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FINAL FINDINGS & RECOMMENDATIONS

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DONNELL-KAY FOUNDATION

Innovative thought on education reform and policy for Colorado

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About This Report

A vision for K-12 online education in Colorado

The Trujillo Commission respects the work being done by public education in Colorado—the schools, districts, boards of education, Department of Education, teachers, and administrators—and recognizes the great challenges they all face in providing a common system of education to all students. Online education represents a 21st century approach to teaching and learning that is appropriate for today's millennial students. The slow pace at which many schools have adopted technology stands in sharp contrast to the high level of comfort with technology that today's students typically experience. Students are often more comfortable than their parents or teachers navigating and managing the online world.

Online education is already an important component of education for a rapidly growing number of students in Colorado. We recognize that online programs can present conflicts between brick-and-mortar schools, between districts, and between differing views of access and equity. In many ways, the conflicts inherent in evaluation and oversight of online programs—including funding, quality, equity, and access—are the same topics we must explore when looking to improve all public education. The discussions of quality and accountability of online programs also are closely tied to broader educational reforms. Online programs must be accountable to students, parents, and the institutions that accredit them. At the same time, oversight agencies and administrations must remain accountable to the wishes of students and parents who are seeking and benefiting from new and alternative modes of education.

Any discussion of online education is destined to touch upon deeply held beliefs, hopes and fears. The Commissioners tested each of its recommendations against a set of mutually shared beliefs, which are:

- Technology and online education, both full-time and supplemental programs, are important tools to enhance educational opportunities and improve educational outcomes.
- The growth of online education challenges existing education policy, administration, and oversight.
- The state has a role in ensuring quality oversight of online programs, but should not replace a local school district or authorizer in directly administering online programs.
- School choice and competition offer unique benefits to students and schools.
- Local control of schools is a fundamental Colorado value.
- It is the role of families and students to choose their schools and models of education.
- Access to educational opportunities should not be limited by where a child lives, or the financial, social or other resources that the child has or does not have at home.

It is important to understand that a fully entrepreneurial model does not work in the public sector. Because we are using public dollars to fund public education, a higher and different degree of accountability is required. For this reason laissez-faire cannot be a substitute for regulated choice. At the same time, however, we recognize that it would be inappropriate to negate the growth and development of innovative programs. The students and families being served by these programs have spoken through their choices. It would be unrealistic to believe that they will automatically end up on the doorsteps of traditional schools if current innovative models were shut down.

As online education evolves, it should not be a separate system of public education, but should be a collaborative effort within the public education system that is available to students and parents who choose it. Online programs are not all of one type, but rather should be allowed and encouraged to exist along a continuum from distance learning to hybrid approaches using Internet technology in the classroom. We offer this report as a basis for a continuing conversation about how best to deploy technology to enhance the educational opportunities available to all students.

About this report

This report offers policy recommendations for addressing the immediate concerns raised by the Office of the Colorado State Auditor regarding the current implementation of online learning in K-12 public education. We hope that it will provide guideposts to policy makers and stakeholders across Colorado as they consider how best to foster high quality educational options for all students. The crafting of thoughtful policies that support the promise of online education for Colorado's students will ultimately require a longer-term process of debate with all stakeholders provided an opportunity to participate. We anticipate that process to be an evolving conversation to address the needs of our students as they continue to change.

Colorado stands at the doorstep of an important next step in its education system. How the state proceeds in considering, fostering and implementing high quality educational options will determine how well it serves its students, and how adaptable it is to leading change in the delivery systems of education for our students. We hope this report will serve as an important step in that process.

1. INTRODUCTION

On December 11, 2006, the Colorado State Auditor released a performance audit of K-12 online education in Colorado.* The audit reviewed the status and compliance of full-time online education programs across Colorado in response to a request from the legislature. Auditors found that state oversight of online programs was lacking in numerous ways. Auditors reported that the Colorado Department of Education (hereafter, "CDE") did not effectively use the accreditation process to maintain oversight of school districts. Some school districts did not use their own accreditation processes. In some instances chartering processes were not effectively used to maintain adequate oversight of online programs. In some instances, individual schools did not maintain adequate oversight of their own program.

The definition of "at-risk student" and individual student data were insufficient to facilitate a meaningful evaluation of online student assessment scores or attrition rates. Teaching and assessment roles were not clearly defined in some online schools. In response to their findings, auditors suggested 16 recommendations to be considered for implementation by Colorado's Department of Education, State Board of Education, and General Assembly.

Recognizing the need for policymakers to respond to the issues identified in the audit in a thoughtful manner, the Donnell-Kay Foundation convened a small group of education stakeholders—the Trujillo Commission—to address policy considerations and recommendations. Commissioners are Lorenzo Trujillo, Esq. (Assistant Dean, University of Colorado School of Law), Kinny J. Griffith (Senior Director of School Services, K12 Inc.), Timothy D. Snyder, Ed.D. (Executive Director Emeritus, Colorado Online Learning), and Jane W. Urschel, Ph.D. (Associate Executive Director, Colorado Association of School Boards). John Watson of Evergreen Consulting Associates assisted the group with its work. The group considered recommendations from stakeholders across Colorado and looked to other states' experiences to identify best practices that could inform policy decisions.

For the Commission's work to be timely, it had two months to provide findings and recommendations to be considered by legislators during the 2007 legislative session. This required that the number of Commissioners be small. At the same time, the Commission recognized that for its recommendations to have credibility, it needed to include views from a wide variety of stakeholders. To make sure that the Commission's process was inclusive and transparent, the Commission solicited views from many stakeholders, held two public forums to solicit input from school districts, online program administrators, teachers, parents, and students. Written testimony was accepted throughout the process.

In addition to views from many stakeholders, the work of the Commission also built upon its study of previous works from prior commissions and study groups that researched online education in Colorado. Finally, the Commission also studied reports reviewing online education nationally. A list of reports that were studied appears in Appendix C.

1.1 How to read this report

Although this report had as its impetus the findings of the State Auditor, it is not simply a response to the Auditor's recommendations point by point. Instead, Section 1 presents a vision for online education to serve as a guideline for the specific recommendations that follow. Section 2 presents the Commission's specific recommendations for legislation organized into cohesive and understandable actions to establish quality, accountability, and responsiveness to identified issues. Because the recommendations as a whole suggest a process for oversight of online programs, section 3 provides a visual representation of the oversight process. Section 4 maps the Commission's responses to the recommendations made in the audit. Finally, the Commission recognizes that some of the challenges that online education presents are embedded within the larger framework of public education in Colorado, and cannot be solved in a short time with quick fixes. In Section 5, the report presents a set of issues for larger discussion with specific questions to be addressed in the 2008 legislative session or thereafter.

1.2 Online education in Colorado

The State Auditor's report provided background details about Colorado's online programs, which are not repeated in this report. However, a quick review of online education more generally is required because this report attempts not just to respond to the recommendations in the audit, but also to provide a broader set of goals for online education policy and practice.

K-12 online education programs vary in many ways, as captured in Figure 1 on the next page.

Of the dimensions listed in the figure, three are particularly relevant to this discussion:

- **Comprehensiveness**: whether the program provides individual, supplemental courses or a full time curriculum. Although programs may provide both full-time and supplemental options, most provide primarily one or the other. The way in which programs should be funded and regulated rests largely on this variable because supplemental programs do not directly generate Per Pupil Revenue (PPR)[1] ; whereas students enrolled in full-time online learning do generate PPR.
- **Reach**: The geographic extent of online programs ranges from single districts to multi-national. Recommendations in this report draw distinctions between single district and multi-district programs (distinction provided later in this report).
- **Location**: Students may access online courses from a local school, home, or other locations. The establishment of physical facilities across multiple districts presents policy challenges that are addressed in this report.

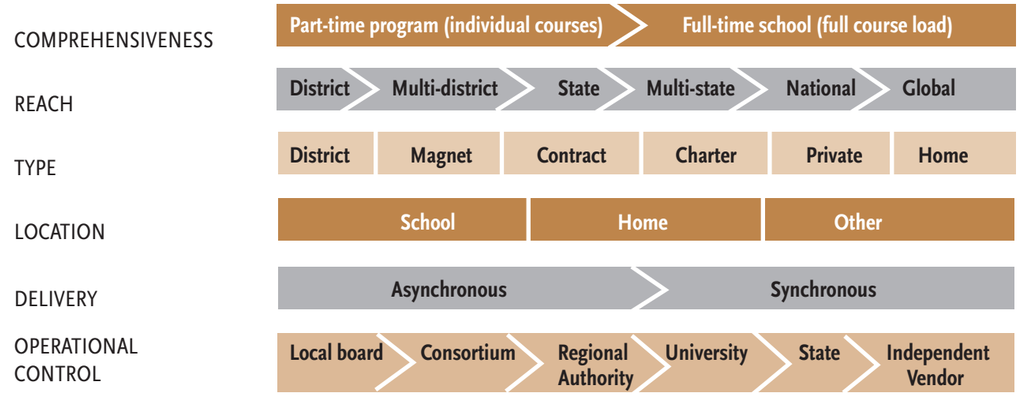
Although this report is not limited to the issues raised in the State Audit and is instead forward-looking, it is worth noting that the failures identified in the Audit were not simple or singular. Instead these failures resulted from a combination of oversight that was inadequate, laws that were not enforced, and policies that were not clear as applied to online programs.

