TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 13
A PROCESS FOR IMPROVING EDUCATION:
PERFORMANCE BASED ACCREDITATION SYSTEM (2320)

§126-13-1. General.

1.1. Scope. — This rule establishes an accountability system to determine the adequate yearly progress of West Virginia public schools and a system of education performance audits which measures the quality of education and the preparation of students for the 21st century based on the standards and measures of student, school, and school system performance and progress. The system of performance audits shall assist the West Virginia Board of Education, the Legislature, the Governor, and the Process for Improving Education Council in ensuring that the high quality educational standards and annual performance measures and progress are met by schools and school systems and that a thorough and efficient system of schools is provided.

1.2. Authority. — W.Va. Constitution, Article XII, §2; W.Va. Code §§18-1-4; 18-2-5; 18-2-7a; and 18-2E-5; and Public Law 107-110, No Child Left Behind Act of 2001.

1.3. Filing Date. — November 15, 2007

1.4. Effective Date. — December 17, 2007

1.4.1. Unless specified otherwise within the policy.

§126-13-2. Purpose.

2.1. The West Virginia Board of Education establishes a process for improving education that includes standards, assessment, accountability, and capacity building to provide assurances that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis and that the high quality standards are, at a minimum, being met. This requires the provision of an adequate level of appropriately managed resources.

2.2. The accreditation process will include an evaluation of each school's needs for facilities, personnel, curriculum, equipment and materials and how those impact program and student performance.

2.3. Schools are expected to meet performance measures in the following areas: student performance and progress as measured by a uniform statewide assessment program, participation rate in the statewide assessment program, and school attendance rate or graduation rate for schools with a 12th grade.

2.4. The performance measures and high quality standards provide assurance that schools and county boards are making progress in achieving the legislatively established education goals of the state of West Virginia. (W. Va. Code §18-1-4)

2.4.1. Goal 1. All children entering the first grade will be ready for the first grade.

2.4.2. Goal 2. All students will have equal education opportunity.

2.4.3. Goal 3. Student performance on national measures of student performance will equal or exceed national averages and the performance of students falling in the lowest quartile will improve by 50 percent.

2.4.4. Goal 4. Ninety percent of ninth graders will graduate from high school.

2.4.5. Goal 5. High school graduates will be fully prepared for college, other post-secondary education or gainful employment. The number of high school graduates entering post-secondary education will increase by 50 percent.

2.4.6. Goal 6. All working age adults will be functionally literate.

2.5. West Virginia Board of Education Goals.

2.5.1. All students shall master or exceed grade level educational standards that reflect 21st century skills and learning.

2.5.2. All students shall receive a seamless pre-kindergarten through 20 curriculum designed and delivered with broad stakeholder involvement to promote lifelong learning in a global society.

2.5.3. All students and school personnel shall develop and promote responsibility, citizenship, strong character and healthful living.

2.5.4. All students shall be educated in school systems that operate and deliver services efficiently and effectively.

2.5.5. All students shall be educated by highly qualified personnel.

§126-13-3. Responsibility.

3.1. The West Virginia Board of Education has responsibility through the system of education performance audits and otherwise to ensure that a thorough and efficient system of schools is being provided and to improve student, school, and school system performance and progress through an assessment and accountability system that includes:

3.1.1. The assessment of student, school, and school system performance and progress and the processes in place in schools and school systems which enable student performance and progress.

3.1.2. The review of school and school system electronic strategic improvement plans.

3.1.3. The periodic, announced on-site review of school and school system performance and progress and compliance with the standards.

3.2. The West Virginia Board of Education shall use school and school system assessment information from the system of education performance audits to assist it in the following:

3.2.1. Determining school accreditation and school system approval status.

3.2.2. Holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards.

3.2.3. Targeting additional resources when necessary to improve performance and progress.

3.3. The West Virginia Board of Education shall make accreditation information available to the Legislature; the Governor; the general public, and to any individuals who request such information subject to the provisions of any act, rule, or regulation restricting the release of information.

3.4. The West Virginia Board of Education shall establish early detection and intervention programs using the available resources as it deems appropriate including the West Virginia Department of Education, the Regional Education Service Agencies, the Center for Professional Development, and the Principals' Academy, as appropriate, to assist underachieving schools and school systems to improve performance before conditions become so grave as to warrant more substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic; professional staff development; providing monetary, staffing, and other resources available where appropriate; and, if necessary, making appropriate recommendations to the Process for Improving Education Council.

3.5. Office of Education Performance Audits. The West Virginia Board of Education shall establish an Office of Education Performance Audits to assist the West Virginia Board of Education and the Process for Improving Education Council in the operation of a system of education performance audits. The Office of Education Performance Audits shall report directly to and be responsible to the West Virginia Board of Education and the Process for Improving Education Council.

3.6. The Office of Education Performance Audits shall assist the West Virginia Board of Education in making determinations regarding the accreditation status of schools and the approval status of school systems.

3.7. The West Virginia Education Information System (hereinafter WVEIS) staff shall provide the Office of Education Performance Audits research and analysis data on the performance and progress of students, schools, and school systems.

3.8. Under the direction of the West Virginia Board of Education the Office of Education Performance Audits shall receive assistance from the West Virginia Department of Education, the Regional Education Service Agencies, the Center for Professional Development, the Principals' Academy, and the School Building Authority of West Virginia to carry out the duties assigned to the office.

3.9. Responsibilities of the Office of Education Performance Audits include the following:

3.9.1. Assure that all statewide assessments of student performance used as annual performance measures are secure.

3.9.2. Administer all accountability measures including processes for the accreditation of schools and the approval of school systems and recommendations to the West Virginia Board of Education on appropriate action including accreditation and approval action.

3.9.3. Determine what capacity may be needed by schools and school systems to meet the standards established by the Legislature and the West Virginia Board of Education, and recommend to the West Virginia Board of Education and the Process for Improving Education Council plans to establish those needed capacities.

3.9.4. Determine whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the West Virginia Board of Education, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the West Virginia Board of Education and the Process for Improving Education Council.

3.9.5. Determine staff development needs of schools and school systems to meet the standards established by the Legislature and the West Virginia Board of Education, and make recommendations to the West Virginia Board of Education, the Process for Improving Education Council, the Center for Professional Development, the Regional Education-Service Agencies, the West Virginia Higher Education Policy Commission, and the county boards of education.

3.9.6. Identify exemplary schools and school systems and best practices that improve student, school, and school system performance, and make recommendations to the West Virginia Board of Education and the Process for Improving Education Council for recognizing and rewarding exemplary schools and school systems and promoting the use of best practices. The West Virginia Board of Education shall provide information on best practices to county school systems and shall use information identified through the assessment and accountability processes to select schools of excellence.

3.9.7. Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with various applicable laws, policies, and process standards as considered appropriate and approved by the West Virginia Board of Education, including, but not limited to, the use of State and local policy for the evaluation of all school personnel, the participation of students in appropriate physical assessments as determined by the West Virginia Board of Education, which assessment may not be part of the accountability system; the appropriate licensure of school personnel; and the school provides multicultural activities. Information contained in the reporting formats shall be examined during an on-site review to determine compliance with laws, policies, and standards. Intentional and grossly negligent reporting of false information contained in the reporting formats are grounds for dismissal.

§126-13-4. Measures for Determining Adequate Yearly Progress (AYP) for West Virginia Public Schools.

4.1. The Annual Performance Measures are measures of student, public school, and county school district performance and progress and comprise the West Virginia accountability system. The following annual measures of student, school, and school system performance and progress shall be the only measures for determining school accreditation and school district approval: Student achievement, student participation rate in the statewide assessment, graduation rate for schools with grade 12, and attendance rate for elementary and middle schools data are reviewed annually to determine adequate yearly progress (hereinafter AYP) for all West Virginia public schools and local education agencies (hereinafter LEAs). For the purpose of determining AYP, West Virginia public schools are defined as those elementary, middle, and high schools established and maintained at public expense through the state aid formula. The LEA is defined as the county school district. For the purpose of determining AYP, all students, including students in all subgroups (All Students, Economically Disadvantaged, Racial/Ethnicity White, Racial/Ethnicity Black, Racial/Ethnicity Hispanic, Racial/Ethnicity Asian, Racial/Ethnicity American Indian/Alaskan, Students with Disabilities, and Limited English Proficiency Students), must annually meet the identified percentage of students to be at the mastery (proficient) level for each of the AYP indicators: student achievement, participation rate, and graduation rate or attendance rate. The indicators defined in Sections 5.1.1, 5.1.2, 5.1.3, and 5.1.4 will be used for determining AYP. Additionally, the safe harbor provision in Section 5.1.1b will allow schools and LEAs that failed to meet the proficiency level for achievement an alternative method of demonstrating that they have made AYP.

