CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, Section § 42-35-2.6 of the General Laws of Rhode Island, following is a concise explanatory statement:

AGENCY: Department of Elementary and Secondary Education

DIVISION: *(If any)*

RULE IDENTIFIER: *200-RICR-20-10-6*

RULE TITLE: Regulations Governing the Intervention and Support for Failing Schools

REASON FOR RULEMAKING: The purpose of these regulations is to provide criteria and a procedure for determining the end of turnaround status for Local Education Agencies (LEAs) subject to intervention and support pursuant to R.I. Gen. Laws § 16-7.1-5, and to return control over the operation of such LEAs from the Council on Elementary and Secondary Education (Council) back to the local school board or committee.

ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE: *(if any)*

TESTIMONY AND COMMENTS: See attached public feedback.

CHANGE TO TEXT OF THE RULE: Please see attached summary of public feedback and RIDE's rationale for changes.

REGULATORY ANALYSIS: Provide the text of the regulatory analysis prepared under § 42-35-2.9.

Regulations Pursuant to Rhode Island General Law § 16-7.1-5.1
Benefit-Cost Analysis

Rhode Island Department of Education | February 2024

Introduction

The Rhode Island Department of Education (RIDE) has undertaken the creation of regulations to provide criteria and a procedure for determining the end of turnaround status for Local Education Agencies (LEAs) subject to intervention and support pursuant to R.I. Gen. Laws § 16-7.1-5, and to return control over the operation of such LEAs from the Council on Elementary and Secondary Education (Council) back to the local school board or committee. The Rhode Island General Assembly in 2022 mandated that RIDE create these regulations pursuant to R.I. Gen. Law § 16-7.1-5.1.

RIDE has developed these proposed regulations with input from public education stakeholders and experts and by examining education policy best practices. Additionally, these proposed regulations were created by looking at similar regulatory language from Massachusetts and adjusting language to tailor the regulations to meet Rhode Island's specific requirements.

Scope/Summary

This analysis considers regulatory provisions where RIDE exercised discretion and does not analyze any provision mandated by state or federal law. These regulations were mandated by the General Assembly and as such RIDE is complying with the provisions stipulated in R.I. Gen. Law § 16-7.1-5.1 (d). This analysis reviews the following key relevant sections within the regulations:

1. Progress Measures (20-10-6.4-A)
2. Report on Turnaround Status (20-10-6.4-B through 20-10-6.4-C)
3. Recommendation on Turnaround Status (20-10-6.4-D through 20-10-6.4-F)
4. Transitional Periods (20-10-6.5-A through 20-10-6.5-D)
5. Reviewing Transitional Periods (20-10-6.5-E through 20-10-6.5-F)
6. Council Approval (20-10-6.6)

Within the proposed regulatory sections identified above, there is a discussion of additional regulatory changes as well as regulatory alternatives that were considered for several of the provisions, as well as the benefits and costs associated with each regulatory section.

Progress Measures

Proposed Regulation

This section of the regulations requires that the Commissioner include within an LEA's (Local Education Agency's) turnaround plan progress measures that the LEA must meet to exit turnaround status. These progress measures may include both academic and non-academic progress measures. The measures must be informed by input from community and other stakeholder engagement that helped inform the creation of the turnaround plan and include academic measures that align to relevant components of the local education agency accountability system, as identified in R.I. Gen. Laws § 16-97.1-1. They must also include any additional progress measures identified for specific LEAs pursuant to R.I. Gen. Laws § 16-7.1-5.1. This proposed regulation aligns with existing Massachusetts regulations, specifically sections 603 CMR 2.06 (12) (a-b).

Regulatory Citation

20-10-6.4 (A)

Costs

The cost of this regulatory requirement would be de minimis as there are no additional costs beyond what is already prescribed by state law. R.I. Gen. Laws § 16-7.1-5.1 already contemplates the creation of a turnaround plan, while R.I. Gen. Laws § 16-97.1-1 also already requires LEAs to complete and file with the Commissioner a LEA improvement plan. Thus, these regulations simply contextualize the type of metrics that shall be included in the LEA's turnaround plan. This requirement will involve the time and input of those involved in the creation of the Turnaround Plan, as well as the effort of those tasked with implementing the Turnaround plan. As the individuals involved in the creation of the turnaround plan are salaried, these regulations would not require additional staffing costs above current expenditures.

