COLORADO COMMISSION ON HIGHER EDUCATION

ACCESS TO HIGH-QUALITY, AFFORDABLE EDUCATION FOR ALL COLORADANS

THE 2006 STATUS OF PERFORMANCE CONTRACTS:

REPORT TO THE GOVERNOR AND COLORADO GENERAL ASSEMBLY IN RESPONSE TO SB 04-189

APRIL 2007

The purpose of this paper is to report on the status of Colorado's public institutions' compliance with specific requirements as stated within their respective performance contracts, and to provide a description of the institutions' current and future performance contract requirements. Information in this report was provided to the Colorado Commission on Higher Education in response to SB 04-189.

1380 Lawrence Street, Suite 1200 • Denver, Colorado 80204 • (303) 866-2723

DAVID SKAGGS, EXECUTIVE DIRECTOR

Prepared by:

Division of Academic Affairs
Colorado Department of Higher Education
1380 Lawrence Street
Suite 1200
Denver, CO 80204
(303) 866-2723

April 2007

OVERVIEW

The Department of Higher Education (DHE) is charged, in section 23-5-129(2) C.R.S., to annually report to the Governor and General Assembly on the progress made towards the goals set forth in each public or private institution's performance contract. To accomplish this, performance contracts contain reporting requirements specific to each governing board.

To assist governing boards and institutions in the reporting of data to demonstrate compliance with performance measures, the DHE staff prepared reporting guidelines with templates for written reports and reporting calendars. Hard-copies of the guidelines were provided to governing board chairs, presidents and vice-presidents of academic affairs. DHE staff are currently working on making these materials available on our website. Additionally, a web collection system is under development to make data submission and reporting easier and more efficient. The performance contract guidelines and the corresponding data and reports do not replace or revise any existing data or reports currently collected by the DHE except as provided for in the performance contracts. Information in this report was provided to the DHE in response to SB 04-189.

CCHE Statutory and Contract Authorities

Title 23, Article 5, Section 129(2), Colorado Revised Statutes states,

> (2) (a) Beginning July 1, 2004, each governing board of a state institution of higher education shall negotiate a performance contract with the department of higher education that shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract. A state institution of higher education's compliance with the three goals specified in the performance contract may be in lieu of the requirements of article 1 of this title and the "Higher Education Quality Assurance Act", article 13 of this title, for the period of the performance contract.

Data reporting requirements are further defined in the Performance Contracts:

> *7) Data Reporting Requirements - The Governing Board shall transmit to the Department all annual reports and data required in this Performance Contract including that specified in Addendum A, attached hereto, in the form and manner prescribed herein or as required by Department Policy. The institution shall continue to provide all data required by the Student Unit Record Data System (SURDS) and the United States Department of Education through the Department. When possible, the Department shall provide notice and consult with the institutions before requiring any additional or new SURDS data. The Governing Board shall submit to the Department an annual certification as to the overall material accuracy and completeness of the data submitted in accordance with the terms set forth herein. All data must be handled by the Commission and Department consistent with the*

statutory requirements set forth in Title 23, Article 1, Section 108(9), Colorado Revised Statutes which states,

9) The state-supported institutions of higher education shall provide the commission with such data as the commission deems necessary upon its formal request. Data for individual students or personnel shall not be divulged or made known in any way by the executive director of the Department or by any commission employee, except in accordance with judicial order or as otherwise provided by law. Any person who violates this subsection (9) commits a class 1 misdemeanor and shall by punished as provided in section 18-1.3-501, C.R.S. Such person shall, in addition hereto, be subject to removal or dismissal from public service on grounds of malfeasance in office.

Introduction

In 2004, in conjunction with the College Opportunity Fund (COF), (SB 04-189), Colorado created an alternative option to traditional state regulation of higher education institutions. Previously, Colorado institutions had operated under a system of accountability that employed the Quality Indicator System (QIS). In 2004-2005, with the advent of COF and its implementation, colleges and universities were given the choice to either remain under the old, more intensely regulated program of accountability, or sign a performance contract that would explicitly delineate how the institution would meet its state goals in exchange for the state waiving much of its regulatory oversight. As a result, every public institution in the state opted for the new performance contract.

