

CONCISE EXPLANATORY STATEMENT

Amendments to WAC180-17-050/Adoption of New WACs 180-17-060 through 180-17-100.

This document has been prepared in compliance with RCW 34.05.325, the concise explanatory statement requirement of the Administrative Procedure Act. Included are: (1) The reasons for adopting the rules; (2) a description of any differences between the text of the proposed rules as published in the Register and the text of the final rules, and (3) a summary of all comments received, and responses to the comments by subject matter.

1. Reasons for Adopting the Rules

In RCW 28A.657.005, the Legislature assigned the State Board of Education (SBE) “responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.”

In 2013, the Legislature adopted Engrossed Second Substitute Senate Bill (E2SSSB 5329 amending sections of RCW 28A. 657, and adding a new section to this chapter expanding the scope and impact of the school and district accountability system. This included a second level (Level II) of the required action process for a school district designated as a required action district (RAD) that does demonstrate sufficient improvement after three years of implementing a required action plan.

E2SSSB requires the SBE to adopt rules that: 1) establish a timeline and procedures for implementation of changes to the required action process, including the assignment to Level II, as provided for in the bill; 2) articulate the criteria for assigning districts to Level II status of the required action; and, 3) establish guiding principles that articulate an accountability framework.

The rules adopted by the SBE:

- Clarify the process and criteria for assigning districts to Level II required action.
 - Defines the criteria that determines if the districts should remain in Level I required action or be assigned to Level II required action.
 - Establishes timelines for 1) Level II needs assessments, 2) review by the Required Action Plan Review Panel and, if needed, 3) input of the Education Accountability System Oversight Committee.
- Provide a basis for OSPI to create the accountability system design, as directed by RCW 28A.657.110 (1)
 - Establishes the principles and priorities that fulfill the statutory purpose of the accountability framework.

2. Differences between Proposed and Final Rules

There are the following differences between the Proposed and Final Rules:

- WAC 180-17-060 (2). Adds flexibility for the State Board of Education to account for changes in standards or assessments, or fluctuations in the required action exit criteria due to a normative definition of “persistently lowest-achieving schools” established in RACW 28A.657, in

determining whether a district has made recent and significant progress.

- WAC 180-17-070 (1). Clarifies that the external needs assessment and review team should consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the district that is the subject of the assessment, or members of the staff of the SBE. This makes the composition of the needs assessment and review team for Level II required action parallel to the external performance audit team for Level I required action.
- WAC 180-17-070 (2). Clarifies that the needs assessment may consider both school and community factors, including, but not limited to, class size, resources and building capacity, recent bond or levy failures, kindergarten readiness, student mobility, poverty, student homelessness, rate of parental unemployment, and other factors contributing to the opportunity gap.
- WAC 180-17-070 (3). Adds that school district boards of directors shall seek public comment on proposed Level II required action plans prior to submitting plans to the SBE. This creates a process for Level II required action plans that is more parallel to the process for Level I required action plans, in regards to districts receiving community input on plans.

3. Summary of All Comments and Responses

Public testimony was submitted at the public hearing on the proposed rules held on January 9, 2014. Comment from the public on draft rules was also solicited on initial draft rules posted on the SBE website on November 1, 2013, and comment from the public was solicited again following the November 14-15, 2013 Board meeting, when draft rules were approved for publishing in the State Register.

The comments are categorized as follows, with SBE response:

1. **COMMENT:** E2SSSB 5329 repeatedly refers to funding, but there is no reference to funding in rules. Request that the funding requirements of 5329 are addressed by including sufficient funding for implementing a plan with fidelity, as determined by the Superintendent of Public Instruction (SPI), as a precondition for implementation of a plan. Washington is still 46th or 47th in the nation in per pupil funding, and we still have the fourth largest class size in the nation. We have to stop expecting our teachers to be able to overcome the 80% of a child's life that's outside the classroom. Request that the specific language from Section 7 of the statute "If federal or state funds for school improvement are not available, the plan is not required to be implemented until such funding becomes available," be added to rule.