4.2. For purposes of AYP determination the following definitions will be applied: elementary school has any grade configuration grades K-7, but not grade 8; middle school is a school that is not an elementary school and contains grade 8, but does not contain grade 12; high school is any school that contains a grade 12.

4.3. All public schools and LEAs will be held to the same criteria in the AYP determination. Students who attend alternative education programs as defined in W.Va. 126CSR20, West Virginia Board of Education Policy 2418, Regulations for Alternative Education Programs for Disruptive Students (hereinafter Policy 2418), shall be included in the state accountability system by having

individual test scores aggregated in the results of the home county school district/school of referral.

4.3.1. All students with disabilities in West Virginia public schools as defined under Section 602(3) of the Individuals with Disabilities Education Act (hereinafter IDEA) amendments of 1997 and W.Va.126CSR16, West Virginia Board of Education Policy 2419, Regulations for the Education of Exceptional Students (hereinafter Policy 2419), will participate in the West Virginia assessment program. The Individualized Education Program (hereinafter IEP) Team will determine how students with disabilities will participate in the statewide assessment program, i.e., West Virginia Educational Standards Test (hereinafter WESTEST) or the West Virginia Alternate Performance Task Assessment (hereinafter APTA), as defined in W.Va.126CSR14, West Virginia Board of Education Policy 2340, Statewide Assessment Program (hereinafter Policy 2340), and Policy 2419. The APTA will yield reading/language arts and mathematics assessment results for inclusion in AYP determination.

4.3.2. Five performance levels have been identified for the new statewide assessments WESTEST. The WESTEST is comprised of custom-developed assessments that include multiple measures in reading/language arts, mathematics, science, and social studies. The assessments will be administered in grades 3 through 8 and grade 10 (grade 11 with purchase of new assessments).

4.3.3. Students' scores from the APTA will be aggregated with those from the WESTEST for all students and each subgroup. The following process was developed to aggregate the scores from APTA with those from the WESTEST for the school, county school district, and state results.

a. The number of students scoring at the Novice performance level on the APTA will be added to the number of students scoring within the Novice performance level of the WESTEST.

b. The number of students scoring at the Partial Mastery performance level on the APTA will be added to the number of students scoring within the Partial Mastery performance level of the WESTEST.

c. The number of students scoring at the Mastery performance level on the APTA will be added to the number of students scoring within the Mastery performance level of the WESTEST.

d. The number of students scoring at the Above Mastery performance level on the APTA will be added to the number of students scoring within the Above Mastery performance level of the WESTEST.

4.3.4. The performance of all students who are enrolled in a public school for a full academic year will be included in the performance measures that determine AYP, accreditation status of schools, and the approval status of LEAs. W.Va.126CSR13, West Virginia Board Policy 2320, A Process for Improving Education-Performance Based Accreditation System (hereinafter Policy 2320).

4.4. The five levels of student achievement for the WESTEST in reading/language arts and mathematics include: distinguished, above mastery, mastery, partial mastery, and novice. Students scoring at or above the mastery level are defined as proficient.

4.4.1. Distinguished. Student demonstrates knowledge, comprehension, application, analysis, synthesis, and evaluation of skills which exceed the standard.

4.4.2. Above Mastery. Student demonstrates knowledge, comprehension, application, and analysis of skills which exceed the standard.

4.4.3. Mastery. Student demonstrates knowledge, comprehension, and application of skills which meet the standard.

a. The mastery level or above has been identified as meeting the proficient level specified in No Child Left Behind Act of 2001 (hereinafter NCLB).

4.4.4. Partial Mastery. Student demonstrates knowledge and recall of skills toward meeting the standard.

4.4.5. Novice. Student does not demonstrate knowledge and recall of skills needed to meet the standard.

4.5. All public school students are included in West Virginia's accountability system.

4.5.1. For all students in every public school and LEA, all data regarding assessment and attendance or graduation is collected for each student through the WVEIS and is used for reporting school, county school district, and state accountability results.

4.5.2. The accountability of public schools without grades assessed (i.e., K-2 schools) will be based on attendance and test scores from the feeder school unless the West Virginia Board of Education specifically directs an on-site review of such schools which would substitute for AYP for a three-year period.

4.5.3. All students with limited English proficiency (hereinafter LEP) in West Virginia public schools are required to participate in the West Virginia statewide assessment program, as required by West Virginia Board of Education Policy 2340. Limited English Proficiency (LEP), when used with reference to individuals, means (a) individuals who were not born in the United States or whose native language is a language other than English; (b) individuals who come from environments where a language other than English is dominant; and (c) individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. For purposes of making AYP determinations, West Virginia will count the scores of former LEP students in the LEP subgroup for two years after those students are no longer considered to be

LEP.

4.5.4. All subgroups as required by NCLB, including students with LEP, who are enrolled in a school for a full academic year will be included in the performance level measures that determine AYP, accreditation status of schools, and the approval status of LEAs. The LEP Committee will determine the standard number of years for graduation.

4.6. West Virginia's definition of AYP is based on continuous and substantial growth in student achievement, such that all students are proficient in reading/language arts and mathematics by the end of the 2013-2014 school year.

4.6.1. West Virginia's definition of AYP requires all students to be proficient in reading/language arts and mathematics by the end of the 2013-2014 school year and requires all students and each subgroup to be held accountable to meet all of the academic indicators used to measure AYP, percent proficient in reading/language arts and mathematics, percent of participation in the assessments, graduation rate for secondary schools; and attendance rate for elementary and middle schools.

4.6.2. The public school/LEA will not be required to disaggregate graduation rate and attendance rate data into the subgroups for accountability unless the school/LEA is using the safe harbor provision to meet AYP.

4.6.3. All subgroups as required by NCLB will be held accountable to the academic indicators of reading/language arts and mathematics. A ten-year time line is required for public schools to reach the goal of 100 percent of students proficient in reading/language arts and mathematics by the end of the 2013-2014 school year. Annual intermediate goals were established to assure increases in the percentage of students proficient in reading/language arts and mathematics over the next eight years.

4.7. Starting in the 2003-2004 school year, separate starting points were established for reading/language arts and mathematics for public schools by elementary, middle, and high school grade spans, with the goal of having a common starting point statewide for all public schools with similar grade configurations based on WESTEST and APTA results. West Virginia recalculated the starting point, using the average of two years of assessment data (2003-04 and 2004-05) for reading/language arts and mathematics. This served as the AYP standard for the 2004-05 school year. These averages determined intermediate goals and annual measurable objectives by grade configuration for the next eight years and are identified in 5.1.1.B.

4.8. West Virginia's accountability system bases its annual determination of whether each public school and LEA makes AYP on the achievement of all students, including subgroups as required by NCLB. West Virginia's AYP calculation also incorporates the other academic indicators of graduation rate for secondary schools and attendance rate for elementary/middle schools. NOTE: For accountability purposes, the public school or LEA will not be required to disaggregate graduation rate and attendance rate data into the subgroups unless the school or LEA is using the

safe harbor provision to meet AYP.

4.8.1. West Virginia will use a decreasing trend calculation under the safe harbor provision to identify schools that failed to meet AYP. A West Virginia public school or LEA may be considered to have made AYP as defined in Section 5.1.1.b.

a. The WVEIS collects student, school, and LEA data by unique identifiers and generates aggregate school, LEA, and state report cards by the different subgroups for assessment scores, participation rates, graduation rate or attendance rate, gender and migrant status.

4.9. Students' scores from the APTA will be aggregated with those from the WESTEST for all students and each subgroup. The process used to aggregate the scores from the APTA with those from the WESTEST for the public school, county school district, and state results is described in Section 4.3.3.a, b, c, and d.

4.10. West Virginia's graduation rate is measured using the number of students who graduate from a public high school with a regular diploma, not including a Graduate Equivalency Diploma (hereinafter GED) or any other diploma not fully aligned with the state's academic standards, in the standard number of years. For students with disabilities, the student's IEP will determine the standard number of years for graduation.