The Auditor's report focused largely on Hope Co-Op™ Online Learning Academy [hereinafter: "Hope"], and in so doing highlighted weak state oversight, primarily as related to the Hope system. It is important to note that the Commission's recommendations are not singularly directed at Hope deficiencies, and the Commission recognizes that the hybrid model which Hope has used, combining online instruction with full-time onsite support, is a model used successfully by some brick and mortar schools utilizing supplemental online courses. Indeed, the Hope model, which has students attending learning centers full-time, challenges the definition of an online program in ways that were not anticipated by Colorado statute governing online programs (C.R.S. 22-33-104.6, included as Appendix B). The statute does not address the use of online learning in a designated physical location provided by the school, the use of technology within traditional classrooms, or the combination of traditional classroom learning with online learning. For these reasons, this report goes beyond Hope and deficiencies noted in the audit. It addresses online education in Colorado, today and in the future.

1.3 First principles

The recommendations in the following section range from broad-based to highly detailed suggestions. Because the issues discussed—such as funding, oversight, accountability, and quality assurance—intersect in so many ways,

Figure 1: The six defining dimensions of online programs



Source: Gregg Vanourek, *A Primer on Virtual Charter Schools: Mapping the Electronic Frontier*, Issue Brief for National Association of Charter School Authorizers, August 2006

*http://www.leg.state.co.us/OSA/coauditor1.nsf/All/6D276297 8BB1D6DF8725723E005ED7D4/$FILE/1768%20Online%20Ed%20Perf%20rel%20Dec%202006.pdf

[1] *Per Pupil Revenue (PPR) is a legal term in Colorado to represent the funding level per student guaranteed by the state. The difference between PPR and the amount provided by local sources is funded by the state ("state share").*

The Commission found it useful to first develop a set of principles against which policy suggestions could be tested. These principles, taken as a whole, constitute the beginnings of a vision for online learning in Colorado.

the Commission found it useful to first develop a set of principles against which policy suggestions could be tested. These principles, taken as a whole, constitute the beginnings of a vision for online learning in Colorado.

- Public education should include a variety of high quality educational options for students, including online learning.
- Students across the state should have equal access to these opportunities.
- Online programs should include both full-time and supplemental opportunities for students.
- Ongoing innovation requires that states and oversight agencies not stifle innovation by becoming overly prescriptive in regulating online programs. Regulations should offer both an appropriate guarantee of program effectiveness while supporting programs that are yet to be developed. The rapid pace at which online education is developing requires that oversight systems, rules and regulations be continually evaluated.
- Teachers are an integral part of online learning. As with classroom learning, teachers are responsible for overseeing and managing student learning, and for ensuring students are meeting all academic progress and accountability requirements, and must be *highly qualified*. The teacher is responsible for assigning course grades used on report cards and transcripts, and for assuring adequate participation, progress and learning.
- The involvement of a parent or other responsible adult in the education of a student is to be encouraged. Parents and/or other responsible adults, including mentors, may be involved in ways to increase accountability for attendance and progress, and in assisting the teacher in implementing the educational plan designed and overseen by the teacher. However, the Commission does not endorse mentors serving in the role of teachers.
- Online programs must use high quality curricula aligned with state and applicable district standards. The curricula must be approved by sponsoring school districts.
- Some statewide education policies, requirements, and oversight do not fit online programs. New online education policy should address these inconsistencies directly. Discussion of policy challenges raised by online learning should acknowledge that many of the issues being discussed exist across all modes of education delivery.
- Online programs offer the opportunity to transcend time and place. So long as they can demonstrate quality and successful student outcomes, they should not be subject to state education policies that impose barriers of time and place, such as requiring face-to-face meetings or other on-site requirements.
- Resources to support online programs must be sufficient to ensure quality, opportunities for innovation, and meeting the needs of a broad range of students.

2. RECOMMENDATIONS

The sustainable growth of high quality online education in Colorado requires changes in state oversight, funding, and policies related to quality standards and accountability. This section presents recommendations in broad categories, with specific sub-recommendations. These recommendations address the suggestions made by the report of the state auditor that relate directly to online education. In this section, the recommendations are presented in logical sequence. A following section maps these recommendations to the state auditor's recommendations.

For this report the Commission used the definition of "online program" provided by C.R.S. 22-33-104.6:

"an alternative on-line education program authorized pursuant to this section that provides a sequential program of instruction for the education of a child who resides in Colorado through services accessible on the world wide web and monitored by a district coordinator and a site coordinator; except that, if an on-line program is provided by a charter school, the site coordinator shall have sole responsibility for monitoring the program. An on-line program is not intended to be and does not qualify as a private or nonprofit school."

The statute also provides two other definitions:

"District coordinator means a staff person at the school district level who shall administer and monitor the on-line program for the school district."

"Site coordinator means a counselor or teacher at a public school, including but not limited to a charter school, who shall monitor the progress of a student participating in the on-line program."

Whether these definitions are sufficient for ongoing study of online programs is discussed in Section 4.

In addition to the definitions provided by the existing statute, the Commission draws a distinction between what it calls single-district and multi-district online programs.

Single-district programs are those that serve only students who reside in the district of the online program.

Multi-district programs serve students from outside the district that administers the online program.

Also, this report refers to authorizers of multi-district programs. For simplicity, "authorizers" are sometimes referred to as "school districts," because we anticipate that in most cases authorizers will be school districts. However, the Commission intends that authorizers may include school districts, Boards of Cooperative Educational Services (BOCES), or the Charter School Institute.

RECOMMENDATION 1*: The state should engage in a longer-term and ongoing study about online education to ensure that complex policy issues are addressed in a careful, inclusive and transparent manner.*

A number of the issues identified by the State Auditor's report will not and should not be responded to immediately. These issues are explored more fully in Section 5. Such issues require more time than the current legislative session allows. More study is required because legislators should be informed by data not yet available, or because findings suggest the need for a reassessment of state policies and priorities, or both. For example, the development of quality standards used to accredit online programs should reflect best practices. The North American Council on Online Learning will have a best practices guide, culled from proposed or actual practices across the country, available later this year. While some quality standards can be developed immediately, it is prudent to reassess those standards based on knowledge of national best practices. Another area that should be considered more fully is funding for students enrolled in online education programs. Specifically, funding for students that receive their education from both online and traditional schools has significant implications for open enrollment in this state, that is, which school receives that funding and how much they share with the other school. Anticipating the rate and pace of short-term growth in online learning requires a full understanding of the students that choose the programs, the circumstances under which they make that choice, and the circumstances required to make them successful. That information is simply not complete and accessible to policy makers right now. The case of Hope is notable here. The Commission was unable to find any example of a program comparable to Hope in both design and scope anywhere else in the country. However, we did find a number of policies and programs that embodied aspects of Hope's design or scope. In anticipation of future program development, more time is needed to determine how to best build upon the success of Hope while responding to the concerns it presents. The issues in this paragraph are just some of the reasons the Commission believes more time must be devoted to the policies surrounding online education in this state.

RECOMMENDATION 2*: The Legislature should create a new Online Division within the Colorado Department of Education to support online education and quality oversight of online programs*

Many of the issues raised in the Auditor's report reflect in-

effective oversight by CDE. This ineffectiveness is due to CDE not following through on existing accountability and accreditation measures, as well as lacking the resources and capacity needed to effectively oversee online learning.

In order to address these shortcomings, the legislature should create a division of online learning (the "Online Division") within CDE that will (1) provide support to online students, parents, and programs, and, (2) monitor the capacity for authorizers to effectively oversee multi-district online programs. The legislation must specify the two functions of the new Online Division, support of online students, parents, and programs; and oversight and compliance. The legislation must be very clear and specific about the responsibilities of the Online Division, the FTEs, and reporting structures, because the oversight of online programs has not occurred as called for in the current statute. Indeed, CDE in its response to the audit has acknowledged that it is understaffed for these responsibilities.

Specific recommendations for the operation of the Online Division follow:

1. Primary responsibility for articulating minimum quality standards for online programs and certifying that authorizers of multi-district online programs have the necessary oversight capacity will reside with the State Board of Education through the new Online Division within CDE. Whether or not oversight should rest with an independent entity outside CDE should be part of ongoing study that is outside the scope of this report. However, in the meantime, oversight must be improved. To achieve that improvement, a new division within the Department must be established and in place by July 1, 2007.

2. Legislation should require that there be no less than 4 FTE in the Online Division, to handle the following tasks:

- Director-level leadership
- Positive/proactive support of online programs
- Establishing, monitoring and updating quality standards
- Certification review of multi-district online program authorizers and compliance review (explained in Recommendation 3)
- Technical assistance for all school districts regarding online learning
- Data gathering, analysis, and dissemination to policymakers, administrators, parents, and students
- District and state reporting
- Waiver administration
- Clearinghouse for quality programming

3. The Online Division should have an Advisory Board of between seven to 13 members appointed by the Governor and the Legislature. The Advisory Board will report annually to the Legislature on the status of online programs in Colorado, on certification of multi-district program authorizers, on the quality standards created by the Online Division, and on the overall appropriateness of existing policy and oversight mechanisms, taking into consideration the evolving nature of online learning. Members of the Advisory Board shall include experts in full-time online programs and experts in traditional education, and shall include parents, teachers, administrators, board members and independent community members. They shall represent all areas of the state, including urban and rural areas and large and small districts, and shall represent the ethnic and cultural diversity and gender balance of the state. After three years, the Legislature will evaluate the need for and effectiveness of the Advisory Board and determine whether the Board should continue in its role.