RESPONSE: RCW 28A.657.020(3)(c) states that the SPI shall adopt criteria in rule for identifying persistently lowest-achieving schools for the purpose of required action, and that "the criteria for identifying persistently lowest-achieving schools shall also take into account the level of state or federal resources available to implement a required action plan." The statute indicates the authority for rule-making involving sufficient funding to implement required action lies with the SPI and not the SBE. As noted, the language you request is set forth in the statute. It is not necessary to include the language in the Board's rule.

2. **COMMENT:** Enlisting members of the staff and community in local plans should apply to both required action Level I and required action Level II plans. In regards to potential RAD IIs, the review of why the Level I plan did not work would be meaningless without the contribution of teachers, counselors and staff who are the most closely involved with the students and the reality of the classroom. Suggest the rules include these voices in the plan review and revision.

RESPONSE: The SBE agrees that staff and community should have the opportunity to review and respond to proposed plans, and amended the proposed rules to specify that school district boards of directors shall seek public comment on the proposed Level II required action plan prior to submitting the plan to the State Board of Education.

3. **COMMENT:** When students are suffering from homelessness, lack of health care, unmet language and cultural needs, ramifications of unemployment in the family, gangs, etc., it makes learning very difficult. Suggest that in addition to school factors, the needs assessment and review include data such as class size, resources and building capacity, recent bond or levy failures, kindergarten readiness, student mobility, poverty, student homelessness, rate of parental unemployment, and other factors contributing to the opportunity gap.

RESPONSE: The SBE agrees that many factors affect student learning and amended the proposed rules to include that “the needs assessment and review for Level II required action may consider both school and community factors which may include, but are not limited to, class size, resources and building capacity, recent bond or levy failures, kindergarten readiness, student mobility, poverty, student homelessness, rate of parental unemployment, and other factors contributing to the opportunity gap.”

4. **COMMENT:** Encourage the SBE to clarify the length of period for the “transitional” strategy or to enumerate what criteria must be met in order to transition away from normative measures.

RESPONSE: The SBE appreciates this comment and agrees that objective, rather than normative, criteria for exit from required action should ultimately be implemented. However, the SBE felt it was too early in the process of transitioning to new learning standards and in implementing the revised Achievement Index to define the transition away from normative measures. The SBE will take this comment into consideration in future rule-making.

5. **COMMENT:** The criteria for releasing a district from required action are still unclear and refer to measures that are inappropriate for the purpose of meaningfully improving struggling schools. For example, the definition of “persistently lowest-achieving schools” are tied to schools eligible to receive federal Title I funds. Encourage the SBE to consider a higher level, and clearer requirements, for exit from required action, since high expectations for exit will help to institute sustainable change in turnaround schools and prevent reentry into the required action process.

RESPONSE: The SBE will take this comment into consideration for future rule-making. While the Superintendent of Public Instruction has authority to adopt rules to define “persistently lowest-achieving schools,” and exit from required action Level I, the SBE has authority for rule-making in assignment and exit from required action Level II. As a result of E2SSB 5329, non-Title I eligible schools may be identified as “persistently lowest-achieving schools.” The Board would like to examine the outcomes of districts currently in the process before making adjustments to the Level II exit criteria.

6. **COMMENT:** Encourage the SBE to use discipline data in the accountability system.

RESPONSE: The SBE will take this comment into consideration in future policy decisions. The SBE supports the use of discipline data in school improvement and in addressing inequities in how students are treated in schools. While it is clear that schools should be held accountable for their discipline practices, the state has just started collecting statewide student-level data on discipline and the Board wants to consider further information and explications on the use of this data before addressing the use of this data in accountability systems.

7. **COMMENT:** The guiding principles in the proposed rules do not by themselves constitute an accountability framework. RCW 28A.657.110 seems to require more than guiding principles.

RESPONSE: The guiding principles were proposed to meet the statutory intent of RCW 28A.657.110 to provide guidance to OSPI in designing an accountability system: “Based on the framework, the superintendent of public instruction shall design a comprehensive system of specific strategies for recognition, provision of differentiated support and targeted assistance, and, if necessary, requiring intervention in schools and school districts.”