Benefits

The benefits of this regulatory proposal include a consistency of approach to assessing LEAs' turnaround action plan progress measurements and ensuring that LEAs will have a holistic set of measures, inclusive of academic and non-academic progress, to evaluate the progress of the Turnaround Plan. Further, the requirement of including community and stakeholder input in the development of such measures within the turnaround plan also ensures that local voices are heard in the turnaround process. While this section is modeled after similar Massachusetts regulations, the Massachusetts regulations do not include such a community input process. Their experiences may shed important light for policymakers to address common areas of concern, both academic and non-academic progress measures, and ensure that the progress measures within the turnaround action plan meet the needs of the LEA and the LEA's community in question. Since this regulation was crafted with input from educational policy experts and by evaluating systems from other states, in particular Massachusetts, this regulatory requirement comports with best practices.

Alternative

The proposed regulations include a focus only on academic progress measures and allows the turnaround plan to include non-academic progress measures.

Determination

While there is no fiscal cost differential with this proposed alternative, the myopic focus on academic progress measures only would ignore the ability for LEAs to monitor progress in addressing the underlying root causes for which the LEA entered turnaround in the first place. Further, an analysis of LEA turnaround plans in Massachusetts identifies that Massachusetts includes the monitoring of non-academic progress measures and implementation milestones. Further, RIDE's Basic Education Program elevates the importance on focusing on LEA capacity and practices as a critical driver for improving student outcomes. Therefore, including non-academic progress measures proves beneficial, and the alternative was deemed not preferred to the proposed regulations.

Report on Turnaround Status

Proposed Regulation

This regulation would mandate that the Commissioner crafts a report to be delivered to the Council prior to the end of any order under R.I. Gen. Law § 16-7.1-5. This report will include whether the LEA has made sufficient progress towards achieving its goals formulated in the Turnaround Plan, and the local governance capacity of the LEA to sustain such progress should governance of the LEA return to local control. The evaluation of local governance capacity includes review of: a) the LEA's capacity; b) the LEA's school committee capacity to support the LEA, in alignment with the responsibilities outlined in R.I. Gen. Laws § 16-2-9, as well as other site-based management and governance best practices; and, c) the legally responsible municipal entity for the LEA's capacity to support the LEA school committee, including the demonstration of said support through the contribution of sufficient local funding to the local school committee or board necessary to sustain and continue the LEA's progress, including compliance with statutory maintenance of effort requirements as identified in R.I. Gen. Laws § 16-7.1-5. The report may also include a review of the additional financial resources provided to the LEA caused by the LEA being placed in turnaround status, and the financial impact to the LEA of ending its turnaround status. The regulations also require the Commissioner to engage community stakeholders and consult directly with the LEA school committee or board as part of the report generation process to help inform the aforementioned analysis within the report.

Regulatory Citation

20-10-6.4 (B); 20-10-6.4 (C)

Costs

Fiscal costs associated with the fulfillment of this regulatory section pertain to any activities associated with the review and analysis of the LEA's turnaround plan. As identified in the accompanying fiscal note, such costs are projected to be $155,554, inclusive of the time and effort of RIDE staff to develop and complete the review process ($53,671), external contracted services to assist in developing and conducting a review ($100,000), and time and effort for LEA staff and additional stakeholders to participate in the review process ($18,832). This approach is consistent with Massachusetts' review of LEA turnaround plan. It should be noted that LEAs are already required to participate in reviews pursuant to the Education Accountability Act (EAA) R.I. Gen. Law § 16-97.1-1 (e). Because the review processes as outlined in the proposed regulations would be encompassed by the requirement of compliance with reviews in the EAA, it is therefore worth noting that such costs in terms of staff time and effort for both RIDE as well with LEAs are also contemplated within the fulfillment of the EAA would be incurred beyond what is already required by law. Furthermore, the proposed regulatory requirement that the legally required municipal entity demonstrate their capacity to support the LEA and the LEA's school commitment through the contribution of sufficient local funding comports with the already existing maintenance of effort requirements as identified in R.I. Gen. Laws § 16-7.1-5. Therefore, no

additional costs should be generated for the legally responsible municipal entity, assuming their compliance with R.I. Gen. Laws § 16-7.1-5.