4.10.1. The calculation for the graduation rate is the method recommended by the National Center for Education Statistics (hereinafter NCES). The formula is: Total number of four year graduates divided by the sum of the total number of four year graduates plus the dropouts for the four years of high school for this class of graduates $g_t/(g_t+d^{12}_t+d^{11}_{(t-1)}+d^{10}_{(t-2)}+d^{9}_{(t-3)})$. G=graduates; t=year of graduation; d=dropouts; and 12, 11, 10, and 9=class level. For the AYP determination the graduation rate calculation will be used for accountability at the public school/LEA/state education agency (hereinafter SEA) levels, but will not be used for each subgroup. However, for public schools/LEAs that use the safe harbor provision to meet AYP for the achievement indicator, the graduation rate standard must be met by each of the nine subgroups. Schools will be considered as having met the AYP if they meet or exceed the standard or if they have made improvement toward the standard.

§126-13-5. Annual Performance Measures for Accountability (AYP).

5.1. Accountability. For the purpose of determining AYP for public school and county school district accountability, only the assessment scores of students who are enrolled in a public school for a full academic year will be included in the AYP calculation.

5.1.1. Achievement.

a. A student who is enrolled continuously in that school from the fifth instructional day of school to the spring testing window will be included when determining if the school has made AYP. A student is continuously enrolled if s/he has not transferred or dropped out of that school. A student who is continuously enrolled in the LEA from the fifth instructional day of school to the spring testing

window will be included when determining if the LEA has made AYP. A student who is enrolled continuously in the state from the fifth instructional day in school to the spring testing window will be included when determining if the state has made AYP.

b. Safe harbor provision. A safe harbor provision for meeting AYP is available to the public school/LEA/state that fails to meet AYP for the achievement indicator, i.e., percentage of students attaining mastery in reading/language arts and mathematics on the WESTEST or the APTA in grades 3-8 and 10 (grade 11 after assessment purchase). In order to meet AYP using the safe harbor provision, the school/LEA/state must: 1) decrease by ten percent from the preceding year the number of students in the less than mastery subgroup on the achievement indicators, i.e., percentage of students proficient in reading/language arts and mathematics on the WESTEST or APTA in grades 3-8 and 10 (grade 11 after assessment purchase; 2) have made progress on one or more of the other indicators in Section 5.1. or be at/above the target goal for that indicator; and 3) attain a 95 percent participation rate in the current year or a two or three year average.

c. West Virginia will average the most recent three years of test scores (including the most recent year's scores) and compare the results to the current year's test scores. The higher score will be used to determine whether the school or district achieved the ten percent reduction in the number of non-proficient students from the previous year.

A. All students enrolled for a full academic year in grades 3, 4, 5, 6, 7, 8 and 10 (grade 11 after assessment purchase), including students in each subgroup as required by NCLB which contains 50 or more students must annually meet the identified percent of students to be at the mastery (proficient) level for each of the AYP indicators (student achievement, participation rate, graduation rate or attendance rate) using data from the spring administration of the state assessment WESTEST, under standard conditions, standard conditions with accommodations, or on the APTA in reading/language arts and mathematics in order to make AYP for the achievement indicators; or meet the safe harbor provision for AYP described in Section 5.1.1.b. For schools that do not meet the minimum N (number) in the tested class levels, the AYP will be determined using the total aggregate population and averaging the WESTEST scores over a three year period. For K-2 schools without tested grades, the 3rd grade scores of the students who attended the school will be used or as an alternative, the Office of Education Performance Audits school audit if completed within the past three years may be used together with the school attendance to determine AYP.

B. Measurable objectives that identify for each year a minimum percentage of students who must meet or exceed the proficient level of academic achievement on the WESTEST have been identified. The State's annual measurable objectives ensure that all students meet or exceed the proficient level of academic achievement within the timeline. The annual measurable objectives are the same throughout the State for each public school, each LEA, and each subgroup of students. West Virginia WESTEST Annual Measurable Objectives for 2006-2014 are as follows:

Year	Elementary Reading	Middle School Reading	High School Reading	Elementary Mathematics	Middle School Mathematics	High School Mathematics
2006	72.00%	75.00%	71.00%	67.00%	64.00%	59.00%
2007	76.67%	79.17%	75.83%	72.50%	70.00%	65.83%
2008	76.67%	79.17%	75.83%	72.50%	70.00%	65.83%
2009	76.67%	79.17%	75.83%	72.50%	70.00%	65.83%
2010	81.33%	83.33%	80.66%	78.00%	76.00%	72.67%
2011	86.00%	87.50%	85.50%	83.50%	82.00%	79.50%
2012	90.67%	91.67%	90.33%	89.00%	88.00%	86.33%
2013	95.34%	95.84%	95.16%	94.50%	94.00%	93.17%
2014	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

5.1.2. Participation rate. A minimum of 95 percent in the current or a two or three year average of all students enrolled in a public school/county school district/state at the time of testing, including students in each subgroup as required by NCLB, must participate in the statewide assessment WESTEST or APTA in reading/language arts or mathematics. Students with a significant medical emergency may be exempt by appeal from the calculation of participation rate for AYP provided that the county superintendent has proper documentation. (Policy 2340; Policy 2419; Policy 2510)

5.1.3. Attendance rate. The student attendance rate for elementary and middle schools is at or above 90 percent or the percentage of students meeting the attendance rate shows improvement from the preceding year. The student attendance rate will be adjusted for students excluded as a result of the Productive and Safe Schools Act (W.Va. Code §18A-5-1a) and school bus transportation interruptions W.Va. 126CSR81, West Virginia Board of Education Policy 4110, Attendance, (hereinafter Policy 4110). Additional exclusions include excused student absences, students not in attendance due to disciplinary measures, and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. For the AYP determination, the attendance rate calculation will be used for accountability at the public school/LEA/SEA levels, but will not be calculated for each subgroup. However, for schools/LEAs that use the safe harbor provision to meet AYP for the achievement indicators, the attendance rate standard must be met by the subgroup/s not meeting AYP.

5.1.4. Graduation rate. The student graduation rate is 80 percent or the percentage of students meeting the student graduation rate shows improvement. The graduation rate is calculated according to the high school completer formula recommended by the NCES with the additional condition that graduates include only those students who receive a regular diploma in the standard number of years and does not include students receiving the GED. For the AYP determination, the graduation rate calculation will be used for accountability at the public school/LEA/SEA levels, but will not be calculated for each subgroup. However, schools/LEAs that use the safe harbor provision to meet AYP for the achievement indicators, the graduation rate standard must be met by the subgroup/s not meeting AYP.

§126-13-6. State Annual Performance Measures for School Accreditation Status and School System Approval Status.

6.1. A system of points on an index will be used to assess and weigh annual performance measures for state accreditation of schools and approval of school systems that gives credit or points on an index to prevent any one measure alone from causing a school to achieve less than full accreditation status or a school system from achieving less than full approval status: Provided, That a school or school system that achieves AYP is eligible for no less than full accreditation or full approval status, as applicable, and the system established pursuant to this subsection shall only apply to schools and school systems that do not achieve AYP. The following measures, as may be appropriate at the various programmatic levels, will be applied for the state annual performance measures for schools and school districts that do not meet AYP.

6.1.1. The acquisition of student proficiencies as indicated by student performance and progress on the uniform statewide assessment program in 5.1.1. Percent of students at mastery in reading/language arts, mathematics, social studies, and science will be included. Bonus points for students scoring at or above mastery and distinguished levels will be provided as part of the index.

6.1.2. Writing assessment proficiency results in grades tested.

6.1.3. School attendance rates.

6.1.4. Technology proficiency. (Effective when assessments and data are available.)

6.1.5. Percentage of courses taught by highly qualified teachers.

6.1.6. Percentage of students scoring at benchmarks on the currently tested ACT EXPLORE and ACT PLAN assessments or other comparable assessments, which are approved by the state board and provided by future vendors.

6.1.7. Graduation rates.

6.1.8. Job placement rates for vocational programs.

6.1.9. Percent of students passing end-of-course career/technical tests.

6.1.10. ACT or SAT college entrance examination scores.

6.1.11. Percent of students not requiring college remediation classes. (Effective when data become available.)

6.1.12. Bonus points or credits for subgroup improvement, advanced placement percentages, dual credit completers and international baccalaureate completers.