4. The Online Division will require annual reports of all online programs, both single-district and multi-district. Information in the reports will include, at a minimum, the number of students funded, the number of funded students that complete the courses for which they enrolled, the number of students being served at the end of the school year, student demographics, number of teachers along with the number that are highly-qualified, number of courses and course sections, and other measurable criteria detailed in quality standards. This list is provided as an example and is not exhaustive. Other informational items should be added as deemed appropriate by the Legislature and the Online Advisory Board. Although beyond the scope of this report, the Legislature is encouraged to solicit the same information described above from traditional schools, as well.

5. The Online Division will post annual reports and other information about online education in a specific identifiable and searchable section on the CDE website.

6. Funding for the Online Division and Advisory Board will come first from reinstating the FTE related to Distance Learning previously paid through federal grant funds appropriate to that purpose such as the Enhancing Education through Technology (EETT) program, if possible.

RECOMMENDATION 3*: Authorizers of multi-district online programs must be certified by the State Board of Education prior to authorizing online programs based on three criteria: (1) capacity of the authorizer to oversee an online program, (2) formal declaration by the authorizer that its online program meets quality standards, and (3) the authorizer has in place a plan for operating and monitoring the online program.*

Some of the oversight failures identified by the State Audit were a result of the authorizing entities' lacking the resources and capacity to properly oversee online programs. The need for these resources and capacity is especially important in the case of multi-district programs. In order to address these shortcomings, the Online Division will require 1) that authorizers of multi-district programs demonstrate capacity to oversee and administer online programs, and 2) that the authorizers declare that they have a plan in place to operate and monitor the online program.

The State Board of Education will have the ability to waive multi-district standing for online programs with a small number of out-of-district students in specific circumstances. For example, when a resident student moves out of the district but wants to remain enrolled in the online program a waiver may be sought.

The Online Division shall recommend to the State Board of Education a process and timeline for certification that results in expedited approval (temporary certification) or denial for districts with currently operating multi-district online programs. For online programs located in districts which are denied certification, or those that decide not to request certification, the Online Division should allow for a reasonable, but short, amount of time for such programs to get authorized by a certified district.

School districts that only oversee single district programs will not be required to be certified. However, these school districts are expected to include the same quality standards established by the Online Division in order to review their online programs and single district online programs are required to report to the Online Division annually.

1. Demonstrating capacity

The criteria for certification of multi-district program authorizers will require demonstration of adequate resources and capacity that can be reasonably devoted by the authorizer to oversee online programs in the areas of:

- Curriculum
- Special education
- English language learners
- Gifted education
- Guidance counseling
- Technology applications
- Human resource management
- Data gathering, analysis and reporting
- Facilities management
- Financial management
- Risk management
- School law
- Public relations

The sustainable growth of high quality online education in Colorado requires changes in state oversight, funding, and policies related to quality standards and accountability.

- Governance

2. Declaration of planning for operations and monitoring of the online program

Authorizers of multi-district programs must declare that they and the online program have a plan for operations and monitoring that includes the following elements:

- Program vision, mission and goals
- Program organizational structure and governance, including governing board policies, school procedures, names of governing board members and key administrators, and access to governance by parents and students
- Planned enrollment, including marketing strategies
- Methods of tracking attrition rates and determining reasons for attrition
- Equitable access for all students, including students with special needs
- Planned revenue and expenditure budgets
- Facility plans, including any contemplated physical sites
- Risk management plans
- Curriculum and instruction models and plans
- Technology and software models and plans, including technology-based learning management and curriculum systems
- Roles and position descriptions of teachers and other staff
- Employment and dismissal policies and procedures, including background checking
- Employee and contractor agreements
- Staff, student and parent handbooks
- Communication policies and procedures for parents and the school district in which the student resides, including a system to monitor and resolve complaints
- Employee records, evaluation, and human resource management
- Staff development plans and schedules
- Diploma, certificate and grade promotion requirements
- Student record policies and procedures
- Copy of proposed diploma, transcript and report card
- Admission and placement policies and procedures
- Attendance and conduct rules
- List of textbooks, software, and online resources
- List and description of student services, including counseling and tutorial support
- Plans for data development, analysis and reporting
- Plans for compliance with all federal and state requirements of law

RECOMMENDATION 4*: The Online Division should create quality standards for online programs that will be used as part of accreditation by school districts of their own schools and as part of the online program reporting requirement.*

Oversight of online programs should not be outside of the current hierarchy of oversight, where the State Board accredits local school districts and local districts accredit their own schools. However, the Online Division will create quality standards for online programs to be used for the following purposes:

a) In order for a multi-district program authorizer to demonstrate capacity to the satisfaction of the Online Division, it must implement the quality standards in the authorization of individual online programs;

b) Districts authorizing single-district programs are expected to implement the quality standards in the oversight of individual online programs that they offer; and

c) Data related to quality standards should be part of the online program reporting requirement.

The quality standards should relate to the following:

Vision and Purpose: The school establishes and communicates a shared purpose and direction for improving the performance of both students and the school.

Governance and Leadership: The school provides the governance, leadership, and organizational structure that promotes successful student learning and school performance.

Curriculum and Instruction: The school provides a research-based curriculum and instructional program that facilitates achievement for all students.

Online Teachers: Online teachers meet the professional teaching standards established by the state, have academic credentials in the areas being taught, demonstrate general teaching competencies, have prerequisite technology skills to teach online, and have prerequisite skills in online teaching and learning methodology, management, knowledge, skills and delivery, including modeling and teaching the legal, ethical, safe and healthy behavior related to technology use.

Course Content: The online courses provide online learners with engaging learning experiences that promote their mastery of content and are aligned with state model content standards or nationally accepted content for courses whose content is not included in state standards.

Instructional Design: The online courses use learning activities that engage students in active learning; provide students with multiple learning paths to master the content based on student needs; reflect multicultural education and are accurate, current and free of bias; and provide ample opportunities for interaction and communication student to student, student to instructor and instructor to student.

Student Assessment: The online courses use multiple strategies and activities to assess student readiness for and progress in course content and provide students with feedback on their progress.

Technology: The online courses take full advantage of a variety of technology tools, have a user-friendly interface and meet accessibility standards for interoperability and access for learners with special needs.

Course Evaluation and Management: The online courses are evaluated regularly for effectiveness, using a variety of assessment strategies, and the findings are used as a basis for improvement. The courses are kept up to date, both in content and in the application of new research on course design and technologies.

Documenting and Using Results: The school enacts a comprehensive information and assessment system that documents, monitors, and uses results to improve teaching and learning.

Resources and Support Systems: The school has the resources and services necessary

The Online Quality Standards are anticipated to supplement, not supplant, the current accreditation process and criteria. Accreditation of online programs should be consistent with that of traditional schools wherever possible.

to support its mission and ensure achievement for all students.

Communications and Relationships: The school fosters effective communications and relationships with and among its stakeholders.

Commitment to Continuous Improvement: The school establishes, implements, and monitors a continuous process of improvement that focuses on student performance and takes into account student attrition.

The above Online Quality Standards are anticipated to supplement, not supplant, the current accreditation process and criteria. Accreditation of online programs should be consistent with that of traditional schools wherever possible. The additional accreditation standards for online should be limited to areas that are unique to online learning.

RECOMMENDATION 5*: Online programs that provide physical facilities for student gatherings on a regular basis present a unique set of issues that should be addressed by requiring online programs to attempt to enter into Memoranda of Understanding (MOU) with districts in which facilities are located.*

Online learning, when provided at a distance, does not require a highly qualified teacher to be present on-site with students, and indeed most online programs do not have teachers interacting face-to-face with students on a regular basis. However, the Commission believes that a school that offers attendance at a physical facility on a regular basis requires a level of oversight that is distinct from a home-based online program because of the use of public funds to directly support the facility in which learning occurs. We recognize that the Online Division will have to create a precise term and definition to describe the type of physical facilities called "learning centers" in the State Auditor's report. We suggest that the key attribute of such a facility is that more than one student meets more often than once per week for a substantial part of the school day. Groups of parents and students meeting occasionally and informally, even if facilitated by the school, would not constitute a learning center; nor would private homes be considered learning centers under any circumstances.

Issues surrounding learning centers range from relatively simple (e.g., ensuring applicable building codes are followed) to complex (e.g., should the school districts in which learning centers are located have the right to be notified of and/or have the right to authorize learning centers). An additional issue is the question of what to do with existing learning centers while a new process is put in place.

To address these issues, the Commission recommends that online programs offering physical facilities must attempt to enter into a Memorandum of Understanding (MOU) with districts where the physical facilities are located. This MOU process is intended to be as simple as possible while addressing several key issues. The state should create a standard MOU consistent with other statutory provisions whereby a standardized form is used. Elements of the MOU should be limited to:

- Facility issues such as requirements for building and safety permits prior to opening and public hearing requirements for each learning center;
- Protocols for sharing student files and data, such as performance, attendance, and assessment data;
- Financial sharing. For example, resident school districts may incur administrative costs, which may entitle them to be reimbursed at a small share (less than 0.5 up to 1%) of annual PPR;
- Shared resources, if practical for transportation, sports teams, food services, special education, and extracurricular activities;
- Communication and points of contact;
- Advertising and enrollment procedures (so that the district knows how students would enroll in the online program; this is not intended to include stipulations on the types or numbers of students who may enroll);
- Conflict resolution processes;
- Any other mutually agreeable elements.

Two other elements are central to keeping the process as simple as possible. First, the online program must notify the district in which the facilities are located of its intent to open one or more facilities, and its desire to create an MOU with the district. The district may opt not to take part in the MOU process, in which case the online program may proceed with opening the facilities. Second, if the parties do enter into the MOU process, they may agree not to discuss any of the above elements. The MOU may not need to have all the elements listed above.