Benefits

The proposed regulatory language builds off the existing best-practices and similar regulatory language from Massachusetts, while strengthening and contextualizing those already existing best-practices for Rhode Island, informed by feedback from national experts. Consistent feedback from national experts, including those intimately familiar with Massachusetts's turnaround plan process, highlighted the need to focus on evaluating both measure progress, as well as local governance capacity to sustain that progress. Thus, the proposed regulations incorporate that feedback into the review process. Ensuring that local school committees/boards and relevant local and municipal agencies are in a fiscally and governmentally sound place to regain and maintain control of the LEA will also help lower the chances of future costly state intervention policies and guard against backsliding to inefficient and ineffective strategies that harm student outcomes. Further, the requirement of community and stakeholder input, which is beyond what is required in Massachusetts's regulations, ensures that the Commissioner's report has structures in place to ascertain and collect as much qualitative and quantitative data germane to the report as possible. RIDE has specified within these regulations the stakeholders to be solicited as students, families, community members, educators, school leaders, LEA school committee or board members, and municipal entity leaders.

Alternative 1

The proposed regulations are enacted without the portion of section 20-10-6.4. (B) that requires the explicit consultation of stakeholder input in the Commissioner's report and recommendations. In its place would be inserted a recommendation of stakeholder and community input.

Determination

The inclusion of stakeholder input is not statutorily mandated, and as such does not have to be included within these regulations. The benefit of not engaging community stakeholders may be reduced time needed to create the Commissioner's report. The costs of this alternative scenario include the negative perception of the reporting process as unresponsive to community feedback and input. Additionally, stakeholder engagement may help the Commissioner make an accurate and fully informed recommendation to the Council. Without this information, the Commissioner may recommend that does not fully comport with facts on the ground, potentially wasting resources on unneeded interventions or overlook a problem area that requires attention to help realize student achievement and Turnaround Plan goals. While this scenario proposes a recommendation to consult community stakeholders, the fact that there is no requirement may lead to this recommendation going unheeded. This alternative scenario does not meet the standard of increased benefit, or decreased cost and in fact would be significantly more costly.

Alternative 2

The proposed regulations are enacted without section 20-10-6.4. (C), thus excluding any reporting or determination around the LEA capacity for continuing and/or improving upon progress made under

state intervention. In its stead would be a provision only addressing a finding on fiscal solvency/capacity of requisite LEA and municipal leadership to return the LEA to local governance.

Determination

While this alternative has the benefit of addressing fiscal capacity for return to local control, this scenario would not address governance capacity. Without assessing governance capacity to continuously carry out successful initiatives, this alternative leaves open the cost incurred if LEA leadership falters because of inadequate governance capacity. If the school committee, say, does not have practices in place to continuously monitor data this may lead to a breakdown of improvements in student outcomes. The benefit of this scenario is reduced bureaucratic load on the Commissioner to assess governance and on LEAs would save the time and effort needed to ensure proper governance procedures and best practices. However, the costs associated with this scenario are greater than the costs associated with the proposed regulations.

Recommendation on Turnaround Status

Proposed Regulation

This proposed section of the regulation would allow the Commissioner to recommend whether the turnaround process should continue or whether to exit an LEA from turnaround status. If the Commissioner does recommend the continuation of the LEA's turnaround status, the Commissioner's recommendation will identify if the LEA will continue its turnaround status under the existing turnaround plan with amendments or a new turnaround plan, and whether additional supports, prerogatives, an/or resources are needed , from either the state and/or local municipality, that could make the turnaround plan more effective.