6.1.13. The Board will annually develop cut scores in a statistically valid and reliable manner from the index to accredit schools that do not make AYP.

§126-13-7. High Quality Standards. The education standards for student, school, and school system performance and processes set forth the knowledge and skills that students should know and be able to do as a result of a thorough and efficient education that prepares them for the 21st century. The high quality standards incorporate the 21st century skills initiatives and assure that graduates are prepared for continuing post-secondary education, training, and work and that schools and school systems are making progress toward achieving the education goals. Each county board of education, in order to define its education program, shall establish policies and implement written procedures that reflect the education standards adopted by the West Virginia Board of Education.

7.1. Curriculum. Programs of study are arranged so that curriculum, instructional practices, and instructional materials ensure that all students have equal opportunity to acquire the knowledge and skills needed to succeed academically and in the workplace.

7.1.1. Curriculum based on content standards and objectives. The curriculum is based on the content standards and objectives approved by the West Virginia Board of Education. (Policy 2510; Policy 2520)

7.1.2. High expectations. Through curricular offerings, instructional practices, and administrative practices, staff demonstrates high expectations for the learning and achieving of all students and all students have equal educational opportunities including reteaching, enrichment, and acceleration. (Policy 2510)

7.1.3. Learning environment. School staff provides a safe and nurturing environment that is conducive to learning. (Policy 2510)

7.1.4. Instruction. Instruction is consistent with the programmatic definitions in West Virginia Board of Education Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (hereinafter Policy 2510). (Policy 2510)

7.1.5. Instructional strategies. Staff demonstrates the use of the various instructional strategies and techniques contained in Policies 2510 and 2520. (Policy 2510; Policy 2520)

7.1.6. Instruction in writing. Instruction in writing shall be a part of every child's weekly educational curriculum in grades K through 12 in every appropriate class. (Policy 2510; Policy 2520)

7.1.7. Library/educational technology access and technology application. The application of technology is included throughout all programs of study and students have regular access to library/educational technology centers or classroom libraries. (Policy 2470; Policy 2510)

7.1.8. Instructional materials. Sufficient numbers of approved up-to-date textbooks, instructional materials, and other resources are available to deliver curricular content for the full instructional term. (Policy 2510)

7.1.9. Programs of study. Programs of study are provided in grades K-12 as listed in Policy 2510 for elementary, middle, and high school levels, including career clusters and majors and an opportunity to examine a system of career clusters in grades 5-8 and to select a career cluster to explore in grades 9 and 10. (Policy 2510; Policy 2520)

7.1.10. Approved elective offerings. An elective offering must be based on approved West Virginia Board of Education content standards and objectives, if available, or have written content standards and objectives that are approved by the county board. (Policy 2510)

7.1.11. Guidance and advisement. Students are provided specific guidance and advisement opportunities to allow them to choose a career major prior to completion of grade 10. (Policy 2510)

7.1.12. Multicultural activities. Multicultural activities are included at all programmatic levels, K-4, 5-8, and 9-12 with an emphasis on prevention and zero tolerance for racial, sexual, religious/ethnic harassment or violence. (Policy 2421)

7.1.13. Instructional day. Priority is given to teaching and learning, and classroom instructional time is protected from interruption. An instructional day is provided that includes a minimum of 315 minutes for kindergarten and grades 1 through 4; 330 minutes for grades 5 through 8; and 345 minutes for grades 9 through 12. The county board submits a school calendar with a minimum 180 instructional days. (W.Va. Code §18-5-45; Policy 2510)

7.1.14. Alignment with job market opportunities. The technical and adult programs in the school are aligned with first local, and then state, then national job market opportunities. (Policy 2510)

7.2. Student and School Performance. The school's education program ensures that students are taught at developmentally appropriate levels, are provided the opportunity and encouraged to advance to their potential, and graduate with the knowledge and skills needed to succeed in a competitive, changing society.

7.2.1. County and School electronic strategic improvement plans. An electronic county strategic improvement plan and an electronic school strategic improvement plan are established, implemented, and reviewed annually. Each respective plan shall be a five-year plan that includes the mission and goals of the school or school system to improve student or school system performance or progress. The plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures.

7.2.2. Counseling services. Counselors shall spend at least 75 percent of the work day in a direct counseling relationship with students, and shall devote no more than 25 percent of the work day to counseling-related administrative activities as stated in W.Va. Code §18-5-18b. (W.Va. Code §18-5-18b; Policy 2315)

7.2.3. Lesson plans and principal feedback. Lesson plans that are based on approved content standards and objectives are prepared in advance and the principal reviews, comments on them a minimum of once each quarter, and provides written feedback to the teacher as necessary to improve instruction. (Policy 2510; Policy 5310)

7.2.4. Data analysis. Prior to the beginning of and through the school term the county, school, and teacher have a system for analyzing, interpreting, and using student performance data to identify and assist students who are not at grade level in achieving approved state and local content standards and objectives. The county, principal, counselors, and teachers assess student scores on the American College Test and the Scholastic Aptitude Test and develop curriculum, programs, and/or practices to improve student and school performance. (Policy 2510)

7.3. Alternative Education. Alternative education programs are provided that meet the education needs of students. (Policy 2418)

7.3.1. Alternative education. Alternative education programs meet the requirements of Policy 2418. (W.Va. Code §18-2-6 and §18-5-19; Policy 2418)

7.4. Regulatory Agency Reviews. School facilities are safe and meet the needs of students as determined by West Virginia's Regulatory Agencies.

7.4.1. Regulatory agency reviews. Determine during on-site reviews and include in reports whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the Health Department, the School Building Authority of West Virginia, and the responsible divisions within the West Virginia Department of Education, and whether noted deficiencies have been or are in the process of being corrected. The Office of Education Performance Audits may not conduct a duplicate review or inspection nor mandate more stringent compliance measures. (W.Va. Code §§18-9B-9, 10, 11, 18-4-10, and 18-5A-5; Policy 1224.1; Policy 8100; W.Va. Code §18-5-9; Policy 6200; Section 504, Rehabilitation Act of 1973 §104.22 and §104.23; Policy 4334; Policy 4336)

7.5. Administrative Practices and School-Community Relations. Schools, communities, and local businesses develop collaborative partnerships that support teaching and learning to ensure that schools deliver a high quality education program and are centers for lifelong learning.

7.5.1. Parents and the community are provided information. Staff members provide parents and the community with understandable information and techniques for helping students learn.

7.5.2. Codes of conduct. The county and schools implement, investigate, and monitor the code of conduct for students and the code of conduct for employees. (W.Va. Code §18-2E-5; Policy 4373; Policy 5902)

7.5.3. Statewide assessment. Test security measures are in place for all tests in the statewide assessment program. All students in the school participate in the statewide assessment program which includes WESTEST, Writing Assessment, and APTA at grades 3-8 and 10 (grades 9 and 11 after assessment purchase). Students with disabilities who have an IEP or a Section 504 Plan may be assessed on the state content assessments under one of the following conditions: standard

conditions or standard conditions with accommodations. Students who meet the alternate assessment criteria will participate in APTA. Education Performance Audit Teams will verify the eligibility of any student tested under standard conditions or standard conditions with accommodations or medical emergency student exemptions. Students who are continuously enrolled in the public school from the fifth instructional day of school to the spring assessment administration will be considered in the accountability system. (Policy 2340; Policy 2419; Policy 2510)

7.5.4. Physical Assessment. The school participates in the appropriate statewide physical assessment program.

7.6. Personnel. County boards shall employ personnel to deliver high quality programs and services to all public school students that ensure academic success; implement employment hiring and assignment practices that conform with W.Va. Code and West Virginia Board of Education policy; and promote the development of human resources.