Diagrams explaining the process for all online programs (single-district, multi-district with and without physical facilities) are provided in the next section.

The Commission was unable to resolve one key issue regarding the MOU process between online programs and districts where physical facilities are located. What should happen if the online program and the district are unable to reach agreement on the MOU? The Commission considered two options and could not agree on one. The options considered are to: 1) create an appeals process to the State Board of Education; or 2) allow the district of location to have final say in whether the MOU is created, without an appeals process. Resolution of this final matter should be determined by democratic process in the current legislative session.

RECOMMENDATION 6*: Funding of online students in full-time programs should be reformed.*

Funding is a complex issue that demands further research, understanding and development. As discussed in Section 4.1, changes to online funding should not be made without the necessary background and consideration of consequences. There are, however, two changes to funding that should be implemented in the present legislative session in order to address the funding issues raised in the audit, simplify the administration of online funding rules, and more equitably fund online programs.

1. Allow all Colorado students to be funded for online learning, removing the current prohibitions on students who were not in the public education system the year before. Online education increases educational opportunities and to deny online public educational opportunity to some students in the state is not consistent with the Commission's vision or with the Colorado Constitution which provides: *The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state,* ***wherein all residents of the state, between the ages of six and twenty-one years, may be educated gratuitously.*** (Colo. Const. Art. IX, § 2) Colorado should not discriminate against students who were not enrolled in a public school in the preceding year.

2. Fund students in single-district online programs at regular district PPR levels regardless of the educational means used by the district. The lower online funding PPR level should apply to students enrolling in a multi-district online program. If this change is not made districts have a strong financial incentive not to create online opportunities for their own students.

RECOMMENDATION 7*: In order to expand online opportunities and increase equity and access to online courses, the Legislature should fund Colorado Online Learning to provide supplemental online courses to Colorado schools and students.*

Online education programs that supplement curricula offered in local schools are critical to increasing access to educational opportunity for students throughout Colorado. High schools with less than 100 students can typically offer only 35-50 courses, whereas high schools with 2,000 students can offer 200 courses. This difference represents a significant gap in educational opportunity for rural and small school students. Supplemental online education courses can reduce this gap by giving students access to advanced courses, multiple languages, and other specialized courses they otherwise could not access.

Supplemental online education courses can also help schools address college remediation rates, and help schools offer courses needed by students to comply with Higher Education Admission Requirements (HEAR). For example, Michigan recently adopted a requirement for all schools to provide an online learning experience to its secondary students prior to graduation to help them prepare for post-secondary learning and today's increasingly-digital workplaces.

Colorado created a funding mechanism for Colorado Online Learning (COL), based on recommendations made by the CDE E-Learning Task Force in 2002. The funding, however, was through federal grant funds which are no longer available. COL reports that without state financial support, it will be fiscally insolvent by August 2007.

The Commission encourages the state to fund COL's services and to continue to offer an ongoing contract based on a continuing evaluation of the current program. If, an evaluation by the state online division shows that COL's services are not adequate, then, the state should open the contract for bid.

A recent report by the Southern Regional Education Board (SREB) provided that, "SREB states have found state virtual schools to be a viable means of ensuring equity-of-access for students and an effective way to provide quality teaching and courses at reasonable costs." The report notes that SREB-member states have implemented state-led virtual schools for reasons that include efficiency, accountability, and quality control.

A history of COL is provided in Appendix D.

The Commission believes that because the Auditor's comparison of CSAP scores did not adequately account for student demographics and the prior performance of students who are now in an online program, the comparison is not an effective measure of student performance.

RECOMMENDATION 8: ***The state should improve online student data capture and analysis for all online programs, and should disaggregate data so that the performance of individual online schools and programs can be better understood.***

The State Auditor reviewed CSAP scores of students in online programs, and a subset of performance indicators that are reported in School Accountability Reports. The Auditor's report highlighted that CSAP scores for online students have been lower than CSAP scores for students statewide over the last three years. The Auditor's report also highlighted the lack of a standardized definition of at-risk and suggested that CDE clarify the definition of at-risk.

The Commission believes that because the Auditor's comparison of CSAP scores did not adequately account for student demographics and the prior performance of students who are now in an online program, the comparison is not an effective measure of student performance. The Commission also believes that although at-risk factors should be tracked for individual students, a single definition of at-risk is neither sufficient nor necessary. The most commonly used definition of at-risk, based on a student's eligibility to receive free or reduced-cost lunch, does not capture the range of factors that might put a student at-risk and therefore, is not a sufficient definition. Furthermore, a single definition of at-risk is not necessary if the state disaggregates student data to include multiple at-risk factors.

The state should immediately disaggregate data so that performance of individual online schools and programs can be better understood. Data should be disaggregated by multiple at-risk attributes. Identifying at-risk status should not be an excuse for poor performance, but rather, it should be used to assist in identifying best practices and successes when challenges exist.

The state is moving towards a system of longitudinal individual student data tracking and analysis that will provide a much better level of data analysis. House Bill 07-1048 "Directs the governor to appoint and the department of education to convene a new technical advisory panel to assist the department and the state board of education in developing a longitudinal growth model to measure the academic growth of students." The bill states that a longitudinal growth component will afford the "ability to provide reliable, valid, and meaningful results to external stakeholders to enable them to judge academic improvement and hold the educational system accountable."

Once a longitudinal tracking system is in place, online programs should be held accountable for longitudinal growth in the same way as all other public schools. Until that time, student attributes that correlate with educational outcomes should be captured, and data should be disaggregated to online programs, learning centers, student factors, grade level, and at-risk factors.

In the short term, while aggregate CSAP scores are the main way in which schools are evaluated, the state should make CSAP data available to online schools (and all schools) immediately upon enrollment by a student.

3. ONLINE PROGRAM PLANNING AND OVERSIGHT TIMING AND DIAGRAMS

The Commission recognizes that the recommendations given in the preceding section are fairly complex, in part because of the distinctions between single-district programs, multi-district programs without physical facilities, and multi-district programs with physical facilities. The following diagrams lay out the oversight process for each of these types of online programs, in order of increasing complexity. The diagrams refer back to capacity indicators, quality standards, and declarations of oversight by authorizers that are explained in the previous section.

3.1 Timing of implementation of recommendations

The new Online Division within the Department of Education must be established and in place by July 1, 2007. Given the body of knowledge that already exists about online quality standards the application procedures and quality standards shall be developed and approved by the State Board of Education no later than December 1, 2007. Applications for provisional certification will be accepted starting January 1, 2008.

Districts and other authorizers currently overseeing online learning services beyond their district boundaries are required to apply for provisional certification from the State Board of Education no later than June 1, 2008.

The Online Division shall take no more than 30 days to review and make recommendations on applications. The Online Division may use information other than that contained in applications, including information obtained by conducting site visits.

Districts with prospective physical online learning centers will, upon notification by a certified authorizer, have 60 days to complete the MOU process.

3.2 Single-district online program

For a single-district online program, certification of the district as an authorizer is not required. The district is expected to use the quality standards published by the Online Division to monitor the online program, the online program must report to the Online Division annually, and the Online Division will list the program on the Online Division web site.

Superior School District desires to provide full-time or supplemental online services to its in-district students by either developing its own programming or securing the services of independent providers. In the alternative, A-1 Online School desires to offer online learning services to students within its district, Superior School District. These online learning services may be full-time or supplemental, and may or may not include physical facilities. A-1 seeks approval from Superior School District.

↓

Superior SD grants (or denies) approval based on quality standards published by the Online Division of CDE. CDE does not need to be involved in the decision but is available for consultation with Superior School District, if the District requests assistance.

↓

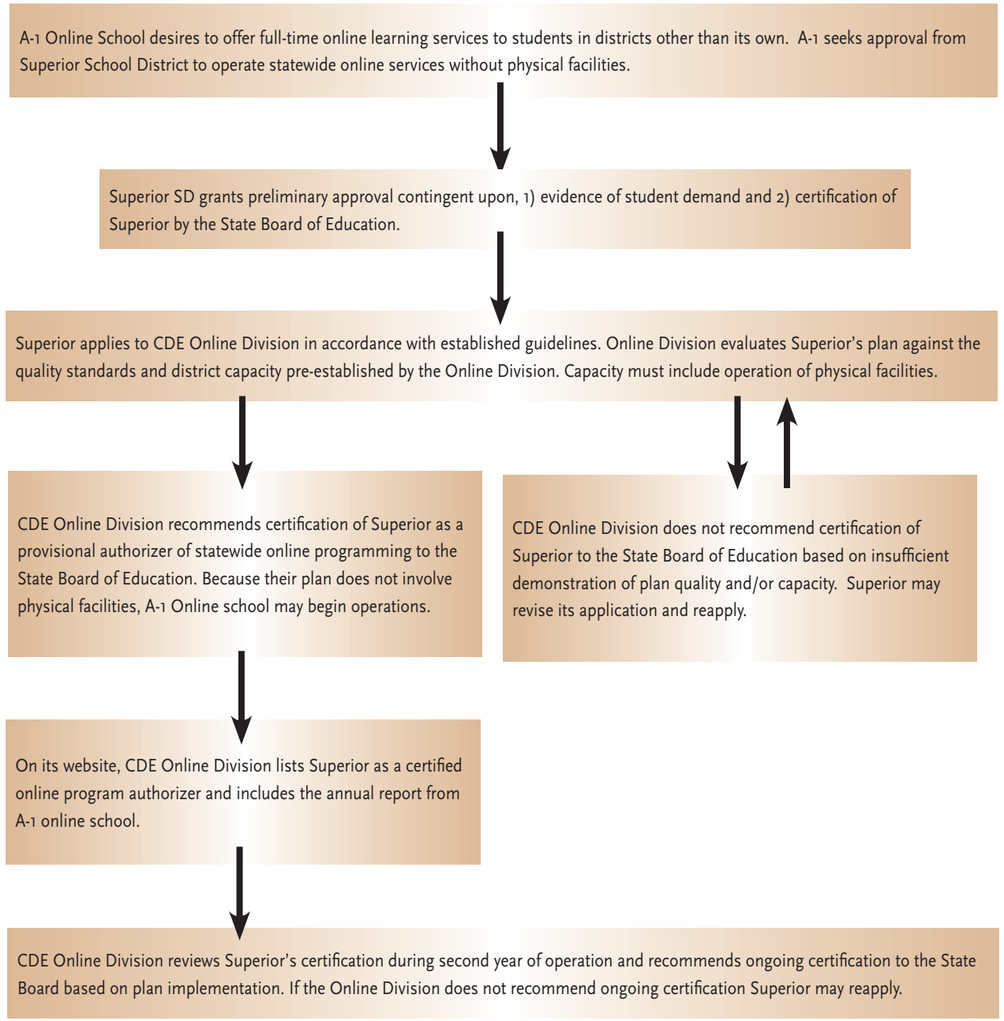
A-1 Online School may begin operations contingent on approval from Superior School District. Because the program is single-district, it will receive district-level PPR funding. Oversight of A-1 Online School is done by Superior School District using its standard school accreditation process and incorporating quality standards published by the Online Division of CDE.

