

COMMONWEALTH OF VIRGINIA  
BOARD OF EDUCATION  
RICHMOND, VIRGINIA

**MINUTES**

July 25, 2002

The Board of Education and Board of Career and Technical Education met for the regular business meeting in Senate Room B in the General Assembly Building, Richmond, Virginia, with the following members present:

Mr. Mark C. Christie, President	Dr. Gary L. Jones
Mrs. Susan L. Genovese, Vice President	Ms. Susan T. Noble
Mrs. Audrey B. Davidson	Mrs. Ruby W. Rogers
Mr. Mark E. Emblidge	
Mr. M. Scott Goodman	Dr. Jo Lynne DeMary, Superintendent of Public Instruction

Mr. Christie, president, presided and called the meeting to order at 9:00 a.m.

***MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE***

Mr. Christie asked for a moment of silence and led in the pledge of allegiance.

***APPROVAL OF MINUTES***

Ms. Noble made a motion to approve the minutes of the June 26, 2002, meeting of the Board. The motion was seconded by Mrs. Rogers and carried unanimously. Copies of the minutes had been distributed previously to all members of the Board of Education.

***CONSENT AGENDA***

Mrs. Davidson made a motion to approve the consent agenda. The motion was seconded by Mrs. Genovese and carried unanimously.

- Final Review of Recommendations Concerning Applications for Literary Fund Loans
- Final Review of Recommendations Concerning Release of Literary Fund Loans for Placement on Waiting List
- Final Review of Financial Report on Literary Fund
- First Review of Revision to Literary Fund Project Amount for Pittsylvania
- First Review of Change in Interest Rate for Two Alleghany County Literary Fund Loans

**Final Review of Recommendations Concerning Applications for Literary Fund Loans**

The Department of Education’s recommendation to approve one application in the amount of \$7,500,000 subject to review and approval by the Office of the Attorney General pursuant to Section 22.1-156, *Code of Virginia*, was accepted by the Board of Education’s vote on the consent agenda.

COUNTY, CITY, OR TOWN	SCHOOL	AMOUNT
Newport News	General Stanford Elementary	\$7,500,000.00
	<b>TOTAL</b>	<b>\$7,500,000.00</b>

**Final Review of Recommendations Concerning Release of Literary Fund Loans for Placement on Waiting List**

The Department of Education’s recommendation that funding for one project in the amount of \$7,500,000 be deferred and the project be placed on the First Priority Waiting List subject to review and approval by the Office of the Attorney General pursuant to Section 22.1-156, *Code of Virginia*, was accepted by the Board of Education’s vote on the consent agenda.

**First Priority Waiting List**

COUNTY, CITY, OR TOWN	SCHOOL	AMOUNT
Newport News	General Stanford Elementary	\$7,500,000.00
	<b>TOTAL</b>	<b>\$7,500,000.00</b>

**Final Review of Financial Report on Literary Fund**

The Department of Education’s recommendation to approve the financial report on the status of the Literary Fund as of May 31, 2002, was accepted by the Board of Education’s vote on the consent agenda.

**First Review of Revision of Literary Fund Project Amount for Pittsylvania County**

Pittsylvania County submitted a Literary Fund loan request for a project at Dan River Middle School in the amount of \$3,566,108. This project was placed on the First Priority Waiting List in February 2002. When bids were received, the costs were higher than originally projected. Pittsylvania County submitted a revised application for the project in the amount of \$5,000,000. The revised application totals \$1,433,892 more than the original request.

The Department of Education’s recommendation to waive first review and approve the revision of the amount for this project was accepted by the Board of Education’s vote on the consent agenda. This project will remain where it is currently located on the First Priority Waiting List.

**First Review of a Change in the Interest Rate for Two Alleghany County Literary Fund Loans**

Alleghany County submitted two Literary Fund Loan applications for \$7,500,000 each, and the projects were placed on the First Priority Waiting List with a three percent interest rate in May 2000. The two projects were released for funding in June 2001. Effective July 1, 2001, the school divisions for Alleghany County and Clifton Forge City consolidated into one school division. This consolidation resulted from the reversion of Clifton Forge from city to town status.

The interest rates assigned to these loans (three percent) were based upon the composite index assigned to Alleghany County. A subsequent recalculation of the composite index based on routine updates has produced an index that is lower and that would result in a two percent interest rate if it were assigned at the current time.