LEAs found to be ready to exit turnaround status to be released from any order pursuant to R.I. Gen. Law § 16-7.1-5.1. Any of the provisions specified in R.I. Gen. Law § 16-7.1-5.1 shall no longer apply to the LEA when control is returned to the local school committee or board. This proposed regulation aligns with existing Massachusetts regulations, specifically sections 603 CMR 2.06 (12) (c-e).

Regulatory Citation

20-10-6.4 (D)-(F)

Costs

The costs of this section of the proposed regulation are de minimis. The regulation may reduce costs, as this regulation allows a LEA to leave state control before the relevant order pursuant to R.I. Gen. Law § 16-7.1-5.1 expires if the requisite academic and governance progress has been achieved with the approval of the Commissioner and the Council. While the cost of this regulatory requirement would be de minimis, this requirement will involve the time and effort of those involved in the

creation of the Commissioner's report, as well as the Council in its deliberations on the Commissioner's report and recommendations. Additionally, the Commissioner may recommend supports, prerogatives, and/or resources that do incur a monetary cost either to the state or an LEA. Because these costs are not mandated as the regulations only enable the Commissioner to make a recommendation and would require further authorization from the proper state or municipal legal entities, they are not calculated in this analysis.

Benefits

This proposed regulation meets the statutory requirements outlined by the General Assembly in R.I. Gen. Law § 16-7.1-5.1. Additionally, as noted above, this requirement may help reduce costs if an LEA is able and willing to exit turnaround status before the expiration of the relevant order pursuant to R.I. Gen. Law § 16-7.1-5.1. Finally, an LEA may benefit from increased access to support and services recommended by the Commissioner. These recommendations may allow for more effective and/or cost-effective intervention strategies to replace outdated or less effective strategies and support.

Alternative

The proposed regulations are enacted with an alteration in 20-10-6.4. (D) which would not include a specific allowance for the Commissioner to provide an analysis of whether additional support is needed by an LEA being reviewed.

Determination

This alternative scenario removes the Commissioner's ability to identify critical tools that are needed to help improve and sustain performance aligned to the LEA's turnaround plan. As a result, this increases the risk associated with the LEA turnaround plan failing to improve and sustain its relative performance. As there are no costs associated with the action enabling the Commissioner to include such a recommendation, and the LEA and general public would benefit from being aware of the additional supports, prerogatives, and/or resources that are needed to improve student performance, the benefits of the presentation regulation outweigh any benefits associated with this alternative scenario.

Transitional Periods

Proposed Regulation

This regulatory section expounds upon the provision within R.I. Gen. Law § 16-7.1-5.1 that enables the Commissioner to retain powers to effectuate components of the turnaround plan during the transitional period. R.I. Gen. Law § 16-7.1-5.1 further requires the specification of conditions under which this transitional period shall end, and powers granted to the Commissioner cease to apply to the district. The

regulations further detail and require the Commissioner to specify the progress measures that must be met for each feature of the transitional plan, the progressive levels of control retained by RIDE to carry out each feature of the turnaround plan during the transitional period, and if such transitional period is applicable to the entire LEA, or only a subset of schools within the LEA. This proposed regulation aligns with existing Massachusetts regulations, specifically sections 603 CMR 2.06 (13) (b-e).

Regulatory Citation

20-10-6.5 (A) - 20-10-6.5 (C)

Costs

The costs of this regulation are de minimis. The creation of the turnaround plan report for LEAs remaining in a period of transitional control will require the time and effort of the Commissioner and relevant officials to create and for the Council to approve. While there may be associated costs with the implementation of Turnaround Plan provisions and continuation of state control over the LEA, these costs are de minimis as they have already been incorporated previously with the state's prior exertion of control over the school system, which was born by the invocation of R.I. Gen. Law § 16-7.1-5, and not originally created by these regulations. Further these costs could be lower than those associated with continuing full state control under turnaround status. In addition, as progress measures have already been established for the turnaround plan which would be transferred to apply to features of the plan retained during the transitional period, the costs associated with this provision would be de minimis.