Elements of Performance Contracts

Performance contracts were negotiated between each institution's governing board and the Colorado Commission on Higher Education. The first round of negotiations, conducted in 2004-05, resulted in four-year performance contracts. Requirements of the performance contracts include:

- Access
- Quality
- Efficiency
- Reductions in regulations/increased flexibility

In return for the adoption of specified reforms, the performance contracts were designed and implemented in order to extend Colorado's institutions of higher education a greater degree of flexibility and freedom from state oversight. Through performance contracts, the DHE waives specific statutes and regulatory policies. In particular, the state agreed to waive its regulatory role in the approval of academic programs, many of the requirements of the quality indicator system, and much of the capital construction approval process.

During the fall of 2004**,** the DHE released draft contracts that spelled out new performance and accountability standards for every public college and university in the state. As referenced, and earlier during the same year, Colorado became the first state in the nation to establish a stipend plan for higher education. The new law required that colleges and universities sign performance contracts with the state in order to continue to receive state funding. One of the goals of the new agreements was to release colleges and universities from much of the state's regulatory oversight. In addition to providing a different mechanism for oversight, the performance contracts served to re-conceptualize general education, employing a peer review system for the placement of courses into a statewide, general education curriculum providing guaranteed transfer for students successfully completing courses within the state's core. In particular, the performance contracts require institutions to make most of their general education core courses guaranteed for transfer to all other public two- and four-year colleges or universities in the state. Further, the performance contracts require that an institution's core curriculum be reviewed by a group of content discipline/academic professionals (other two and four year faculty members from Colorado's public, post-secondary institutions), to determine compliance with pre-determined course content and competency criteria and transferability. General education curriculum courses which meet the state standards for the content and competency criteria and transferability are identified as such in each institution's course catalog. Additionally, the performance contracts require that tuition increases not outpace the rate of inflation.

The performance contracts also feature institutionally established percentage goals for increased graduation and retention of students. Specifically, the performance contracts require that the institutions report to the state regarding how they are addressing the issue of recruitment, retention and graduation of underserved students, especially low-income, racial minorities and first generation students.

Further, the performance contracts also create a plan for implementing and utilizing a variable pay method for faculty; limit base tuition increases to levels necessary only to cover inflation and increases in mandatory costs (energy, insurance, salaries), and allow tuition increases above mandatory costs only when specifically justified, itemized, and tied to access, quality or capital improvement efforts.

Major Reforms of Performance Contracts

Signed performance contracts are intended to focus an institution on a specific set of statewide priorities, while providing increased flexibility for achieving results. The intent of the performance contracts was to enable the DHE to waive many regulatory requirements while preserving the same level of accountability for consumers. Major reforms in the performance contracts are outlined below:

• **Tuition Increases Limited to Inflation**. This section of the performance contracts created a presumption in Colorado that tuition rates should *not* outpace the rate of inflation but should be kept reasonable and affordable. Colleges and universities were required to identify mandatory costs and to limit tuition and fee increases to no more than the inflationary amount by which those costs increase. The state will only consider tuition hikes above this amount if a school specifically identifies how the increased tuition will be used to improve quality and access for students.

• **Rigorous, Streamlined Core Curriculum**. The performance contracts require that institutions implement a statewide, general education curriculum guaranteed to transfer inter-institutionally, and designed to ensure that students can feasibly graduate within four to six years. Additionally, the performance contracts require students to complete a rigorous general education curriculum inclusive of arts and humanities, math, communication (writing), natural and physical science, history, and social and behavioral sciences. The performance contracts require that institutions undertake a review of all general education core course requirements and mark accordingly in their institutional catalogs those courses identified for placement into the statewide, guaranteed transfer curriculum.

• **Faculty Pay-for-Performance**. Colleges and universities are required to establish a pay plan for faculty that emphasizes teaching and research performance. Institutions are required to provide reports (which will be published for review by the general public) clearly delineating how performance is measured and the type of differential pay faculty are awarded based on performance.

• **Combating Grade Inflation**. The performance contracts require each school to put in place measures to address grade inflation and to publicly report data on the distribution of grades in each department.

• **Increased Student Access & Success**. Colleges and universities are required to focus available resources designed to expand programs that will potentially increase recruitment, retention and graduation rates for students, especially under-represented low-income, minority and first generation students. Each institution's performance contract will include specific numerical targets to improve retention and graduation rates (for these specified sub-groups of students).

• **Better-Prepared Teachers for K-12 Schools**. The performance contracts require that all teacher candidates be taught how to understand and use the Colorado Student Assessment Program (CSAP) assessment data, undertake student teaching in lower achieving schools to ensure new teachers understand the issues that affect children in poverty, and to study the differences in how boys and girls learn and behave. In addition, to improve the quality of teaching in schools of education, the performance contracts require that all faculty who teach courses in content areas, such as math and science, be fully qualified professors in the school or department offering the courses.

