

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00: Accountability and Assistance for Schools and School Districts June 2012

(Note: the excerpts from regulations included below are from the proposed regulations as published for public comment after a vote by the Board of Elementary and Secondary Education on April 24, 2012. Tracked changes show changes from those regulations; sometimes these changes are to the original (current) regulations, sometimes to the amendments to those regulations proposed in April.)

Key to Abbreviations

AAAC = one or more members of the Accountability and Assistance Advisory Council of the Board of Elementary and Secondary Education

Board = Board of Elementary and Secondary Education, or as it was formerly known, Board of Education

ESE = Department of Elementary and Secondary Education

MTA = Massachusetts Teachers Association

TL = Thomas Lamey

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
General:		
1. AAAC: It is confusing to have so many plans under these regulations—the Level 4 District Plans, the DIPs, the turnaround plans for the districts declared underperforming before April 27, 2010, and the school turnaround plans.	The DIPs and school turnaround plans are required by G.L. c. 69, ss. 1I and 1J, the turnaround plans for the districts formerly declared underperforming already exist and were required under the former 603 CMR 2.04(4)(b) (as it stood before April 27, 2010), and the Level 4 District Plans are a necessary tool for improving education in Level 4 districts so as to prevent the eventual necessity of placing them in Level 5. A district has discretion to use its Level 4 District Plan as its DIP (see definition	Recommend revising the definition of “Level 4 District Plan” as follows: “Level 4 District Plan shall mean a plan for improvement that a district placed in Level 4 is required to develop and implement pursuant to 603 CMR 2.05(8)(b), (c), and (d). In the case of a district in Level 4 that was declared underperforming by the Board before April 27, 2010, Level 4 District Plan shall mean the

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
	<p>of “Level 4 District Plan”), thus reducing the number of plans.</p> <p>However, the use of “turnaround plan” in the definition of “Level 4 District Plan” to refer to the improvement plans created by districts formerly declared underperforming may be confusing, given the current definition of “turnaround plan.”</p> <p>ESE believes that it might also help with clarity to add to the definition of “turnaround plan” a reference to G.L. c. 69, ss. 1J and 1K.</p>	<p>current version of the turnaround plan the district adopted as a result of having been so declared. A Level 4 District Plan may serve as the district’s District Improvement Plan.”</p> <p>Recommend revising the definition of “turnaround plan” as follows: “Turnaround plan shall mean the plan <u>pursuant to G.L. c. 69, s. 1J or 1K</u>, to improve student achievement in a Level 4 or Level 5 school or a Level 5 district; <u>the plan that may also</u> serves as the School Improvement Plan or District Improvement Plan.</p>
2.02: Definitions		
<p>2. MTA: Definition of “annual performance determination” should be revised to add science to the named areas of indicators for the determination: “ . . . relative to indicators including but not limited to achievement and improvement in English language arts and mathematics <u>and science</u>, in accordance with the federal</p>	<p>ESE agrees that since it is planning to use achievement and improvement in science in making the annual performance determination, a reference to science should be added to its definition.</p>	<p>Recommend revising the end of the definition of “annual performance determination” as follows: “ . . . relative to indicators including but not limited to achievement and improvement in English language arts, <u>and</u></p>

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
<p>Elementary and Secondary Education Act (ESEA).”</p> <p>Reasons:</p> <ul style="list-style-type: none"> ◆ Regulations should be as clear as possible for district leaders and educators ◆ Including science is consistent with the waiver approved by the federal USDOE and is included in other sections of the regulations – see CPI definition 		<p>mathematics, <u>and science</u>, in accordance with the federal Elementary and Secondary Education Act (ESEA).”</p>
<p>3. AAAC: Definitions of “district or school district” and “school” should contain references, in the last clause on charter schools, to Massachusetts’ approved NCLB waiver. The question is raised whether “federal law” is the appropriate way to refer to it.</p> <p>Reason: Aside from state law, the provisions of the waiver govern accountability for charter schools. AAAC members questioned whether “federal law” is an accurate description, or the best description, of the waiver provisions.</p>	<p>The term “federal law” covers approval by a federal agency, the U.S. Department of Education, of ESE’s application for a waiver from provisions of a federal law, the Elementary and Secondary Education Act, 20 U.S.C. 6301 et seq. (ESEA). Its use here is appropriate.</p>	<p>No revision recommended.</p>
<p>4. AAAC: Definitions of “district or school district” and “school” should state that charter schools will be put in levels and refer to the method of putting them in levels (e.g. guidance).</p> <p>Reason: For transparency and completeness of information.</p>	<p>A statement of what action the Department shall take with respect to charter schools is not appropriate for a definition, but for a regulation proper. The regulations at 603 CMR 2.00, however, do not apply to charter schools. ESE plans to present the Board with proposed amendments to</p>	<p>No revision recommended.</p>