↓

A-1 must submit an annual report to the CDE Online Division, which is posted on the Online Division's website. In CDE's subsequent accreditation of Superior School District, it will review the District's accreditation of A-1 Online School.

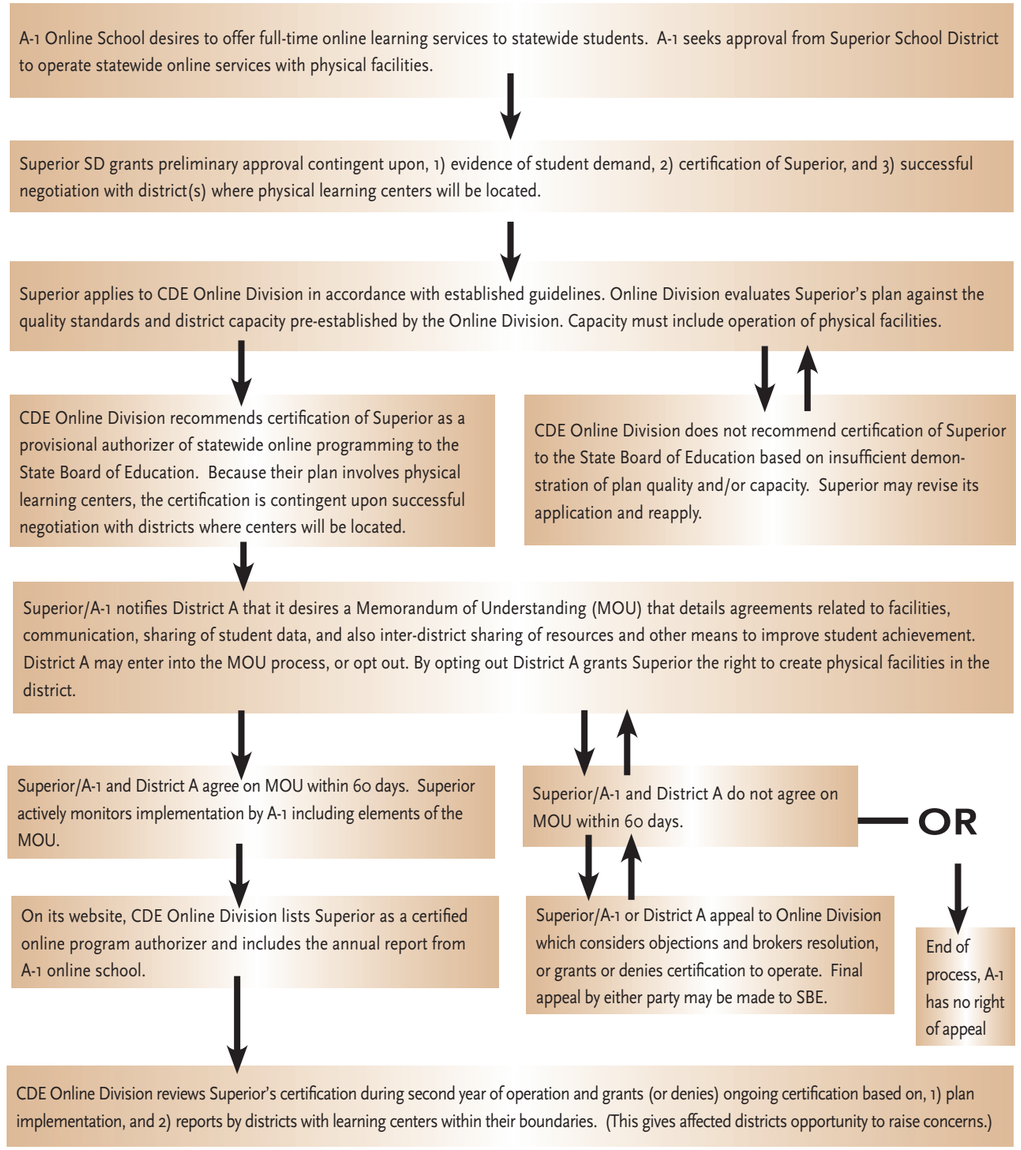
3.3 Multi-district online program *without* physical facilities for students

For a multi-district online program, certification of the authorizer is required. Certification involves the authorizer 1) demonstrating capacity to oversee and monitor an online program, and 2) declaring that it has a detailed plan in place with the online program for program development and operations. The district is expected to use the quality standards published by the Online Division to monitor the online program, the online program must report to the Online Division annually, and the Online Division will list the program on the Online Division web site.



3.4 Multi-district online program *with* physical facilities for students

For a multi-district online program with physical facilities, certification is still required in the same way as for multi-district online programs without physical facilities. One additional step is required because of the physical facilities: the online program or authorizer must notify the district in which the physical facility is located, and must offer to enter into a Memorandum of Understanding (MOU) with the district. ***The Commission was unable to agree on whether an online program may appeal a decision by a district not to enter into an MOU and two alternatives are provided.***



4. RECOMMENDATIONS MAPPED TO THE REPORT OF THE STATE AUDITOR

The recommendations made in the previous section address all of the suggestions made by the auditor. The table below lists all the auditor's recommendations in order and explains how the vision put forth in this report addresses each.

Auditor's recommendation	How addressed by the Commission
1. Strengthen oversight and awareness of online school performance by analyzing performance data for online students and developing policies and guidelines to improve performance.	Oversight and awareness of online school performance will be strengthened by the requirement that multi-district online program authorizers be certified, by the quality standards that the Online Division will create, and by the annual reporting requirement. The disaggregation of student data is a key element in tracking online program performance, and the annual reporting requirement will provide parents, students, and administrators a source of information about online programs.
2. Improve the performance of online schools by following State Board accreditation rules and working with the General Assembly to seek authority for intermediate penalties, such as fines.	Oversight of online programs will remain primarily within the existing accreditation process. The Online Division will be charged with developing quality standards and will oversee certification of authorizers of multi-district full-time online programs.
3. Review the statutory definitions of at-risk and high-risk students and work with the State Board and General Assembly as needed to determine a definition of at-risk students for use in evaluating academic performance. Require school districts to establish goals and processes to improve performance and report on the progress of at-risk students.	An improved process of data capture and analysis which allows for longitudinal studies may reduce the need for a determination of at-risk specific to online programs. The Online Division may decide that a new definition is needed and if so will work with the State Board and General Assembly to create this definition.
4. Work with the General Assembly to define the role of online teachers and develop rules for the in-person evaluation of online students. Ensure school districts employ licensed educators in all subject areas and grade levels.	The Online Division will develop quality standards regarding the role of online teachers and will enforce existing law that teachers must be highly qualified. Evaluation of online students is a teacher and authorizer role that will not be addressed specifically by the Division.
5. Verify human resources data reported by school districts and identify districts that report data incorrectly. Conduct outreach to those districts and use the statutory penalties to address noncompliance with data reporting requirements.	This is part of accreditation, and is not an issue specific to online programs.
6. Improve oversight and management of the alternative education campus (AEC) designation process by implementing written policies and procedures that fully address requirements for AEC designation. Correct State Board rules that conflict with statute relating to AEC criteria.	The Commission agrees with this recommendation, but this is not an issue that is specific to online programs and is not addressed in this report.
7. Work with the State Board to develop a formal code of conduct that addresses real and potential conflicts of interest. Periodically orient board members on the code of conduct.	The Commission agrees with this recommendation, but this is not an issue that is specific to online programs and is not addressed in this report.
8. Enhance the accreditation process to ensure that school districts: (1) do not use public education monies to fund private or religious education; (2) comply with statutory and regularity requirements regarding safety standards, course requirements, and student documentation; (3) follow standards for online teachers; and (4) have adequate procedures to monitor their schools.	Each element of this recommendation will be addressed separately in the certification and program reporting process. Items 1 and 2 are simply issues of enforcing existing law. Guidelines for item 3 will be part of the Online Division's quality standards, and item 4 is the overall goal of the Online Division and in particular the requirement that multi-district online program authorizers be certified.
9. Place Vilas school district on accreditation probation. If Vilas does not correct all accreditation problems, revoke its accreditation in one year as permitted by State Board rules.	Whether or not Vilas is placed on accreditation probation under existing accreditation measures is a decision for CDE that is beyond the scope of this report. In the future, Vilas, as the authorizer of a multi-district online program, will be required to gain certification.