Waived Regulations of Performance Contracts

Among the current state regulations that will be waived once a college is operating under a performance contract are the following:

• **Tax Payer Bill of Rights (TABOR) restrictions**. Once a performance contract is signed an institution is allowed to accept stipends. By participating in the stipend program, institutions will qualify for enterprise status, thereby freeing the institutions from many of the requirements of TABOR.

• **Academic programs**. Currently the DHE regulates every step in the creation, modification or elimination of academic programs. Once the performance contracts have been signed, institutions are freed from the regulatory approval process. This allows institutions to respond more quickly to workforce and other needs. The DHE's only review will occur after an institution has developed a program and will be facilitated in order to ensure that the new program is congruent with an institution's role, mission and function within the state.

• **Quality Indicator System**. Signed performance contracts will serve to provide our state's institutions with a more flexible, malleable form of accountability. Each performance contract will be tailored to the unique needs of each institution. Each institution has a performance contract that emphasizes statewide goals while acknowledging each institution's unique role, mission and function within the state.

Performance contracts were negotiated and finalized with the governing boards of state institutions of higher education as well as with Regis University and the University of Denver. Each governing board's contract contains performance measures to assess institutional performance with respect to four overarching goals.

Goal #1: Access and Success

Colleges will be measured on retention and graduation rates among first-time, full-time freshmen with the following performance targets. Institutions will also provide annual reports addressing current and new efforts to increase these rates, particularly as they apply to underserved students.

	Section 1: Retention Rates				Section 2: Graduation Rates	
	1.1 Retention Rates by 12/31/2008				2.1 Graduation Rates by 12/31/2008 *	
	From Original Institution		Including Transfer Institution			
	From	To	From	To	From	To
ASC	57.4	60.9	n/a		27.8	30.4
CCCS	52.4	54.4	61.3	63.3	20.1	21.2
CSU	83.1	85.1	89.3	91.3	62.9	63.6
CSU/P	64.4	67.0	76.2	79.0	29.8	31.8
FLC	52.9	57.5	67.0	72.5	29.7	32.0
MSC	n/a		70.0	72.0	30.0	34.0
MSCD	60.8	62.8	71.1	73.1	20.8	21.8

UC	By June 30, 2009 Increase by 1 %				Maintain Current Graduation Rates	
UNC	68.2	71.0	82.9	85.0	47.1	49.0
WSC	58.2	60.0	72.5	74.7	30.4	31.8
					* ASC by 6/30/2009	

Goal #2: Quality in Undergraduate Education

This goal requires institutions to be in compliance with the statewide guaranteed transfer program for general education core courses enabling students to receive a guarantee that such courses will be accepted in transfer among Colorado's public post-secondary institutions. Performance measures relating to high academic standards and the evaluation and assessment of student learning are also included in the performance contracts. In addition, most contracts require assurances that general education core courses are taught by the highest quality and/or most qualified faculty equivalent to that in undergraduate non-core courses. Faculty compensation practices, including merit compensation provisions are also included in most performance contracts.

Goal #3: Efficiency of Operations

These performance measures are designed to provide for the efficient and effective stewardship of resources including tuition dollars, state and federal tax dollars, or other sources of funding. Specific measures vary among the institutions but generally contain sections on costs, capital assets, maintenance, and facilities. Cost measures are reported to the DHE via the Budget Data Book and shall include information that identifies mandatory cost increases or decreases. Governing boards are required to strive to control costs so that mandatory cost increases do not exceed the latest published cost adjustment figures from the State Higher Education Executive Officers Higher Education Cost Adjustment model, excluding controlled maintenance and capital needs.

Performance contracts contain performance measures related to the provision of dollars to be used for deferred maintenance with some required to allocate a percentage of new tuition revenue proportional to tuition increases exceeding inflation and mandated costs authorized by the General Assembly. Still others will achieve this measure through fees targeted for capital and maintenance.

Many performance contracts require governing boards to assess operational efficiencies of their auxiliary facilities including evaluation for private operation of facilities where appropriate to improve operational efficiencies.

Goal #4: Other State Needs

This goal targets teacher education and workforce and economic development. Specific measures were developed for institutions based upon their unique role and mission and taking into account the needs of local communities served.