Chapter 899 of the 2002 Acts of Assembly states the following:

*If the composite index of a consolidated school division is reduced during the course of the fifteen-year period to a level that would entitle the school division to a lower interest rate for a Literary Fund Loan than it received when the loan was originally released, the Board of Education shall reduce the interest rate of such loan for the remainder of the period of the loan. Such reduction shall be based on the interest rate that would apply at the time of such adjustment. This rate shall remain in effect for the duration of the loan and shall apply only to those years remaining to be paid.*

The Department of Education's recommendation to waive first review and approve the lower interest rate of two percent for Alleghany County effective July 1, 2002, in accordance with the provisions of the Appropriation Act, Chapter 899, 2002 Acts of Assembly, was accepted by the Board of Education's vote on the consent agenda.

***ACTION/DISCUSSION ITEMS***

**First Review of Henrico County Public School's Request for Exemption from the School Breakfast Program**

This item was presented by Mr. Dan Timberlake, assistant superintendent for finance at the Department of Education.

Mr. Goodman made a motion to waive first review and approve the request from Henrico County Public Schools for an exemption from the school breakfast program for Varina High School for school years 2002-2003 and 2003-2004. The motion was seconded by Mrs. Davidson and carried unanimously.

**Implementation of HB 1206 Regarding Adoption and Family Life Education**

This item was presented by Mr. Doug Cox, assistant superintendent for instructional support services at the Department of Education.

Mr. Cox explained that HB 1206 (Reese), passed by the 2002 General Assembly, requires that the Board of Education include “the benefits of adoption as a positive choice in the event of an unwanted pregnancy” in its curriculum guidelines for a comprehensive, sequential family life education curriculum (Code of Virginia, Section 22.1-207.1). In addition, the bill requires that the Board specify that training of teachers of family life education include training in instructional elements to support the various curriculum components.

Mr. Cox briefly reviewed the background of family life education requirements. The family life education requirements were first enacted in 1987 by the General Assembly. In 1988, the Board of Education prepared a document that includes guidelines, standards of learning objectives and descriptive statements, guidelines for training individuals who will be teaching family life education, and guidelines for parent/community involvement.

Mr. Cox stated that the 1988 guidelines have now been to reflect the requirements of the 2002 legislation. This document is presented at this meeting for the Board’s review. In addition, the revision includes the language “abstinence education,” to reflect a change in the Code of Virginia in 1999. In addition, the revised document deletes reference to inclusion in the Individualized Education Program (IEP) for handicapped students. Mr. Cox explained that this language is no longer necessary due to changes in the Individuals with Disabilities Education Act, which requires that students with disabilities participate in the general curriculum. As a result, there is no need to specifically identify one component of the general curriculum in the IEP.

Mrs. Davidson made a motion to waive first review. The motion was seconded by Mr. Goodman and carried unanimously. Mrs. Genovese made a motion to adopt the revised Board of Education guidelines regarding Family Life Education. The motion was seconded by Mrs. Davidson and carried unanimously.

The resolution reads as follows:

**Revising the Board of Education’s  
Guidelines Regarding Family Life Education**

**Be It Resolved** that the Board of Education’s Guidelines Regarding Family Life Education be revised to reflect HB 1206 of the 2002 General Assembly, effective July 25, 2002; and

**Be It Further Resolved** that the revised Guidelines be disseminated to school divisions prior to the beginning of the 2002-03 school year.

Adopted in Richmond, Virginia, This Twenty-fifth Day of July 2002.

**Status Report on the Pre-Accreditation Eligibility of Public Schools for the 2002-2003 School Year**

Mr. Charles Finley, assistant superintendent for accreditation at the Department of Education, presented this item.

The Standards of Quality require that local school boards maintain schools accredited in accordance with regulations established by the Board of Education. In order to attain an accreditation status, the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131-280.F) requires that:

*As a prerequisite to the awarding of an accreditation rating as defined in 8 VAC 20-131-300, each new or existing school shall document, in a manner prescribed by the Board, the following: (i) the division's promotion/retention policies developed in accordance with the requirements of 8 VAC 20-131-30, (ii) compliance with the requirements to offer courses that will allow students to complete the graduation requirements in 8 VAC 20-131-50, (iii) the ability to offer the instructional program prescribed in 8 VAC 20-131-70 through 8 VAC 20-131-100, (iv) the leadership and staffing requirements of 8 VAC 20-131-210 through 8 VAC 20-131-240, and (v) the facilities and safety provisions of 8 VAC 20-131-260.*

Mr. Finley explained that the principal of each school and the division superintendent are required to submit pre-accreditation eligibility reports in a manner prescribed by the Board to the Department of Education. Failure to submit the reports on time will constitute grounds for denying accreditation to the school.