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
	603 CMR 1.00, the regulations on charter schools, dealing with levels for charter schools.	
<p>5. MTA: Definitions of “district or school district” and “school” should state that charter schools will be put in levels. The following language should be added:</p> <p><u>“Charter schools will be assigned accountability system levels.”</u></p> <p>Reasons:</p> <ul style="list-style-type: none"> ♦ Addition of “and federal law” does not make it clear that charter schools will receive accountability labels under the provision of the NCLB waiver. ♦ As written, it appears that nothing in these regulations applies to charter schools. 	Please see response to comment #4.	No revision recommended.
2.04: Levels 1-3		
<p>6. MTA: Add the following language as 2.04(1):</p> <p><u>“DESE will convene an external advisory group (in addition to the Accountability and Assistance Advisory Council) consisting of practitioners, data experts, and representatives of professional associations to assist the DESE in developing policy and methodology for defining performance levels, placement of schools/districts in each level and movement among the levels, and the addition of performance indicators to the system. The DESE</u></p>	Advisory councils to the Board are created by the Legislature by statute: G.L. c. 15, s. 1G. ESE will take the comment under advisement and consider what options there are for creating an external advisory group for this purpose.	No revision recommended.

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
<p><u>will consult with the Advisory Group prior to making any changes to the policy and methodology of the accountability system designations. The Advisory Group will be consulted regularly throughout the development and implementation process."</u></p> <p>Reason: There are significant consequences to these label assignments; there should be a specified process (and timeline) if they are to be changed and there should be oversight. Process and oversight should be added to regulations.</p>		
<p>7. MTA: In 2.04(1)(a),(b), and (c) and 2.04(2), "guidance" in the references to the Department publishing guidance with respect to placement of schools and districts in Levels 1, 2 and 3 should in all cases be replaced by "additional regulations."</p> <p>Reason: There are significant consequences to these label assignments; there should be a specified process (and timeline) if they are to be changed and there should be oversight. Process and oversight should be added to regulations.</p>	<p>The regulations should not be so specific that minor changes to state or federal policy would necessitate amending the regulations. Also, the possibility may arise that levels need to be redefined based on the amount of assistance ESE has the capacity to provide, or to prevent a disproportionate number of schools or districts from being classified in one or more of the levels.</p> <p>However, ESE agrees that for transparency, in order to specify the process and allow for oversight, a description of the methodology used to determine placement should be published in the guidance for schools in Levels 1 and 2 as well as in the guidance for schools in Level 3.</p>	<p>Recommend revising the second sentence in 2.04(1)(a) as follows:</p> <p>"The Department shall publish guidance for schools as to what performance leads to placement in what level, <u>including a description of the methodology used.</u>"</p>

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
<p>8. AAAC: It is confusing for ESE to have said in its waiver application that a district's level would be determined by its lowest-performing school, and then to have the language in 2.04(1)(c) (on Levels 1-2) and 2.04(2) (on Level 3) leave the determination of districts' status to guidance, thus implying that a district's status will not necessarily be determined by its lowest-performing school.</p> <p>Reason: The regulations should be consistent with ESE's approved waiver application. It is questionable what the motivation is for the current language.</p>	<p>The regulations should not be so specific that minor changes to state or federal policy would necessitate amending the regulations.</p> <p>Also, the possibility may arise that levels need to be redefined based on the amount of assistance ESE has the capacity to provide, or to prevent a disproportionate number of schools or districts from being classified in one or more of the levels.</p>	<p>No revision recommended.</p>
<p>9. TL: Recommends that 2.04(3), requiring Level 3 districts to complete a self-assessment, be amended to add a requirement that districts and schools in Level 3 consult with their District and School Assistance Center (DSAC).</p> <p>Reason: This would clearly establish the requirement to use DSAC services.</p>	<p>The regulations should not be so specific that minor changes to state or federal policy would necessitate amending the regulations. The possibility may arise that DSACs have insufficient capacity to provide effective assistance to all Level 3 districts, depending on the level of funding in future years.</p>	<p>No revision recommended.</p>
2.05: Level 4		
<p>10. MTA: The regulations referring to Level 4 districts are inconsistent with G.L. c. 69. Therefore ESE may not impose such legal obligations on school districts: Level 4 districts cannot be created by regulatory fiat.</p>	<p>It is agreed that there is no provision for Level 4 districts in the statute; however, ESE is promulgating the regulations relating to Level 4 districts through its authority under M.G.L. c.</p>	<p>No revision recommended.</p>