Benefits

The benefits of this proposed regulation include systematizing the process of returning a LEA to local control, thus saving time on discussions around how best to return control to local governance. The use of a transitional period is already a best practice for returning school systems from state to local control, as identified in both Massachusetts, as well as other states such as New Jersey. Additionally, allowing LEAs to remain under partial, but not complete, state control may help reduce bureaucratic costs associated with maintaining full state control when there is only need for partial state control. This arrangement allowing for gradual release may also help LEAs build up institutional capacity and skills needed to effectively manage full control while maintaining state aid where needed. This may be more efficient than simply having full local control resume and avoid associated changeover costs.

Alternative 1

The proposed regulations are enacted without section 20-10-6.5. (E), in its stead would be enacted a mandatory exit of turnaround status after 2 years.

Determination

This alternative scenario would impose a hard stop on the transition period after 2 years. This alternative has the benefit of ensuring that sunk costs are slated to end. It also ensures that there is a specific and widely known time which all parties know marks the end of even partial state control. This

would reduce the potential costs associated with continuously reporting on transitional control status, such as the reports by the Commissioner and the deliberation by the council. However, the costs of this period include the cost of too speedily transitioning a LEA, even if that LEA and the state both agree that more time would be needed to ensure the LEA has built up the structures and capacity necessary to reestablish effective control of the school system. This scenario is easily avoided in the proposed regulations and as such, it is better than this alternative.

Alternative

The proposed regulations are enacted without section 20-10-6.5. (C)(3), instead simply stating that the transitional period only applies to the entire LEA.

Determination

This alternative scenario might help streamline bureaucratic oversight of a school system if the entire LEA is under a transition plan compared to only a subset of schools. However, multiple examples in other states, including Massachusetts, have identified the need for sometimes intervention specifically in a certain school rather than the whole district. Further, R.I. Gen. Law § 16-7.1-5 contemplates the intervention of both low performing schools as well as low performing school systems. Thus, the alternative scenario excludes the ability for RIDE to maintain oversight over specific chronically low performing schools through a transitional period, in alignment with the intent of R.I. Gen. Laws § 16-7.1-5 and § 16-7.1-5.1, and in contradiction with existing best-practices in other states, and thus risks potentially incurred costs of continued low school performance. As such, the benefits of the proposed regulations are greater than the benefits with this proposed scenario.

Reviewing Transitional Periods

Proposed Regulation

This regulatory section requires that two years after exit of turnaround status and/or renewal of transitional period, the Commissioner will conduct a review of the remaining Turnaround Plan provisions in the transitional period and provide recommendations for continuation or relinquishing of control. Further, the regulatory section enables the Commissioner to provide a report at any time during the transitional period recommending return to state control if the Commissioner feels it is in the best interests of the students of that LEA. The Council may then determine whether to reestablish state control through a legally authorized method.

Regulatory Citation

20-10-6.5 (D) – (F)

Costs

The direct costs associated with this section are consistent with those identified previously for the standard review and recommendation decisions for the initial turnaround plan. As stated before, this review would be consistent with the EAA, which already contemplates and requires a review of LEA performance. Further, while the resulting recommendation of the resumption of state control may incur costs associated with RIDE staff time and effort, the associated costs of the renewal of state control may well be less than the cost of continuing to let a LEA flounder or regress from previously achieved goals. It is possible that by not renewing control, the LEA in question could face even more drastic and expensive intervention further down the line. These costs would be borne not only by the LEA in question and the state through intervention, but by the students of the LEA in reduced human capital capacity and reduced future employment opportunities.

Benefits

Establishing a two-year time frame and maintaining a consistent process provides LEAs, the state, and local stakeholders clear guidance and procedures for assessing the impact and progress of an LEA during a transitional period, while also providing flexibility to make adjustments to said transitional periods in a manner that will best improve student outcomes. Further, by enabling flexibility to return an LEA to state control if the school system diminishes its performance during the transitional period, should a LEA require state support in an area that the state had previously returned to local control, there would not be institutional costs associated with determining how best to meet demands. Rather, there would be a preestablished procedure with a degree of flexibility for policymakers and stakeholders at the state and local level for ensuring that the partnership between state and local government remains aligned with the best interests of Rhode Island's students.

