**Fiscal Status** – if the district is shown to be unwilling, incapable or struggling to meet its defined fiscal goals, the Commissioner may assign a Fiscal Administrator (FA)\* to assist the board in meeting their goals.

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<sup>4</sup> Timelines suggested herein are for illustrative purposes and will be further defined through discussion with key stakeholder groups

\*The specific duties and length of service of each will be defined by the Commissioner prior to the appointment and the cost of either the DE or the FA shall be borne by the district<sup>5</sup>. During the service of the DE or FA, reports will be submitted to the Department outlining progress towards goals based on key indicators as noted in step 1.

A district will remain in Stage 2 status until such time as it meets and maintains those goals stated in the Plan. Based on these measurements, the DE and/or FA will report the likelihood of the Board meeting their goals and may recommend that the Commissioner move the District to Stage 3 status.

### **Stage 3 – Receivership**

After a school district has consistently failed to improve the academic performance of students attending school in all or substantially all of the schools over a three-year period and/or has failed to bring fiscal stability to the district, the Commissioner may appoint an independent fact-finding team to assess the reason for the under performance and the prospects for improvement and report to the Board of Regents.

Upon review of the conclusions of the fact-finding team, the Regents may declare the district chronically underperforming. Following such a declaration, the Board of Regents may direct the Commissioner to order the district placed into receivership status with an approved three-member education oversight board. The oversight board will work alongside the existing board to meet defined goals approved by the Commissioner.

Upon successfully meeting and maintaining appropriate effectiveness as measured by key indicators, including community and parent input, for a period of four years, the Commissioner will determine the appropriate method for returning the authority of the board to the community.

### **Stage 4**

To be determined based on discussions with stakeholder groups including school officials, community members, parents, and organizations such as NYSSBA and NYSCOSS.

Upon the approval and direction of the Board of Regents, staff will further articulate the details of this framework.

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<sup>5</sup> See <http://www.p12.nysed.gov/part100/pages/10016.html>



## Framework for District Accountability and Assistance 2010-2011

Accountability

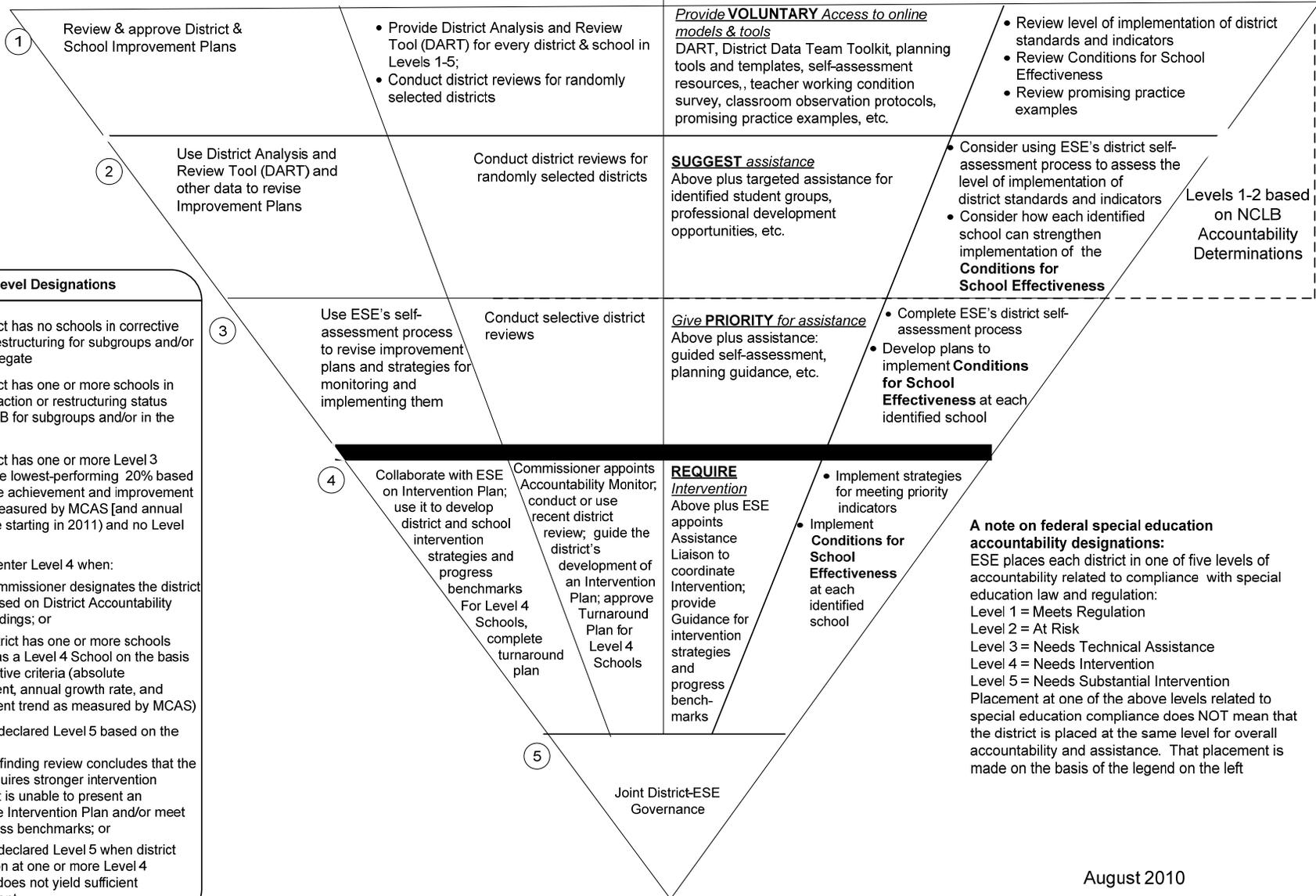
Assistance

District Actions

State Actions

State Actions

District Actions



Levels 1-2 based on NCLB Accountability Determinations

**Level Designations**

- 1 The district has no schools in corrective action or restructuring for subgroups and/or in the aggregate
- 2 The district has one or more schools in corrective action or restructuring status under NCLB for subgroups and/or in the aggregate
- 3 The district has one or more Level 3 schools (the lowest-performing 20% based on absolute achievement and improvement trend as measured by MCAS [and annual growth rate starting in 2011] and no Level 4 schools
- 4 Districts enter Level 4 when:
  - (a) the Commissioner designates the district Level 4 based on District Accountability Review findings; or
  - (b) the district has one or more schools identified as a Level 4 School on the basis of quantitative criteria (absolute achievement, annual growth rate, and improvement trend as measured by MCAS)
- 5 Districts declared Level 5 based on the following:
  - (a) a fact-finding review concludes that the district requires stronger intervention
  - (b) district is unable to present an acceptable Intervention Plan and/or meet the progress benchmarks; or

Schools declared Level 5 when district intervention at one or more Level 4 school(s) does not yield sufficient improvement

**A note on federal special education accountability designations:**  
 ESE places each district in one of five levels of accountability related to compliance with special education law and regulation:  
 Level 1 = Meets Regulation  
 Level 2 = At Risk  
 Level 3 = Needs Technical Assistance  
 Level 4 = Needs Intervention  
 Level 5 = Needs Substantial Intervention  
 Placement at one of the above levels related to special education compliance does NOT mean that the district is placed at the same level for overall accountability and assistance. That placement is made on the basis of the legend on the left