Auditor's recommendation	How addressed by the Commission
10. Define the term "complete educational program" in State Board rules or work with the General Assembly to develop a statutory definition. Promulgate rules regarding a school district establishing learning facilities within the boundaries of another district. Work with the General Assembly to determine the safety requirements for learning facilities that do not meet the definition of a school or child care facility.	The Commission agrees that the term "complete educational program" should be defined. However, if issues surrounding the use of physical facilities in online programs are addressed in the near future, and online programs are sufficiently defined in the long term, the question of how "complete educational program" is defined will not be important to online program oversight. The Commission recommends that online programs with physical facilities for students enter into Memoranda of Understanding with the districts in which the physical facilities are located to ensure communication and sharing of resources. Safety requirements for learning facilities should be addressed as part of the application and MOU processes.
11. Develop a system to log, route, monitor, and resolve complaints and use complaint data in the accreditation process.	Online programs must demonstrate to authorizers that they have such a system in place.
12. Evaluate the current methodology for funding online education and explore options to minimize the effect of online schools on state and local funding. Work with the General Assembly to propose statutory changes if needed.	Most online program funding issues are tied to the outmoded system that Colorado is using to fund public education. Funding should be a major focus of ongoing study that transcends online programs. In addition, this report makes two specific funding recommendations to increase educational opportunities and simplify accounting.
13. Ensure that public K-12 education funds are accurately disbursed by working with the General Assembly to define an online program for funding purposes. Define the term "substantially completed," develop clear criteria for documenting student attendance in an online school, and establish a more comprehensive risk-based approach for pupil count audits.	The Commission agrees with the need to address these issues and believes they should be addressed in a year-long comprehensive study. The term "substantially completed" becomes irrelevant if the Commission's recommendation regarding removing prohibitions on funding is adopted.
14. Determine how to comply with the statutory requirement to adjust funding for students who transfer from a brick-and-mortar to an online school during the\year or consider seeking a statutory change to eliminate the requirement.	The Commission agrees with the Department of Education's response that the statutory requirement should be eliminated. This is a short-term fix, however, and the underlying issue of how to best account for students moving between districts after the October 1 count date should be addressed in the long-term funding study.
15. Increase oversight of online schools by assigning Department resources specifically to online education. Work with the General Assembly to evaluate options to increase accountability for online schools that serve students from multiple districts, such as authorizing the Department to: (1) directly accredit online schools, (2) approve the establishment of new online schools, and (3) approve and operate online schools.	The Commission's recommendations to establish an Online Division and require certification of multi-district online programs address these issues.
16. Consider seeking a statutory moratorium on the establishment of new public online schools until the recommendations from this report are implemented and any statutory changes in the Department's role are enacted.	The Commission's recommendations are meant to be enacted quickly to address the issues raised in the Auditor's report. In light of the benefits that online programs are providing to Colorado students, a moratorium on new programs or program growth is not in the best interests of the public as a matter of public policy.

5. CREATING A LONG-TERM VISION

The recommendations within this report are a starting point for ensuring that online education can improve educational opportunity and outcomes in Colorado. Continued study, analysis and oversight are necessary for two reasons:

- Some of the concerns raised in the State Auditor's report, such as funding, are tied to issues that go well beyond online programs. These require more time, input and thought than could be accomplished within the time constraints of this report, and,
- The rapidly evolving nature of online learning threatens to outpace any static set of recommendations. Therefore, plans to continually evaluate policy and practice of online education should remain in place.

In light of these challenges, the Donnell-Kay Foundation has invited the Colorado Children's Campaign to facilitate an inclusive process that will create a mechanism and opportunities for continuing discourse to review how the state can best foster educational opportunities and improved student achievement through online programs.

5.1 Funding

There are also several funding issues that call for consideration via a longer-term process and to include a greater number of stakeholders. Among them is the question, how to count online students? The present method of a single census date in October creates a situation where an online school, or indeed any school, can be funded for students no longer attending the school in January, and where funding is not provided for students enrolling after October 1. This is exacerbated by the requirement that the district of residence accept in-district students who change their choice in education at any time in the school year; whereas multi-district online schools do not have a similar requirement. While most online schools have now adopted policies about replacing withdrawn students after October 1, it is not mandated, and the impact can still be disproportionately felt by individual districts. Ways to address these funding issues range from non-financial methods to adding a second count window for funding purposes, or to a complete re-thinking of funding that acknowledges that online education allows students to move at their own pace and that student funding could be based on course completions. Any proposed change in the timing or methods of funding online students must take into account the additional accounting systems needed to avoid the potential for duplicate funding of students moving mid-year from one educational choice to another.

Because the attrition rate issue needs immediate attention, we have recommended that addressing attrition be a component of online program planning and monitoring and that it be included in the quality standards to be created by the Online Division.

Ideally, the state will recognize that the increasing complexity of its public education funding system, the inability of the state to comprehensively predict the effect of proposed changes (in online or traditional education), and the ad-hoc, multi-layered system of funding sources and fiscal constraints all suggest the need for expansive study and revision of the school finance system.

In researching funding issues and implications of policy changes on funding, the Commission found that fiscal impacts quoted in the State Auditor's report and in Department of Education funding reports are snapshots of simple scenarios that cannot be extrapolated to wider conclusions. This situation is due to the complexity of school finance. In a hypothetical situation of 100 students moving from a brick and mortar school in one district to an online school in another district, the overall fiscal impact on the state depends on details including the year in which the students change districts (because property tax assessments are done every second year), whether each district is a declining enrollment district (resulting in additional temporary funding by the state) or has enrollment growth, the amount of state and local share of PPR in each district, as well as other factors. The end result is that running a scenario for two given districts, in a given year, produces a number that is only useful for that specific situation. It tells us nothing about what the fiscal impact would be for two different districts in a different year, or even for the same two districts in a different year. Stated another way, while the statement in the State Auditor's report that "For Fiscal Year 2006 the Department determined that the State would have saved at least $6.7 million in State Share funding if all online students attended schools within their district of residence" is accurate, it is also potentially misleading, because the $6.7 million applies only to the exact districts studied, in the exact time frame studied. Change any of the inputs to suggest a different situation and the predicted impact may change dramatically.

For years there has been a shifting of the cost of public education from local property tax to the state budget due to the effect of TABOR and other Constitutional provisions and laws. This increasing state share is only partially due to students opting for public education outside their district of residence. In addition, online students account for only a small percentage of students choosing a school outside their district of residence. In light of these facts, funding discussions should address broader issues of the incentives and disincentives that Colorado's present public education funding system creates.

5.2 Online program definition

C.R.S. 22-33-104.6 defines an online program as:

"an alternative on-line education program authorized pursuant to this section that provides a sequential program of instruction for the education of a child who resides in Colorado through services accessible on the world wide web and monitored by a district coordinator and a site coordinator; except that, if an on-line program is provided by a charter school, the site coordinator shall have sole responsibility for monitoring the program. An on-line program is not intended to be and does not qualify as a private or nonprofit school."

In the statute, "District coordinator means a staff person at the school district level who shall administer and monitor the on-line program for the school district," and "site coordinator means a counselor or teacher at a public school, including but not limited to a charter school, who shall monitor the progress of a student participating in the on-line program."

The Colorado statute's definition of online programs leaves open to interpretation whether or not a hybrid course of study that uses online curriculum delivered to students in a school or school-like setting, with a teacher or mentor present, should be considered an online program. The statute did not anticipate the widespread use of a hybrid model, such as Hope has used, which is why the Hope approach is challenging current online learning law.

Many schools and teachers are increasingly using resources available on the Internet to teach students in on-site classrooms, and the blurring of online distance programs and classroom-based courses will continue. Colorado needs a clear definition of "online program" in order to make clear when a program qualifies for online student funding.

The Trujillo Commission recommendation that programs teaching only in-district students generate in-district PPR for those students is in part an attempt to alleviate the confusion that can be created by hybrid programs. However, it is only a partial step, and an additional necessary step is to create a definition of online programs that clearly defines—especially for hybrid programs—what is an online program.

5.3 Continuing oversight

The recommendations in this report are a starting point, but the Commission recognizes that with the continued growth and evolution of online programs there should be a mechanism for continued discussion and study of new issues. For example, as online programs become more common, students' right to choose their schooling may extend down to the course level—they may be able to mix online courses with face-to-face courses to exactly match their needs.

This is just one example of the way that growth in online programs may continue to increase educational opportunities. It is also illustrative of the way that online education will continue to challenge existing policies. Even if all the recommendations in this report were adopted by the state, it is likely that some recommendations will need to be reconsidered and revised in future years. The state should create a mechanism for ongoing study and evaluation of oversight processes that can address issues continuously.

The recommendations within this report are a starting point for ensuring that online education can improve educational opportunity and outcomes in Colorado. Continued study, analysis and oversight are necessary.

APPENDIX A: REVIEW OF PUBLIC COMMENT PROCESS

The Trujillo Commission called for and received extensive public input. Comments were received through two public forums and by email, and each of the Commission members visited a Hope learning center. Several dozen people testified or submitted remarks, and the written comments totaled over one hundred pages. The testimony was very useful to the Commission in demonstrating the support of online programs from parents, students, teachers, and members of the community. Many comments, both in writing and in the public forums, were notable for the passion shown in support of students and the need for alternative methods of education.