7.6.1. Hiring. County boards follow hiring practices set forth in W.Va. Code. (W.Va. Code §§18A-4-7a, 18A-4-8, and 18-2E-3a)

7.6.2. Licensure. Professional educators and other professional employees required to be licensed under West Virginia Board of Education policy are licensed for their assignments including employees engaged in extracurricular activities. (W.Va. Code §18A-3-2; Policy 5202)

7.6.3. Evaluation. The county board adopts and implements an evaluation policy for professional and service personnel that is in accordance with W.Va. Code, West Virginia Board of Education policy, and county policy. (W.Va. Code §18A-2-12; Policy 5310; Policy 5314)

7.6.4. Teacher and principal internship. The county board develops and implements a beginning teacher internship program and a beginning principal internship program that conform with W.Va. Code and West Virginia Board of Education policies. (W.Va. Code §18A-3-2b and 2d; Policy 5899; Policy 5900)

7.7. Safe, Drug Free, Violence Free, and Disciplined Schools. The county and school maintain a safe, drug free, violence free, and disciplined learning environment that ensures the physical, social, and emotional well being of students and staff and that respects individual differences.

7.7.1. School rules, procedures, and expectations. School rules, procedures, and expectations are written; clearly communicated to students, parents, and staff; and enforced. (Policy 2510; Policy 4373)

7.7.2. Policy implementation. The county and schools implement: a policy governing disciplinary procedures; a policy for grading consistent with student confidentiality; policies governing student due process rights and nondiscrimination; the Student Code of Conduct policy; the Racial, Sexual, Religious/Ethnic Harassment, and Violence policy; an approved policy on tobacco use; an approved policy on substance abuse; and an approved policy on AIDS Education. (W.Va. Code §18A-5-1 and §18-8-8; Policy 2421; Policy 2422.4; Policy 2422.5; Policy 4373; Policy 2515)

7.8. Leadership. Effective leadership exists at the school district, school, and classroom levels.

7.8.1. Leadership. Leadership at the school district, school, and classroom levels is demonstrated by vision, school culture and instruction, management and environment, community, and professionalism. (Policy 5500.03)

§126-13-8. Indicators of Efficiency. Indicators of efficiency for student, school, and school system performance and processes will be reviewed in the following areas: Curriculum delivery, including but not limited to, the use of distance learning; transportation; facilities; administrative practices; personnel; use of regional education service agencies, or other regional services that may be initiated between and among participating county boards. The indicators of efficiency are developed for use by the appropriate divisions within the West Virginia Department of Education to ensure efficient management and use of resources in the public schools.

8.1. Indicators of Efficiency. The school district and school use existing resources efficiently and effectively for student, school, and school system performance and progress.

8.1.1. Curriculum. The school district and school conduct an annual curriculum audit regarding student curricular requests and overall school curriculum needs, including distance learning in combination with accessible and available resources.

8.1.2. Transportation. The school district evaluates the cost containment and effectiveness of the transportation system and provides students efficient transportation services consistent with State laws and policies.

8.1.3. Facilities. Schools are operated efficiently, economically, and without waste or duplication, and the number and location of schools efficiently serves the student population. (W. Va. Code §18-9D-15 and §18-9D-16d)

8.1.4. Administrative practices. The school district assesses the assignment of administrative personnel to determine the degree to which managerial/administrative services provided to the schools establish and support high quality curriculum and instructional services.

8.1.5. Personnel. The school district assesses the assignment of personnel as based on West Virginia Code and West Virginia Board of Education policies to determine the degree to which instructional and support services provided to the schools establish and support high quality curriculum and instructional services.

8.1.6. Regional Education Service Agency. The school district effectively uses Regional Education Service Agency programs and services or other regional services that may be initiated between and among county boards.

§126-13-9. Electronic County and School Strategic Improvement Plan Process.

9.1. Each county board shall develop a five-year electronic county strategic improvement plan and each school shall develop a five-year electronic school strategic improvement plan. The county plan is due by September 15, 2005 and the school plan is due October 15, 2005. Each respective plan shall include the mission and goals of the school or school system to improve student, school, or school system performance and progress, as applicable.

9.2. The plan shall be revised annually in each area in which the school or school system is below standard on the annual performance measures.

9.2.1. The revised plan shall include each annual performance measure which the school or system fails to meet the standard for performance or progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the West Virginia Department of Education and other education agencies to improve student, school, or school system performance and progress to meet the annual performance measure.

9.2.2. The revised county plan also shall identify any deficiency reported on the check lists, including any deficit more than a casual deficit by the county board.

9.3. The West Virginia Department of Education shall make available to all public schools an electronic school strategic improvement plan boilerplate designed for use by all schools which incorporates all required aspects and satisfies all improvement requirements of the NCLB and the state annual performance measures for school system approval status and school accreditation status.

9.4. The county superintendent and board president and each school's principal shall sign a statement verifying that the information submitted in the electronic county and school strategic improvement plan and check list is accurate in accordance with W.Va. Code §18-2E-6. Willfully or knowingly falsifying information contained in the annual school check list shall result in the administrative leader's certificate being revoked.

9.5. At the direction of the West Virginia Board of Education upon its determination that the performance and progress of the school or school system are persistently below standard or other circumstances warrant an on-site review, on-site review teams will assess the county's or a school's compliance and progress with the high quality standards and performance measures. (W.Va. Code §18-2E-5) The teams will review effectiveness of the electronic county strategic improvement plan and the electronic school improvement plans. Compliance with the annual check list provided by the schools will also be determined.

§126-13-10. School Accreditation Status.

10.1. The West Virginia Board of Education annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school one of the following: Exemplary accreditation status, distinction accreditation status, full accreditation status, conditional accreditation status, temporary accreditation status, or low performing accreditation status.

10.2. Exemplary accreditation status shall be issued to a school when the school's performance and progress substantially exceed the standards adopted by the West Virginia Board of Education.

10.3. Distinction accreditation status shall be given to a school when the school's performance and progress exceed the standards adopted by the state board.

10.4. Full accreditation status shall be issued to a school when the school's performance and progress meet or exceed the standards adopted by the West Virginia Board of Education and the school does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the state board. A school that meets or exceeds the performance and progress standards but has other deficiencies shall remain on full accreditation status for the remainder of the accreditation period and shall have an opportunity to correct those deficiencies.

10.5. Conditional accreditation status shall be issued to a school when the school's performance and progress are below AYP but the school's electronic strategic improvement plan has been revised to improve performance and progress on the standard or standards by a date or dates certain, the plan has been approved by the West Virginia Board of Education, and the school is meeting the objectives and time line specified in the revised plan.

10.6. Temporary accreditation status shall be issued to a school when the school's performance and progress are below AYP for two or more consecutive years. Schools and county school districts will be notified of any subgroup that initially has not met AYP in one year on any indicator; however, the school/county school district will be considered to have met the AYP standard and will not be identified as a temporary accreditation status school nor will the school/county school district be identified for improvement under §1116(b)(1)(A) NCLB. Schools and county school districts are encouraged to revise the school and county electronic strategic improvement plans when a subgroup is identified in any one year.

10.6.1. Whenever a school is issued temporary accreditation status, the county board shall ensure that the school's electronic strategic improvement plan is revised to increase the performance of the school to a full accreditation status level. The revised plan shall include objectives, a time line, a plan for evaluation of the success of the improvements, cost estimates, and a date certain for achieving full accreditation status.

10.6.2. The revised electronic strategic improvement plan shall be submitted to the West Virginia Board of Education for approval.

10.6.3. Schools receiving Title I Part A funding shall be identified for improvement under §1116(b)(1) through (14).

10.7. Low performing accreditation status shall be issued to a school when the West Virginia Board of Education determines that extraordinary circumstances exist.

§126-13-11. Exemplary Accreditation Status. A school shall be awarded exemplary accreditation status by the West Virginia Board of Education when all the following performance measures listed are achieved and all the high quality standards are met.

11.1. All schools will be ranked by the percent proficient in each subject (reading/language arts, math, science, and social studies) including the Writing Assessment. The schools earning the top combined ranking will be eligible for the next step of ranking on a student achievement index. All students in each school will be ranked by a student achievement index in each subject of reading/language arts, math, science, and social studies on the WESTEST and Writing Assessment with progressive weighting for scores at each performance level (.25 for Below Mastery, .5 for Mastery, .75 for Above Mastery, and 1.0 for Distinguished) and aggregated for a total ranking. The top ten percent weighted ranking for elementary, middle, and high schools will be designated as Exemplary if other criteria are met.

11.2. The student attendance rate is at or above 94 percent in the most recent year for which data are available.

11.3. The student graduation rate is at or above 85 percent.

11.4. The percentage of graduates of high schools who declare their intent to enroll in college and other post-secondary education is 55 percent.