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
<p>Reason: There is no statutory authority for the creation of Level 4 districts: G.L. c. 69 does not provide for underperforming districts, only for chronically underperforming districts.</p>	<p>69, s. 1B, to promulgate regulations as necessary to fulfill the purposes of chapter 69.</p> <p>Districts are placed in Level 4 if they have a Level 4 school; they must then include in the school turnaround plan provisions for improving district systems of school support and intervention (see 2.05(8)(a)), thus improving education in the Level 4 school and other schools in the district.</p> <p>Districts may also be placed by the Board in Level 4 based on “serious deficiencies, relating to one or more district standards, that are likely if they are not addressed effectively and in a timely manner to have a substantial negative effect on student performance in the district, putting the district at risk of being placed in Level 5.” (2.05(1)(b)) In this case the regulations on Level 4 districts are aimed at giving reasonable warning to districts that they are at risk of placement in Level 5. They are aimed at preventing districts from having to be placed in Level 5 and put under receivership.</p> <p>The regulations provide for ESE to help Level 4 districts by means of a Level 4 District Plan. See 2.05(8)(b),</p>	

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
	(c), and (d). In addition, they provide for Level 4 districts that have their Level 4 District Plans approved by ESE to receive priority for ESE assistance. See 2.05(8)(d).	
<p>11. MTA: Should the Department continue having regulations about Level 4 districts, it should not require that any district with a Level 4 school be placed in Level 4. The following change should be made to 2.05(1)(a):</p> <p>“(a) A district shall<u>may</u> be placed in Level 4 if any of its schools has been placed in Level 4, pursuant to 603 CMR 2.05 (2).”</p>	<p>ESE would like to ensure that all districts with Level 4 schools are subject to the requirement in 2.05(8)(a), as revised under comment #13 below, that they include in the schools’ turnaround plans provisions for improving district systems for school support and intervention. To be subject to the requirement as revised, they need to be Level 4 districts.</p> <p>Also, making the change recommended in the comment would constitute a major change in the Framework for District Accountability and Assistance that should not be made without having had extensive communication with districts.</p>	No revision recommended.
<p>12. AAAC: Suggests language be added to 2.05(1)(b) providing that the lowest-performing districts should receive priority for placement in Level 4.</p> <p>Reason: Now that the regulations no longer have as a requirement for placement in Level 4 that a</p>	Districts that are subject to placement in Level 4 under 2.05(1)(b) will still be very low-performing, given the criterion in 2.05(1)(b) for placement in Level 4 that districts have “serious deficiencies . . . that are likely if they are not addressed effectively and in a	No revision recommended.

Attachment 4: Analysis of Public Comments on Proposed Amendments to 603 CMR 2.00

Source and Summary of Comment	ESE's Response	Recommended Revision(s)
<p>district be in the lowest 10% of districts as determined pursuant to 2.06(1)(a), there is a need to make sure that in placing districts in Level 4 the focus is still on the lowest-performing districts.</p>	<p>timely manner to have a substantial negative effect on student performance in the district, putting the district at risk of being placed in Level 5.” However, it may sometimes be that there are special circumstances in a district, for instance with respect to leadership and governance, that would make it a stronger candidate for placement in Level 4 than a slightly lower-performing district.</p>	
<p>13. AAAC: Suggests revision of 2.05(8)(a) along the following lines: “(a)Each Level 4 district shall include, in Tthe turnaround plan developed pursuant to 603 CMR 2.05(5)(a) for any each of its Level 4 schools in Level 4 shall include, among its provisions pursuant to 603 CMR 2.05(5)(a)(3) for the implementation of the conditions for school effectiveness, provisions for the improvement of district systems for school support and intervention in accordance with the condition for school effectiveness in 603 CMR 2.03(4)(b)(1).” Reason: Clarity and readability—no substantive change.</p>	<p>ESE agrees that it is better to put this requirement in the active voice with the Level 4 district as the subject of the sentence than to leave it in the passive.</p>	<p>Recommend making the suggested revision.</p>