Mr. Finley reported that 1,829 schools in the 132 school divisions were issued accreditation ratings for the 2001-2002 school year. Of those, 100 divisions have submitted all of the required reports. An additional 21 divisions are in various stages of completion or correction of reports submitted.

Mr. Finley added that, as of July 25, 2002, the following divisions have not submitted pre-accreditation eligibility reports: Rappahannock County, Westmoreland County, and Petersburg City. Schools in these divisions are not eligible to receive an accreditation rating for the 2002-2003 school year until the required reports are submitted as required.

The Board received the report given by Mr. Finley.

**First Review of Proposed Guidelines for Academic Review Processes for Schools Rated Accredited with Warning**

Dr. Cheri Magill, director of accreditation at the Department of Education, presented this item. Dr. Magill explained that, for the school years ending in 2000 through 2003, the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* require that a school will be “Accredited with Warning” if its pass-rate performance on any Standards of Learning test is 20 or more percentage points below any of the provisional accreditation benchmarks established by the Board. Beginning with the 2000-01 school year, any school rated Accredited with Warning must undergo an academic review in accordance with guidelines adopted by the Board. It is the responsibility of the Department of Education to develop this academic review process.

Dr. Magill added that a warned school: 1) is expected to develop and implement a three-year school improvement plan based upon the results of the academic review (8 VAC 20-131-310.F); and 2) is expected to implement a proven instructional method in English and/or mathematics, if warned in either or both of those areas (8 VAC 20-131-310.B).

Dr. Magill reported that academic reviews were conducted in 117 schools Accredited with Warning during the 2001-02 school year and that the Phase 1 Academic Review and Phase 2 Academic Review processes will be revised to increase the participation of school staff in the process and to provide follow-up to the on-site review. She closed her remarks by saying that the Academic Review – Phase 3 will be used in schools rated Accredited with Warning for a third consecutive year in the same content area(s).

Mr. Christie said the department has been implementing these reviews for several years, and he acknowledged Governor Warner for establishing the PASS initiative, because having the prestige of the Governor behind this process is tremendously important, in addition to the resources. Mr. Christie also complimented the Virginia Education Association (VEA) for its efforts to raise achievement in schools that are accredited with warning.

Mr. Emblidge requested monthly updates on PASS to be presented as an agenda item at future Board meetings. Mr. Emblidge also requested a similar monthly report from VEA. Mr. Christie indicated that the Board will work closely with the VEA to receive periodic updates on this program.

As announced at the June 2002 meeting, Mr. Christie stated that the Board will undertake a major study of early reading instruction in Virginia’s public schools and will develop an action plan to improve the reading skills of Virginia school children, especially those who are failing state reading tests. Mr. Christie announced that a meeting to initiate this study will be held on Wednesday, September 4, 2002. All Board members are urged to attend, if possible.

Dr. Magill then presented the highlights of the proposed Guidelines for Conducting Academic Reviews of Schools Rated Accredited with Warning.

Mr. Goodman made a motion to waive first review and approve the guidelines addressing the academic review processes and adopt the resolution. The motion was seconded by Mrs. Genovese and carried unanimously.

The resolution reads as follows:

**RESOLVED** that the Board of Education approves the processes developed by the Department of Education as described in the document entitled *Guidelines for Conducting Academic Reviews of Schools Accredited with Warning*.

### **GUIDELINES FOR CONDUCTING ACADEMIC REVIEWS OF SCHOOLS RATED ACCREDITED WITH WARNING**

#### **PHASE 1 ACADEMIC REVIEWS**

On November 30, 2000, the Board approved guidelines for Phase 1 Academic Reviews. Phase 1 Academic Reviews are conducted in schools rated Accredited with Warning for the first time. This Academic Review process focuses on the following four areas:

- Curriculum alignment with the Standards of Learning
- Use of instructional time and school scheduling practices
- Use of data to make instructional and planning decisions
- Professional development opportunities for staff

Schools use the results of the Academic Review to prepare three-year school improvement plans.

The proposed revisions to the Phase 1 Academic Review maintain the focus on the four areas of review described above, continue to rely on interviews, document review, and classroom observations as means of gathering data, and continue to result in a final report detailing areas of strength, areas for improvement, and suggestions for school improvement planning. The proposed revisions incorporate the following into the process:

- orientation to the Academic Review process;
- a self-study whereby school staff assess the degree of curriculum alignment, effective use of instructional time and school scheduling, effective use of data to make decisions, and opportunities for professional development;
- a section of the final report entitled "Essential Actions" detailing specific activities the school is expected to conduct and;
- extended on-site visits to analyze classroom instructional practices and to provide at least two days of additional follow-up technical assistance to facilitate the school's completion of "essential actions" detailed in the final report.