11.5. The percentage of students who successfully complete Advanced Placement, dual credit, and honors classes as defined in Policy 2510 is at or above five percent in high schools.

11.6. During an Office of Education Performance Audits review, a K-2 school will be assessed to determine if it qualifies as a Distinguished/Exemplary School. The review team will examine data presented by the school and determine if the school has 80 percent of the students proficient in reading and mathematics. Data and information to be examined by the review team may include but is not limited to the following: Individual student assessment data in reading and mathematics, research-based practices in reading and mathematics, successful acceleration/remediation programs, a structure to address the needs of special education students, strategies/programs which support a consistent method of teaching writing, and a program of studies aligned with the State curriculum standards.

11.7. Career and Technical Education Schools. Career and Technical Education Schools (hereinafter CTE) Exemplary Schools are those that have met standards on all determiners, and have a school average on State administered end-of-course technical skills tests given to students in that school during the previous school year as determined annually by the West Virginia Department of Education, Division of Technical and Adult Education Services. The determiners are: Academic Skill Proficiency, Technical Skill Proficiency, Placement, and Placement in Field.

11.8. Career and Technical Education Schools Status Determiners as determined annually by the West Virginia Department of Education, Division of Technical and Adult Education Services.

11.8.1. Academic skill proficiency. The percent of completers in all concentrations will be at or above the appropriate Work Keys reading and mathematics level for their concentration year as determined annually by the West Virginia Department of Education, Division of Technical and Adult Education Services.

11.8.2. Technical skill proficiency. 46.55 percent of students tested in each concentration will score 74 percent or better on the State administered end-of-course technical skills tests year as determined annually by the West Virginia Department of Education, Division of Technical and Adult Education Services.

11.8.3. Placement. The school average placement for secondary and adult completers for the year will be at least 90 percent year as determined annually by the West Virginia Department of Education, Division of Technical and Adult Education Services.

11.8.4. Placement in field. The school average rate of completers employed in a field related to their technical education concentration will be determined annually by the West Virginia Department of Education, Division of Technical and Adult Education Services.

§126-13-12. Distinction Accreditation Status. The school shall be issued distinction accreditation status when the school and student performance is below the criteria for exemplary status but achieves in the upper quartile on the annual performance measures in Section §126-13-6, State Annual Performance Measures for School Accreditation Status and School System Approval Status.

§126-13-13. Low Performing Accreditation Status. A school shall be considered low performing by the West Virginia Board of Education when one or more of the following conditions exist.

13.1. The school falls below the criteria for full accreditation in three of the following performance measures: 5.1.1, student achievement; 5.1.2, participation rate; and 5.1.3, attendance rate or 5.1.4, graduation rate, as applicable.

13.2. The West Virginia Board of Education may determine a school to be low performing when extraordinary circumstances exist. Extraordinary circumstances are conditions that constitute major impediments to the provision of educational programs and services for students. Extraordinary circumstances shall include, but are not limited to, the following conditions.

13.2.1. The failure of a school on temporary accreditation status to obtain approval of its electronic strategic improvement plan within a reasonable time period as defined by the West Virginia Board of Education.

13.2.2. The failure of a school on conditional accreditation status to meet the objectives and time line in the revised plan or to achieve full accreditation by the date specified in the revised plan.

13.2.3. Extraordinary circumstances may also include the following: Physical or other abuse of students; inappropriate suspensions and/or expulsions; misappropriation of funds; misuse of

public funds; falsification of reports and/or failure to submit required reports; violation of W. Va. Code and West Virginia Board of Education policies that impact the provision of an appropriate educational program; unhealthy or unsafe conditions for students and/or employees; or failure to provide a high quality and equal educational opportunity for students which can be directly attributed to deficiencies in leadership according to Section 7.12 and to the school's resources in facilities, personnel, curriculum, and/or equipment and materials. (Policy 1340)

a. Whenever a school is issued low performing status, the West Virginia Board of Education shall appoint a team of improvement consultants to make recommendations within 60 days of appointment for correcting the impairment.

b. Upon approval of the recommendations by the West Virginia Board of Education, the recommendations shall be made in writing to the county board. If progress in correcting the low performance is not made within six months of receipt of the recommendations, the West Virginia Board of Education shall place the county board on temporary approval status and provide consultation and assistance to the county board to (1) Improve personnel management, (2) Establish more efficient financial management practices, (3) Improve instructional programs and rules, or (4) Make any other improvements that are necessary to correct the impairment.

c. If the school's low performance is not corrected by a date certain as set by the West Virginia Board of Education, the West Virginia Board of Education shall appoint a monitor who shall be paid at county expense to cause improvements to be made at the school to bring it to full accreditation status within a reasonable time period as determined by the West Virginia Board of Education. The monitor's work location shall be at the school and the monitor shall work collaboratively with the principal. At a minimum the monitor shall report monthly to the West Virginia Board of Education on the measures being taken to improve the school's performance and the progress being made. The reports may include requests for additional assistance and recommendations required in the judgment of the monitor to improve the school's performance, including, but not limited to, the need for targeting resources strategically to eliminate deficiencies. The West Virginia Board of Education may determine, in its sole judgment, that the improvements necessary to provide a thorough and efficient education to the students at the school can not be made without additional targeted resources, in which case, it shall establish a plan in consultation with the county board that includes targeted resources under the control of the West Virginia Board of Education and the county board to accomplish the needed improvements. Nothing in this section shall be construed to allow a change in personnel at the school to improve school performance and progress, except as provided by law.

d. If the low performance is not corrected within one year after the appointment of a monitor, the West Virginia Board of Education may make a determination, in its sole judgment, that continuing a monitor arrangement is not sufficient to correct the low performance and may intervene in the operation of the school to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, establishing instructional programs, taking such direct action as may be necessary to correct the impairments, declaring the position of principal is vacant and assigning a principal for the school who shall serve at the will and pleasure of and, under the sole supervision of, the West

Virginia Board of Education: Provided, That prior to declaring that the position of the principal is vacant, the West Virginia Board of Education must make a determination that all other resources needed to correct the impairment are present at the school. If the principal who was removed elects not to remain an employee of the county board, then the principal assigned by the West Virginia Board of Education shall be paid by the county board. If the principal who was removed elects to remain an employee of the county board, then the following procedure applies: (1) The principal assigned by the West Virginia Board of Education shall be paid by the West Virginia Board of Education until the next school term, at which time the principal assigned by the West Virginia Board of Education shall be paid by the county board; (2) The principal who was removed shall be eligible for all positions in the county including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with section seven, article two, chapter eighteen-a of W. Va. Code, or by being placed on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of the W. Va. Code; and (3) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term. The county board shall take no action nor refuse any action if the effect would be to impair further the school in which the West Virginia Board of Education has intervened. The West Virginia Board of Education may appoint a monitor pursuant to the provisions of this subsection to assist the school principal after intervention in the operation of a school is completed.

e. Whenever a school is determined to be low performing and fails to improve its status within one year following state intervention in the operation of the school to correct the low performance, any student attending the school may transfer once to the nearest fully accredited school in the county, subject to approval of the fully accredited school and at the expense of the school from which the student transferred.

§126-13-14. School System Approval.

14.1. The West Virginia Board of Education annually shall review information submitted for each school system from the system of education performance audits and issue one of the following approval levels to each county board: Full approval, conditional approval, temporary approval, or nonapproval.

14.2. Full approval shall be issued to a county board whose schools have all been issued full, conditional, or temporary accreditation status and which does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the West Virginia Board of Education. A fully approved school system in which such other deficiencies are discovered shall remain on full approval status for the remainder of the approval period and shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

14.3. Conditional approval shall be issued to a county board whose educational system is below the level required for full approval, but whose electronic county strategic improvement plan meets the following criteria: (1) the plan has been revised to achieve full approval by a date certain, (2) the

plan has been approved by the West Virginia Board of Education, and (3) the county board is meeting the objectives and time line specified in the revised plan.

14.4. Temporary approval shall be issued to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its electronic county strategic improvement plan to increase the performance and progress of the school system to a full approval status level. The revised plan shall include objectives, a time line, a plan for evaluation of the success of the improvements, a cost estimate, and a date certain for achieving full approval. The revised plan shall be submitted to the West Virginia Board of Education for approval.

14.5. Nonapproval status shall be issued to a county board which fails to meet the criteria established by the West Virginia Board of Education.