Some examples of specific performance measures include standards for teacher education programs requiring teacher candidates to receive instruction on teaching diverse student populations; on the comprehension, diagnosis, interpretation, and effective use of student assessment data; and on the attitudinal and behavioral differences that influence socialization and learning variations between boys and girls. A requirement ensuring that teacher candidates spend at least one semester student teaching is also included. Finally, there is a requirement that all content courses leading to the fulfillment of endorsement area requirements for secondary education licensure be taught by faculty members belonging to or approved by the departments from which such courses originate.

In general, performance measures related to workforce and economic development are designed to increase the number of students earning degrees in high-demand program areas associated with worker shortages. Examples include nursing and other allied health fields, construction technology, and tourism.

Summary

Under the COF, all public and participating private institutions are required to enter into a performance contract with the DHE. For the public colleges and universities, the intent of the contracts is to "provide for greater [institutional] flexibility and a more focused accountability for institutions to students and the people of Colorado." Additionally, the contracts allow the DHE to implement and utilize a different method of quality control and oversight, while also implementing accountability measures that focus on each institution's academic programming and any previously generated internal objectives. Legislative provisions within the COF program established essential goals that are included in each institution's contract. This language maintains that institutions will continue to focus on improving student access and success, advancing institutional quality and operation, and developing the state's workforce. Additionally, the contracts aim to strengthen statewide efficiency programs that were designed to help students graduate in a timely manner.

All data that is collected through the performance contracts provides necessary information on these provisions and will specifically focus on:

- Student enrollment, transfer, and graduation rates;

- Student satisfaction and performance;

- Institutional cost and productivity;

- Quality academic programming; and

- Increased financial support that sustains and enhances essential functions, such as financial aid.

Performance contracts with participating private institutions will differ from those signed with the state's public institutions; compliance information for the state's private, post-secondary participating institution *is not contained in this report*. However, the quality assurance reporting that is developed with these institutions will focus specifically on the graduation, retention, and success rates of participating Pell-eligible students.

Status of Performance Contracts, 2006

This report includes a 2006 summary, by institution, of compliance with performance contract requirements; a summary of alphabetically arranged, chronologically ordered requirements detailing deadlines for 2007-2010, and a summary of reporting guidelines. Additionally, the report includes an accompanying protocol employed by DHE staff for the timely collection of institutional performance contract status reports.

DHE staff created a protocol for the in-take, storage and archiving of each institution's performance contract requirements. Additionally, the protocol directs DHE authority when institutions encounter difficulty with compliance of their performance contract requirements. **Appendix A** of this report delineates the internal performance contract protocol utilized by DHE staff in order to ensure that all institutions are in compliance with their signed performance contracts and provides the original performance contract guidelines as they were published and provided to the public institutions in August 2005.

Appendix B of this report includes the 2006 update for each institution regarding compliance with the specific goals and deadlines of their particular performance contract. Arranged alphabetically and by *calendar* year, **Appendix C** provides a year by year analysis of what is required of each institution, covering the years 2007 through 2010, including reporting requirements and target goals for each institution.

All information on the status of each public institution's compliance with their respective performance contract is maintained, in both hard copy and electronic form, in the Academic and Student Affairs Office of the DHE.

APPENDIX A
Internal Performance Contract Protocol

The Internal Performance Contract Protocol (IPCP) is utilized by DHE staff to ensure that all institutions are in compliance with their signed performance contracts. The IPCP aligns with the original performance contract guidelines as they were published and provided to each public institution in the Performance Contract Reporting Guidelines Handbook, issued to the state's colleges and universities in August 2005.

Internal Performance Contract Protocol:

1). Institution's are notified by email (issued by the DHE's Chief Academic Officer/ CAO) when they are two weeks beyond the pre-established due date in submitting required materials, data and other evidence indicating progress toward longitudinal, performance contract goals.

2). If the institution does not respond to the email issued by the DHE's CAO within an additional two-week time period, a letter is sent to the institution by the DHE's Executive Director, informing the institution that they are *one month* late in providing documentation in the form of a status report regarding compliance with time sensitive goals as set forth in their performance contract.

3). If the institution does not respond to the Executive Director's letter, staff will continue to document the failure of compliance with performance contract deadlines. If a consistent pattern of non-compliance emerges with one or more institutions those institutions could suffer penalties including automatically and immediately becoming subject to all requirements of Articles 1 and 13 of Title 23, including those specifically preempted in the performance contracts. Further, COF and Fee for Service support *could* be negatively impacted in the event an institution falls out of compliance with the pre-established dates as originally signed off on in their performance contract.