#### **PHASE 2 ACADEMIC REVIEWS**

On July 26, 2001, the Board approved guidelines for Phase 2 Academic Reviews. Phase 2 Academic Reviews are conducted in schools rated Accredited with Warning in the same content area(s) for a second consecutive year.

The Review focuses on the same four areas of review as in the Phase 1 Academic Review, but does so within the context of the implementation of the school's three-year school improvement plan and the implementation of an instructional model/program, if the school is warned in English and/or mathematics. Specifically, the school is assessed on:

- the format and content of the school improvement plan;
- the degree to which the plan has been implemented;
- the degree to which the implementation of strategies have had a positive effect on student achievement; and, for schools warned in English and/or mathematics,
- the degree to which the plan reflects the implementation of an instructional model/program;
- the degree to which the instructional model/program has been implemented; and the degree to which the implementation of the model/program has had a positive effect on student achievement.

The proposed revisions to the Phase 2 Academic Review maintain the focus on the areas of review described above, continue to rely on interviews, document review, self-studies, and classroom observations as means of gathering data, and continue to result in a final report detailing areas of strength, areas for improvement, and recommendations. The proposed revisions incorporate the following into the process:

- orientation to the Academic Review process;
  - a section of the final report entitled "Essential Actions" detailing specific activities the school is expected to conduct; and
- extended on-site visits to evaluate classroom practices and to provide at least four days of additional follow-up technical assistance to facilitate the school's completion of "essential actions" detailed in the final report.

### **PHASE 3 ACADEMIC REVIEWS**

Phase 3 Academic Reviews will be conducted in schools rated Accredited with Warning in the same content area(s) for a third consecutive year. The process will rely on data collections by teams of experienced educators who will focus on the systems, policies and practices in place that support curriculum alignment, use of data, effective use of instructional time, professional development, and school improvement and instructional model/program implementation. Data collections will be gathered on forms provided by the department of education. An analysis of the data will result in an initial report detailing areas of strength, areas for improvement, recommendations, and essential actions the school will be expected to conduct. Status reports will be prepared throughout the year, and a final report will be prepared toward the end of the school year. Each review will be "prescriptive" in nature. That is to say that the specific activities conducted during the review and the make up of the team will depend on the specific needs of the school, as determined through self-study and "pre-visit" activities conducted by the lead reviewer. Follow-up technical assistance and monitoring will be part of the review process.

#### **"Prescriptive Review" Process**

The Phase 3 Academic Review will consist of an orientation to the review process, a "pre-visit" by a lead reviewer to assess the needs of the school, self studies conducted by the school, an on-site visit by a review team, and, at a minimum, monthly follow-up technical assistance to facilitate the school's completion of essential actions detailed in the final report.

The lead reviewer will visit the school as early as practicable to:

- review school improvement plan implementation and instructional model/program implementation for schools rated Accredited with Warning in English and/or mathematics
- conduct classroom observations
- conduct preliminary interviews
- determine self-assessments to be completed by the school
- schedule the academic review on-site
- determine academic review team member composition

The on-site review will be designed to gather information about the following, as determined by the preliminary analysis of the lead reviewer:

1. School self-evaluations
  - a) School Improvement Plan Implementation
  - b) Instructional Model/Program Implementation
  - c) School Climate/Culture Survey
  - d) Role of Principal Survey
  - e) Classroom Teacher Survey
  - f) Curriculum Alignment
  - g) Use of Time & Scheduling
  - h) Using Data
  - i) Professional Development
  - j) School Instructional Audit
  - k) NCLB Status Report
  - l) CSR Self Study
  - m) IDEA Compliance
2. School Level Practices
  - a) School scheduling practices
  - b) School data analysis
  - c) School staff development practices
  - d) School decision / planning practices
  - e) Community building practices
3. Division Level Practices
  - a) Division policies
  - b) Curriculum
  - c) Division practices impacting instruction
4. Instructional Practices
  - a) Classroom instructional methodology
  - b) Grade level
  - c) Department
  - d) Alignment of objectives and assessments with written curriculum
5. Monitoring Systems
  - a) School improvement plan implementation
  - b) Instructional model/program implementation
  - c) Student achievement data
  - d) Staff development
  - e) Classroom instruction
6. Allocation of Resources
  - a) Staffing
  - b) Fiscal
  - c) Instructional materials
  - d) Time

#### **Review Team Members**

Each team will consist of, at a minimum, a lead reviewer (independent contractor or DOE staff member), at least one DOE staff member, at least one independent contractor, a representative from the school division's central office, the school principal, and a "distinguished principal" from a successful school with demographics similar to that of the warned school. At least one team member will have expertise in the area(s) of warning. Additional members may include a classroom teacher, a representative of special education services, and a representative from Title 1, based upon need as determined by the lead reviewer. School division superintendents may, with good cause, request that a team member be replaced.