§126-13-15. Nonapproval Status. A school system shall be designated as on nonapproval status when one or more of the following conditions exist:

15.1. The county board fails to submit and gain approval of its electronic county strategic improvement plan.

15.2. A county board on temporary approval status fails to submit its revised electronic county strategic improvement plan within 30 days following written notification of the temporary approval status.

15.3. A county board on conditional approval status fails to meet the objectives and time line of its revised plan.

15.4. A county board on conditional approval status fails to achieve full approval status by the date certain specified in the revised plan.

15.5. The West Virginia Board of Education may issue nonapproval status to a county board when extraordinary circumstances exist. Extraordinary circumstances are conditions that constitute major impediments to the provision of education programs and services for students. Extraordinary circumstances may include: Misappropriation of funds; misuse of funds; falsification of reports and/or failure to submit required reports; violation of W.Va. Code or West Virginia Board of Education policies that impacts the provision of an appropriate educational program; unhealthy or unsafe conditions for students and/or employees; failure to provide a high quality and equal educational opportunity for students, or deficiencies in leadership according to Section 6.9. (Policy 1340)

15.6. Whenever a county board has more than a casual deficit the county board shall submit a plan to the West Virginia Board of Education specifying strategies for eliminating the casual deficit. The West Virginia Board of Education shall either approve or reject the plan. Any county board that fails to submit and gain approval for the plan before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which fails to comply with an approved plan may be designated as having nonapproval status.

15.6.1. Whenever nonapproval status is issued to a school system, the West Virginia Board of Education shall declare a state of emergency in the school system by written notification and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency.

15.6.2. Upon approval of the recommendations by the West Virginia Board of Education, the recommendations shall be made in writing to the county board. If progress in correcting the emergency, as determined by the West Virginia Board of Education, is not made within six months of receipt of the recommendations, the West Virginia Board of Education shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided.

15.6.3. This intervention may include, but is not limited to the following:

a. Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and rules and any other areas designated by the West Virginia Board of Education by rule, which may include delegating decision-making authority regarding these matters to the state superintendent;

b. Declaring that the office of the county superintendent is vacant;

c. Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions, and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions;

d. Functioning in lieu of the county board of education in a transfer, sale, purchase, or other transaction regarding real property; and

e. Taking any direct action necessary to correct the emergency including, but not limited to, the following: (1) Delegating to the state superintendent the authority to replace administrators and principals in low performing schools and to transfer them into alternate professional positions within the county at his or her discretion; and (2) Delegating to the state superintendent the authority to fill positions of administrators and principals with individuals determined by the state superintendent to be the most qualified for the positions. Any authority related to intervention in the operation of a county board granted under this paragraph is not subject to the provisions of article four, chapter eighteen-a of the W.Va.Code. (W.Va.Code §18-2E-5(g))

15.6.4. The West Virginia Board of Education may intervene immediately in the operation of a county school system if the West Virginia Board of Education finds the following: (1) That the conditions precedent to intervention exist as provided in this section and that delaying intervention for any period of time would not be in the best interests of the students of the county school system; or (2) That the conditions precedent to intervention exist as provided in this section and that the West Virginia Board of Education had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

§126-13-16. Appeals Procedure.

16.1. General rules. The following procedure prescribed by the West Virginia Board of Education and implemented by the Director, Office of Education Performance Audits, governs the disposition of administrative proceedings, the hearing of appeals, and controversies and disputes arising from the school accreditation status and the county school district approval status. The appeals procedure is promulgated to assure procedural due process and expeditious processing and resolution of school accreditation status and the county school district approval status appeals.

16.1.1. Resolution Time line. The appeals procedure shall be resolved within 30 days.

16.1.2. Parameters. The appeals procedure governs school and county school system performance data and the accuracy of a school's accreditation status and a county school district's approval status based on data or on-site review. Schools or county school districts may challenge the accuracy of performance data in terms of meeting performance measures relative to a school's accreditation status or a county school district's approval status.

16.2. Appeal Levels. A school or a county school district has five days upon receipt of the impending designation to appeal to the West Virginia Office of Education Performance Audits.

16.2.1. Level I. Upon receipt of the appeal, the West Virginia Office of Education Performance Audits will review the appeal. The review may involve verifying performance data with the West Virginia Department of Education data collection personnel or those serving as team leaders. A written decision will be rendered and sent to the school and/or county school district within five working days of receipt of the appeal. If data are accurate and correctly applied, the appeal process shall be complete. If data are deemed inaccurate, as verified by the West Virginia Department of Education, the Office of Education Performance Audits will make appropriate adjustments. Reasons for any noncompliance will be provided.

16.2.2. Level II. If the school or county school district is dissatisfied with the decision at Level I, they may request (within five working days of receipt of the Level I decision) a hearing before the Director, Office of Education Performance Audits, or designee with a written decision rendered within five working days of the hearing. If the appeal is based on data generated or observations made during an on-site review, the specific information leading to the noncompliance will be given.

16.2.3. Level III. If the school or county school district is dissatisfied with the decision at Level II, they may submit an appeal (within five working days of receipt of the Level II decision) to the West Virginia Board of Education to be considered at its next meeting. The Board's review and decision would be based on the record of the decision established at Level II.

§126-13-17. On-Site Reviews.

17.1. The system of education performance audits shall include on-site reviews of schools and school systems or an institutional school operated by the West Virginia Department of Education which shall be conducted only at the specific direction of the West Virginia Board of Education upon its determination that the performance and progress of the school or school system are persistently below standard or that other circumstances exist that warrant an on-site review. Any discussions by the West Virginia Board of Education of schools to be subject to an on-site review or dates for which on-site reviews will be conducted may be held in executive session, and is not subject to the provisions of article nine-a chapter six of W. Va. Code, relating to open governmental proceedings.

17.2. An on-site review shall be conducted by the Office of Education Performance Audits of a school or school system for the purpose of investigating the reasons for performance and progress that are persistently below standard and making recommendations to the school and school system, as appropriate, and to the West Virginia Board of Education on such measures as it considers necessary to improve performance and progress to meet the standard.

17.3. The investigation may include, but is not limited to, the following:

17.3.1. Verifying data reported by the school or county board.

17.3.2. Examining compliance with policies and laws affecting student, school, and school system performance and progress.

17.3.3. Evaluating the effectiveness and implementation status of school and school system Unified Improvement Plans.

17.3.4. Investigating official complaints submitted to the West Virginia Board of Education that allege serious impairments in the quality of education in schools or school systems.

17.3.5. Investigating official complaints submitted to the West Virginia Board of Education that allege that a school or county board is in violation of policies or laws under which schools and county boards operate.

17.3.6. Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the Health Department, the School Building Authority of West Virginia and the responsible divisions within the West Virginia Department of Education, and whether noted deficiencies have been or are in the process of being corrected. The Office of Education Performance Audits may not conduct a duplicate review or inspection of any compliance reviews or inspections conducted by the West Virginia Department of Education or its agents or other duly authorized agencies of the state, nor mandate more stringent compliance measures.

17.4. The Director of the Office of Education Performance Audits shall notify the county superintendent of schools five school days prior to commencing an on-site review of the county

school system and shall notify both the county superintendent and the principal five school days prior to commencing an on-site review of an individual school: Provided: That the West Virginia Board of Education may direct the Office of Education Performance Audits to conduct an unannounced on-site review of a school or a school system if the West Virginia Board of Education believes circumstances warrant an unannounced on-site review.

17.5. The Office of Education Performance Audits shall conduct on-site reviews, which are limited in scope to specific areas in which performance and progress are persistently below standard as determined by the West Virginia Board of Education unless specifically directed by the West Virginia Board of Education to conduct a review which covers additional areas.

17.6. An on-site review of a school or school system shall include a person or persons from the West Virginia Department of Education or a public education agency in the state who has expert knowledge and experience in the area or areas to be reviewed, and who has been trained and designated by the West Virginia Board of Education to perform such functions. If the size of the school or school system being reviewed necessitates the use of an on-site review team or teams, the person or persons designated by the West Virginia Board of Education shall advise and assist the director to appoint the team or teams. The person or persons designated by the West Virginia Board of Education shall be the team leaders. The persons designated by the West Virginia Board of Education shall be responsible for completing the report on the findings and recommendations of the on-site review in their area of expertise. It is the intent of the Legislature that the persons designated by the West Virginia Board of Education participate in all on-site reviews that involve their area of expertise, to the extent practicable, so that the on-site review process will evaluate compliance with the standards in a uniform, consistent and expert manner.