Alternative 1

The proposed regulations are enacted without section 20-10-6.5. (E), in its stead would be enacted a mandatory exit of turnaround status after 2 years.

Determination

This alternative scenario would impose a hard stop on the transition period after 2 years. This alternative has the benefit of ensuring that sunk costs are slated to end. It also ensures that there is a specific and widely known time which all parties know marks the end of even partial state control. This would reduce the potential costs associated with continuously reporting on transitional control status, such as the reports by the Commissioner and the deliberation by the council. However, the costs of this period include the cost of too speedily transitioning a LEA, even if that LEA and the state both agree that more time would be needed to ensure the LEA has built up the structures and capacity necessary to reestablish effective control of the school system. This scenario is easily avoided in the proposed regulations and as such, it is better than this alternative.

Alternative 2

The proposed regulations are enacted without section 20-10-6.5. (F). The Commissioner would instead only maintain the preexisting power to bring to the Council a recommendation for full state control.

Determination

This alternative does not provide the Commissioner with additional power to recommend the return of a school LEA to full state control. The benefit of this scenario is that the Commissioner saves time and resources that would have otherwise been spent on reporting on a request for return to control to the Council. However, the cost of this scenario is that the Commissioner still holds the power to request to invoke R.I. Gen. Law § 16-7.1-5.1 and return a LEA to state control through that mechanism. This would incur the costs associated with creating a new order, creating a new turnaround plan, and restarting from scratch a process that could have otherwise been introduced through the proposed regulations. For these reasons, this scenario was found to be inferior to the proposed regulations.

Council Approval

Proposed Regulation

This regulation provides that in the event that an order expires and/or a transitional period ends after a recommendation is made to the Council, but prior to the Council's action upon said recommendation, said period of control or transition shall continue in effect until such time as the Council acts upon said recommendation. would require the Council to make the ultimate decision on the turnaround status of the LEA.

Regulatory Citation

20-10-6.6

Costs

The costs of this regulation are de minimis. This regulation affirms the Council's role in finalizing any determination on entry into, exit from, or change to turnaround status of a given LEA. There may be time costs associated with the Council's deliberation, there also may be costs associated with the continuation of the Turnaround Plan after the expiration of an order pursuant to R.I. Gen. Law § 16-7.1-5.1. This circumstance is possible, but not required by this regulation and would only occur should the Council take a significant period of time to make a determination on a LEA's turnaround status.

Benefits

This proposed section of regulation would reaffirm the Council's role in finalizing any determination of entry into or exit from turnaround status or transitional period. Having a clear decision maker helps ensure stakeholders know to whom they are responsible and what each stakeholder's responsibilities include. Further, the inclusion of this regulation provides the Council with the flexibility and time to conduct their due diligence in reviewing any recommendation presented by the Commissioner and prevents a scenario that might rush a decision-making process. This reduces confusion amongst

stakeholders and the general public and allows decisions to be made in a transparent and publicly accessible light.

Alternative

The proposed regulations are enacted without section 20-10-6.5. (F). There would be no replacement language added to the regulations.

Determination

As stated above, the exclusion of this language may result in a scenario where the Council has limited time to review and deliberate a recommendation by the Commissioner. Such a scenario is a disservice to the general public and hampers the Council's decision-making abilities. As such, this scenario would not provide the clarity or opportunity for support that the proposed regulations contain.

Conclusion and Determination

This analysis was drafted pursuant to R.I. Gen. Laws § 42-35-2.9. As required by this statute, RIDE has determined that the benefits of the proposed rule justify the costs and that the proposed rule will achieve the objectives of the authorizing statute in a more cost-effective manner, or with greater net benefits, than other regulatory alternatives.