While most of the comments are reflected in the report, three resources were mentioned that may be of interest to readers and are not captured elsewhere.

- The report does not discuss at length the issues of connections between faith-based institutions and public schools, in part because there are different forms of guidance available for connections between faith-based institutions and charter schools. The full set of non-regulatory guidance for charters that includes a discussion of use of faith-based institutions is available at http://www.ed.gov/policy/elsec/guid/cspguidance03.doc.
- The Commission discussed at-risk factors and concluded that disaggregating student data down to these and other factors affecting educational performance was a better approach than creating a definition of at-risk specifically for online students. One comment captured the Commission's thinking: "Rather than narrowing the definition of what puts a child at risk, we urge you to think comprehensively about the challenges that young people face. Only when we acknowledge all these challenges can we design effective programs that help meet these children's needs." The suggestion was made that the Commission consider the at-risk criteria being used by the Colorado Preschool Program, which includes many factors beyond financial capacity.
- Some of the comments and larger discussions about the effectiveness of online education touch on the concept of how today's K-12 students tend to be much more comfortable with technology than their parents and teachers. The concept of "digital natives" and "digital immigrants" and the concept's applicability to education are discussed in a paper available at http://www.marcprensky.com/writing/Prensky%20-%20Digital%20Natives,%20Digital%20Immigrants%20-%20Part1.pdf.

APPENDIX B: COLORADO STATUTE DEFINING ONLINE PROGRAMS

C.R.S. 22-33-104.6 On-line program – legislative declaration – authorized – definitions.

(1) **Legislative declaration.**

(a) The general assembly hereby finds and declares that technological advances, particularly in the development and dissemination of resources through the world-wide web, can provide alternatives for the provision of educational services that can be customized to serve the diverse needs of today's student population.

(b) The general assembly further finds and declares that the state should avail itself of the enhanced services available as a result of such technological advances to serve the citizens of the state more appropriately.

(2) **Definitions.** *As used in this section:*

(a) "District coordinator" means a staff person at the school district level who shall administer and monitor the on-line program for the school district.

(b) "On-line program" means an alternative on-line education program authorized pursuant to this section that provides a sequential program of instruction for the education of a child who resides in Colorado through services accessible on the world wide web and monitored by a district coordinator and a site coordinator; except that, if an on-line program is provided by a charter school, the site coordinator shall have sole responsibility for monitoring the program. An on-line program is not intended to be and does not qualify as a private or nonprofit school.

(b.5) "On-line pupil enrollment" shall have the same meaning as provided in section 22-54-103 (8.5).

(c) "Parent" includes a parent or guardian.

(c.5) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(d) "Site coordinator" means a counselor or teacher at a public school, including but not limited to a charter school, who shall monitor the progress of a student participating in the on-line program.

(3) **Program criteria.** *A school district, any group of two or more school districts, a charter school, a group of charter schools, or any board of cooperative services is hereby authorized to create an on-line program. The following guidelines shall apply to any on-line program that is created and administered pursuant to the provisions of this section:*

(a) A child who is participating in an on-line program shall be subject to compulsory school attendance as provided in this article and shall be deemed to comply with the compulsory attendance requirements through participation in the on-line program.

(b) An on-line program shall include regular assessment by the site coordinator as to whether a child participating in the program is progressing on a regular basis toward assigned work.

(c) An on-line program shall include, but need not be limited to, education in reading, writing, mathematics, geography, history, civics, literature, and science and regular courses of instruction in the constitution of the United States as provided in section 22-1-108.

(d) Each child participating in an on-line program shall be evaluated, tested, and monitored at the same intervals as other students in the grade level in the child's school. Each child participating in an on-line program shall be subject to the statewide assessments as required in section 22-7-409. The district coordinator and the site coordinator shall collaborate to ensure that the child meets in person with the site coordinator for an evaluation; except that, if a charter school provides the on-line program, the site coordinator shall have sole responsibility to ensure the child meets in person with the site coordinator.

(e) An on-line program shall include:

(I) Mentoring services deemed necessary by the site coordinator for a child participating in the on-line program after having been expelled from a public school; and

(II) A process pursuant to which the site coordinator shall notify any child who is not performing satisfactorily in the on-line program, as determined by the school district or charter school providing the on-line program, and shall identify other educational alternatives available to such child.

(f) The provisions of article 36 of this title shall apply to an on-line program implemented pursuant to this section.

(g) The records of each child participating in an on-line program shall be maintained on a permanent basis by the school and the school district providing the on-line program; except that, if a charter school provides the on-line program, only the charter school shall be required to maintain such records. The records shall include but need not be limited to:

(I) Attendance data;

(II) Test, evaluation, and statewide assessment results; and

(III) Immunization records, as required by sections 25-4-902 and 25-4-903, C.R.S.

(h) Each child participating in an on-line program shall reside within this state, shall meet the criteria for selection for participation in such program set by the school district or charter school providing the on-line program, and shall demonstrate that he or she possesses the appropriate electronic equipment and resources to participate in the program. A school district or charter school may provide such equipment and resources to a child participating in the on-line program.

(4) **Funding.**

(a) For the 2003-04 budget year and for each budget year thereafter, except as otherwise provided in subsection (5) of this section, a school district, for purposes of determining total program funding under the "Public

School Finance Act of 1994", article 54 of this title, may not count a student in the school district's on-line pupil enrollment who enrolls in or transfers to an on-line program within the school district, unless:

(I) (A) The student was included in a school district's pupil enrollment or on-line pupil enrollment for the preceding school year; and

(B) The student substantially completed the assigned course work for the classes in which he or she was enrolled for at least one semester of the preceding school year and received a semester grade for the classes; or

(II) The student, in the preceding school year, was not enrolled in any private school, did not participate in a nonpublic home-based education program, and did not participate in home instruction by a licensed or certified teacher; or

Editor's note: This version of subparagraph (II) is effective July 1, 2007.

(III) The student is enrolling in kindergarten or first grade in an on-line program.

Editor's note: Subparagraph (III) is effective July 1, 2007.

(b) For purposes of this subsection (4), a child who is participating in an on-line program, other than a child who is participating in the on-line program after having been expelled from a public school, may participate on an equal basis in any extracurricular or interscholastic activity offered by a public school or offered by a private school, at the private school's discretion, as provided in section 22-32-116.5.

(c) As used in this subsection (4), "an extracurricular or interscholastic activity" shall have the same meaning as "activity" as set forth in section 22-32-116.5 (10) (a).

(4.5) To verify that a student meets the requirements specified in subparagraph (I) of paragraph (a) of subsection (4) of this section, an on-line program shall request from the school district in which the student was enrolled confirmation of the student's enrollment and the semester grades received by the student for the classes in which the student was enrolled. The school district in which the student was enrolled shall respond to the on-line program's verification request within sixty days after receipt of the request.

(5) (a) (I) The general assembly hereby finds that there are many children in Colorado who do not meet the criteria specified in paragraph (a) of subsection (4) of this section who would benefit from the opportunity to participate in an on-line program. Although the cost of funding all of such children through the "Public School Finance Act of 1994", article 54 of this title, would be prohibitive, it is the intent of the general assembly to provide funding for as many of such children as possible under the fiscal constraints that exist for the state.

(II) The general assembly further finds that increasing the number of funded positions available to students in on-line programs as provided in this subsection (5) will expand technology education by providing education services to more children through the use of internet and other forms of computer technology and making such technology more readily available and useful to students. The general assembly therefore finds that the increase in the number of funded positions for on-line programs pursuant to this subsection (5) may be funded with moneys from the state education fund created in section 17 (4) of article IX of the state constitution.

(b) For the 2002-03 budget year, for purposes of determining school districts' on-line pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title, in addition to the children counted pursuant to subsection (4) of this section, school districts may count up to a statewide total of one hundred thirty-five children who, as of October 1, are enrolled in, attending, and actively participating in on-line programs created pursuant to this section and who, for the preceding school year, were enrolled after October 1 in public schools or charter schools of school districts in this state or were enrolled in private schools or participating in nonpublic home-based education programs or participating in home instruction by licensed teachers.

(c) Each school district, group of school districts, charter school, group of charter schools, and board of cooperative services that creates an on-line program pursuant to this section may apply to the department of education for authorization to count children enrolled in the on-line program who meet the criteria specified in paragraph (b) of this subsection (5) for purposes of determining the on-line pupil enrollment. Each applicant, at a minimum, shall provide the following information:

(I) Verification that the academic program provided through the on-line program is research-based and sequential;

(II) The manner in which the applicant has marketed the on-line program to children who are not receiving public education services and have demonstrated interest in the on-line program, including but not limited to letters of intent to participate in the on-line program;

(III) Demonstration of the use of technology support systems for the on-line program and teacher support; and

(IV) Demonstration of the success of the on-line program, including but not limited to the student completion rate of the on-line program.

(d) The department of education shall allocate the on-line program positions authorized in paragraph (b) of this subsection (5) to applying school districts, charter schools, and boards of cooperative services. The department shall allocate the positions to accomplish, at a minimum, the following goals:

(I) Distribution of on-line programs throughout the state for broad representation of rural and urban school districts and charter schools;

(II) Allocation of a sufficient number of positions to a school district, charter school, or board of cooperative services to ensure that the on-line program operated by the school district, charter school, or board of cooperative services can include an adequate number of students, including those enrolled pursuant to subsection (4) of this section and this subsection (5), to maintain the educational feasibility and integrity of the program.