17.7. At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and curriculum team of the school and the superintendent shall be provided the opportunity to be present. The purpose of the exit conference is to review the initial findings of the on-site review, clarify and correct any inaccuracies, and allow the opportunity for dialogue between the reviewers and the school or school system to promote a better understanding of the findings.

17.8. The Office of Education Performance Audits shall report the draft findings of an on-site review to the county superintendent and the principals whose schools were reviewed within 30 days following the conclusion of the on-site review. The Office of Education Performance Audits shall report the findings of the on-site review to the West Virginia Board of Education within 45 days following the conclusion of the on-site review. A copy of the report shall be provided to the Process for Improving Education Council at its request.

17.9. A school or county that believes one or more findings of a review are clearly inaccurate, incomplete or misleading; misrepresent or fail to reflect the true quality of education in the school or county; or address issues unrelated to the health, safety and welfare of students and the quality of education may appeal to the state board for removal of the findings. The state board shall report to the Legislative Oversight Commission on Education Accountability during its July interim meetings, or as soon thereafter as practical, on each appeal during the preceding school year.

17.10. If, during an on-site review, a school or county board is found to be in noncompliance with one or more standards, the school and county electronic strategic improvement plans must be revised and shall be submitted to the West Virginia Board of Education within 30 days of receipt of the draft written report. The plans shall include objectives, a time line, a plan for evaluation of the success of the improvements, a cost estimate and a date certain for achieving full accreditation and/or full approval status as applicable.

17.11. If an acceptable plan is presented to the West Virginia Board of Education, the county board and school(s) shall implement the plan(s) in accordance with the date certain.

17.12. If the plan submitted to the West Virginia Board of Education is not acceptable, the Director of the Office of Education Performance Audits may return the plan for modification or has discretion to modify the plan in consultation with the county board and resubmit the plan to the West Virginia Board of Education as modified.

17.13. The on-site review process (a) requires the local school system to correct the deficiencies which are within its capacity to correct and (b) identifies those areas in which additional capacity may be needed.

§126-13-18. Capacity Building.

18.1. Capacity building is a process for targeting resources strategically to improve the teaching and learning process. School and county electronic strategic improvement plan development is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school, and school system performance.

18.2. To ensure efficiency, capacity building first requires determinations to be made with respect to the highest and best use of existing resources to improve teaching and learning. Resources include both human resources and physical resources. The West Virginia Board of Education hereby adopts resource evaluation as one of the steps necessary to make determinations for needed capacity building to improve efficiency and establish priorities for additional resource needs when the educational program of a school or school system fails to meet the performance and process standards.

18.2.1. When deficiencies are detected through the assessment and accountability processes, the revision and approval of the school and county electronic strategic improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies.

18.2.2. When the West Virginia Board of Education determines that schools and school systems do not have the capacity to correct deficiencies, the West Virginia Board of Education shall work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor.

18.3. The West Virginia Board of Education shall recommend to the appropriate body including, but not limited to, the process for improving education council, the Legislature, county boards, schools, and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes, including but not limited to the following:

18.3.1. Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools, and school systems relative to the standards and identifying the areas in which improvement is needed;

18.3.2. Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance of students or the deficiencies of the school or school system;

18.3.3. Determining the areas of strength that appear to have contributed to exceptional student, school, and school system performance and progress and promoting their emulation throughout the system;

18.3.4. Requesting technical assistance from the school building authority of West Virginia in assessing or designing comprehensive educational facilities plans;

18.3.5. Recommending priority funding from the school building authority of West Virginia based on identified needs;

18.3.6. Requesting special staff development programs from the center for professional development, the principals' academy, higher education, regional education service agencies, and county boards based on identified needs;

18.3.7. Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;

18.3.8. Directing county boards to target their funds strategically toward alleviating deficiencies;

18.3.9. Ensuring that the need for facilities in counties with increased enrollment is appropriately reflected and recommended for funding;

18.3.10. Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

18.3.11. Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

18.3.12. Resource evaluation is a part of the education performance audit and will lead to recommendations regarding areas in which additional capacity is needed by the county school

system or school. Corrective measures to be taken in response to any identified resource deficiencies will be subject to the feasibility of modifying existing facilities, availability of funding, and prioritization of educational needs.

§126-13-19. Identification of Resource Needs. A thorough and efficient system of schools requires the provision of an adequate level of appropriately managed resources. The West Virginia Board of Education has heretofore adopted resource evaluation as a part of the accreditation and evaluation process. This process will meaningfully evaluate the needs for facilities, personnel, curriculum, equipment and materials in each of the county's schools and how those impact program and student performance.

19.1. Facilities, equipment, and materials. Facilities and equipment specified in Policy 6200, Chapters 1 through 14, are available in all schools, classrooms, and other required areas. A determination will be made by using the Process for Improving Education (W.Va. Code §18-2E-5) whether any identified deficiencies adversely impact and impair the delivery of a high quality educational program if it is below the West Virginia Board of Education standards due to inadequacies or inappropriate management in the areas of facilities, equipment, and materials. The Education Performance Audit Teams shall utilize an assessment instrument for the evaluation of school facilities, which generally follows the requirements of Policy 6200. Note: Corrective measures to be taken in response to any identified resource deficiency will of necessity be subject to the feasibility of modifying existing facilities, consideration of alternative methods of instructional delivery, availability of funding, and prioritization of educational needs through Comprehensive Educational Facilities Plans and the School Building Authority of West Virginia. This policy does not change the authority, judgment, or priorities of the School Building Authority of West Virginia who is statutorily responsible for prioritizing "Need" for the purpose of funding school improvements or school construction in the State of West Virginia or the prerogative of the Legislature in providing resources. (Policy 6200 and Tomblin v. Gainer)

19.1.1. School location. School location and site generally meet minimum standards. (Policy 6200 §202-206)

19.1.2. Administrative and service facilities. Administrative and service facilities are generally adequate. (Policy 6200 §§301.01-.03)

19.1.3. Teachers' workroom. The teachers' workroom is adequate. (Policy 6200 §301.04)

19.1.4. Counselor's office. The counselor's office is adequate. (Policy 6200 §301.10)

19.1.5. Library/media and technology center. The library/media and technology center meets standards. (Policy 6200 §§303;413;514)

19.1.6. Grades 9 through 12 computer laboratory. The grades 9 through 12 computer laboratory is adequate in facility, equipment, and materials. (Policy 6200 §613)

19.1.7. Kindergarten classrooms. Each kindergarten classroom has sufficient space, equipment, and materials. (Policy 6200 §402.01; §402.05)

19.1.8. Grades 1-12 classrooms. Each classroom has sufficient space, equipment and materials. (Policy 6200 §§403; 502; 602)

19.1.9. Grades K-12 remedial. Each remedial instructional area has sufficient space, equipment and materials. (Policy 6200 §§404; 503; 603)

19.1.10. Specialized instructional areas. Each art, music, and physical education area has sufficient space, equipment and materials. (Policy 6200 §§410; 412, 504; 509; 510; 604; 608; 609)

19.1.11. Grades 6-12 science facilities. Each specialized instructional area in science has sufficient space, equipment and materials. (Policy 6200 §511; §610)

19.1.12. Grades 7-12 auditorium/stage. Auditorium/stage facilities are adequate. (Policy 6200 §519; §616)

19.1.13. Grades 7-12 schoolsite vocational. Main schoolsite vocational space is available for business education and informational technology and other appropriate courses to meet curriculum needs. (Policy 6200 §611; §613)

19.1.14. Food service. Food service areas are adequate. (Policy 6200 §302; §617)

19.1.15. Health service units. Health service units are adequate. (Policy 6200 §301)

19.1.16. Grades 7-12 vocational. Vocational equipment and materials in each curriculum area are adequate to meet curriculum needs. (Policy 6200 §§801-809)

19.2. School personnel. Adequate administrative, instructional, support, and service personnel are provided.

19.2.1. School personnel. Adequate administrative, instructional, support, and service personnel are provided to deliver the programs of study and services that meet W.Va. Code and West Virginia Board of Education policies. (Policy 2320; Policy 2510; Policy 2520; et al.)