(6) (a) For the 2003-04 budget year and for each budget year thereafter, if a student who meets the requirements of paragraph (a) of subsection (4) of this section or is exempt under rules adopted by the state board transfers after October 1 to an on-line program within the school district in which the student was included in pupil enrollment for the applicable budget year, the student shall be included in the school district's on-line pupil enrollment, and the department of education shall accordingly reduce the per pupil funding received by the school district for the transferring student to the amount of minimum per pupil funding, as specified in section 22-54-104 (3.5), for the entire school year in which the student transferred.

(b) For the 2003-04 budget year and for each budget year thereafter, if a student who is included in the pupil enrollment of a school district transfers to an on-line program within the same school district within the same school year, but does not meet the requirements specified in paragraph (a) of subsection (4) of this section and is not exempt under rules adopted by the state board, the department of education shall remove the student from the school district's pupil enrollment and shall accordingly reduce the total program funding received by the school district for the entire school year in which the student transferred.

(c) A student who is enrolled in on-line program courses for a majority of the student's school day and who seeks to enroll in a traditional public school for one or more courses shall obtain permission from the on-line program in which the student is enrolled prior to enrolling in one or more courses at a traditional public school. The on-line program may negotiate with the school district in which the public school is located for payment of the costs incurred as a result of the student's participation in one or more courses at the traditional public school.

(7) The state board may promulgate rules allowing exemptions from the requirements of paragraph (a) of subsection (4) of this section for students whose parents or legal guardians remove them from school for extraordinary reasons and for students who are habitually disruptive or are otherwise at risk and for students who did not reside in and attend a school in the state during the prior school year. In addition, the state board may promulgate such other rules as may be necessary for the implementation of this section.

Source: L. 98: Entire section added, p. 655, § 2, effective August 5. **L. 2002:** (2)(b), (2)(d), IP(3), (3)(d), (3)(e)(II), (3)(g), (3)(h), and IP(4)(a) amended and (5) added, p. 1746, § 20, effective June 7. **L. 2003:** (2)(b.5), (2)(c.5), (4.5), (6), and (7) added and (3)(a), (4)(a), and (5)(b) amended, pp. 2130, 2128, §§ 22, 21, effective May 22. **L. 2006:** (4)(a)(II) amended and (4)(a)(III) added, p. 1212, § 3, effective July 1, 2007.

Cross references: For the legislative declaration contained in the 2006 act amending subsection (4)(a)(II) and enacting subsection (4)(a)(III), see section 1 of chapter 265, *Session Laws of Colorado 2006*.

APPENDIX C: REPORTS USED BY THE TRUJILLO COMMISSION

Anderson, Amy. 2006. *Cost and funding of virtual schools.* Augenblick, Palaich, and Associates.

Kalmon, Stevan and John Watson. 2003. *Final Report: Colorado Online Education Programs Study Committee*

Kalmon, Stevan and John Watson. 2002. *Findings and Recommendations of the Colorado E-Learning Task Force.* Prepared for the Colorado Department of Education

Snyder, Tim. 2004. *Colorado Department of Education Online Advisory Committee Memorandum* to William Moloney, Commissioner, Colorado Department of Education

Southern Regional Education Board. 2007. *Strengths and Benefits of SREB State Virtual Schools.*

Southern Regional Education Board. 2006. *Cost Guidelines for State Virtual Schools.*

Vanourek Consulting Solutions, LLC. 2005. *Online education in Colorado: An overview of online learning activity, meta-analysis of online learning reports, and synthesis of findings and recommendations.* Prepared for the Colorado Cyberschool Association (CCA)

Vanourek, Gregg. 2006. *A Primer on Virtual Charter Schools: Mapping the Electronic Frontier.* Issue Brief for National Association of Charter School Authorizers

Watson, John, and Jennifer Ryan. 2006. *Keeping Pace with K-12 Online Learning: A Review of State-Level Policy and Practice.* Evergreen Consulting Associates

APPENDIX D: HISTORY OF COLORADO ONLINE LEARNING (FORMERLY COLORADO ONLINE SCHOOL CONSORTIUM)

The Colorado Online School Consortium (COSC) began in 1998 as a joint venture between rural, suburban, and urban school districts in Colorado. Led by Jefferson County Schools and Denver Public Schools, the consortium was awarded a Technology Learning Challenge Fund grant administered by the Colorado Department of Education. The consortium model became the foundation of the project, allowing high school students to receive a variety of instructional opportunities from other teaching professionals in the state while remaining enrolled in their local school district. This cooperative model provided advanced placement, remedial, and enrichment courses to students who did not have access to a variety of learning opportunities or who needed greater scheduling flexibility.

In 2001/02 the Colorado Department of Education facilitated a statewide E-Learning Task Force to establish the parameters of a Request for Proposal for a supplemental online program to qualify for federal Enhancing Education Through Technology (e2t2) funding. COSC submitted a proposal, with the understanding that, if awarded the grant, COSC would transition to the new organization, Colorado Online Learning. COSC was successful in its grant proposal, and a $700,000 grant was awarded in October, 2002. Since then COL has been funded by a combination of state and federal grants, and in 2005 the organization transitioned to 501(c)(3) non-profit status to position itself as an organization with legal operating authority, and to expand operations and services.

Colorado Online Learning has been the de facto designee of the state in providing supplemental online courses to schools and students since August 2002 when the CDE eLearning Task Force (ELTF) formally created Colorado Online Learning as a statewide online learning organization.

The ELTF provided specific direction concerning leadership, governance, and staffing; implementation and operation; financial modeling; and accountability and evaluation. In 2004 the CDE Online Advisory Committee made a recommendation to "Provide state funding support for Colorado Online Learning (COL) to assure its continued ability to provide supplemental online courses to all Colorado school districts…"

The anticipated termination of that federal funding cycle prompted the Colorado Online Education Programs Study Committee (authorized by statute and appointed by the Governor) in its May 2003 report to recommend that (p. 31) "Colorado Online Learning should be established as the organization primarily responsible for providing statewide online learning services for Colorado school districts" and that "appropriate funding should be provided to enable COL to fulfill its designated role and mission."

Trujillo Commission Member Biographies

Lorenzo Trujillo, Esq. (Assistant Dean, University of Colorado School of Law)

Assistant Dean Trujillo practiced law as a partner in the Denver law firm of Frie, Arndt & Trujillo, LLP, as in-house counsel in Adams County School District 14, and is "Of Counsel" with the law firm of Cage, Williams, P.C. He has practiced law, consulted, taught, lectured, and published concerning matters in immigration law, language equity law, education law, juvenile law, the arts and public policy. Dean Trujillo was principal of the Lester Arnold On-Line High School in Adams County Public School District 14 and served as a senior administrator in Jefferson County Public Schools. He was one of the founders of the Colorado Cyberschools Association, Inc. and has provided leadership in online education throughout the state through the association.

Timothy D. Snyder, Ed.D. (Executive Director Emeritus, Colorado Online Learning)

Dr. Snyder has seen long-term service as a Colorado teacher, principal and superintendent. While serving as superintendent of the Monte Vista School District in 1995, he led the development of Colorado's first online high school. From 2001 through 2006, he headed Colorado Online Learning, a non-profit provider of supplemental online courses. He is a founder of the Colorado Rural Schools Caucus, has served on a variety of state commissions, and is a recipient of state and national awards for educational leadership, communication, technology, support of performing arts, community education and public service. Snyder has taught graduate-level courses in curriculum, school law and school finance, has written extensively in state and national publications, and has keynoted international conferences. He is a twice-wounded Vietnam veteran.

Jane W. Urschel, Ph.D. (Associate Executive Director, Colorado Association of School Boards)

Dr. Jane W. Urschel has been in the trenches of school board leadership, serving on the Jefferson County School Board in Colorado, part of that time as board president. She has been featured on ABC News, National Public Radio (NPR) and published in both the *American School Board Journal* and *Education Week*. Dr. Urschel was a policy analyst for the Education Commission of the States and conducted state education policy audits. Presently she serves as the Associate Executive Director of the Colorado Association of School Boards. In addition to working with boards of education, her duties include lobbying at both the state and federal levels. Dr. Urschel received her Ph.D. from the University of Colorado at Denver in Educational Leadership and Policy Innovation.

Kinny J. Griffith (Senior Director of School Services, K12 Inc.)

Kin Griffith is the Senior Director of School Services for K12 Inc., working with virtual academies across the country run by K12 Inc. management teams. He served as the executive director and head of school for Colorado Virtual Academy, since its inception in 2001 until fall 2006. For the seven previous years, he was the executive director of the Academy of Charter Schools. Over the past eleven years in public education, Mr. Griffith has been appointed to a variety of state-level committees and panels that oversee public schools and review education issues, including three appointments to committees specifically addressing online education issues. Kin was a founding member and officer of Colorado Cyberschool Association (CCA).

John Watson, Consultant to the Trujillo Commission

John Watson is lead author of the national online education policy report *Keeping Pace with K12 Online Education: A Review of State-Level Policy and Practice.* He has also managed a series of research projects investigating the effectiveness of online learning for the North Central Regional Educational Lab, and conducted program evaluations of the Illinois Virtual High School and Idaho Digital Learning Academy. In 2002-2004, he worked with the Colorado Department of Education on a series of online education committees. Mr. Watson's work has been cited in publications including the *New York Times* and *Education Week*, and he has been a speaker at the Virtual School Symposium, Technology and Leadership Conference of the National School Boards Association, and other conferences.