**Results of the Review**

A report of initial findings will outline the issues that drove the prescriptive review and will describe data gathered and analyzed. The report will include areas of strength, areas for improvement, and essential activities that the school must conduct.

Technical assistance will be provided to the school to assist the school in the planning, coordinating, conducting, monitoring and evaluating the effectiveness of the activities. The lead reviewer and/or the “distinguished principal” will provide this technical assistance.

The lead reviewer will prepare monthly status reports. These reports will describe the degree to which the school has implemented and monitored the effect of essential activities.

Toward the end of the school year, review team members involved in any aspect of the review process will reconvene to prepare a final report that describes the efforts of the school to improve student achievement.

**LOCALLY-DEVELOPED ACADEMIC REVIEWS**

The Board of Education will not waive the requirement of an academic review for schools accredited with warning. The Board may approve the use of locally-developed academic reviews upon the request of local school boards provided the locally-developed reviews meet or exceed the requirements for reviews conducted by the Department of Education as outlined in these guidelines. Individuals who conduct locally-developed reviews may not be employees of the Department of Education and their qualifications must meet or exceed those of individuals who serve as independent contractors for the Department for the purpose of conducting academic reviews.

Requests for approval of locally developed reviews submitted to the Board must include, at a minimum, the following documentation:

- A listing of individuals who will conduct the review.
- The scope of the review.
- Dates of the review.
- Certification from the division superintendent that the review will meet or exceed the requirements for academic reviews adopted by the Board.

Requests for approval of locally developed reviews must be submitted to the Superintendent of Public Instruction, who, by authority of the Board of Education, shall review and approve or disapprove those requests.

Upon completion of the locally developed review, the division superintendent shall submit a copy of the final report provided by the reviewer to the Office of Accreditation, Department of Education, and comply with the remaining provisions of 8 VAC 20-131-310 of the accrediting standards.

***Final Review of Guidelines for Local School Boards to Award Verified Units of Credit for Standard Diplomas for Students Who Enter the Ninth Grade for the First Time in School Years 2000-2001, 2001-2002, and 2003-2004.***

Mrs. Genovese presented this item and gave the Board some background information. At its April 2002 meeting, the Board of Education discussed the process it would use in adopting guidelines to satisfy SB 609 and HB 493, both adopted by the 2002 Session of the General Assembly. In addressing the task set forth in these bills, Mr. Christie asked Mrs. Genovese to chair a subcommittee of the Board to develop draft

guidelines. Other Board members on the subcommittee were Mr. Christie, Mr. Emblidge, and Dr. Jones.

Before this item was presented, Mr. Christie noted that the issue of special education students on Individualized Education Plans (IEPs) is a separate issue from the one to be considered by the Board at today's meeting. Mr. Christie informed that Board that he has requested Mrs. Genovese to report on the special accommodations provided special education students at the September Board meeting.

Mrs. Genovese presented a copy of the draft guidelines that were discussed by the Board at the June 2002 meeting and which have been broadly disseminated for public comment. A copy of all public comment on this document received to date had been sent to Board members prior to today's meeting.

Mrs. Genovese reviewed the proposed guidelines recommended by the subcommittee. She noted the subcommittee recommends several additional actions be taken, as follows: 1) that a list of the approved substitute tests be attached to the copy of the guidelines when they are distributed to local school officials; and 2) that the provisions regarding mathematics contained in the proposed guidelines distributed at last month's meeting be deleted and, thereby, put it in the same status as English which will not be affected by the awarding of verified credits. Thus, the recommendation on locally awarded verified credits would be related only to the subject areas of science and history/social science.

After a brief discussion, Mr. Goodman made a motion to accept the amendments to the proposed guidelines for local schools to award verified credits for the Standard Diploma to transition students, including removing the additional criteria provisions for mathematics. The motion was seconded by Ms. Noble and carried unanimously.

Mr. Emblidge asked how this important information will be provided for guidance counselors and parents. Mr. Christie said the Board will work with Department of Education staff to develop a one-page document that will explain requirements to obtain verified units of credit.

The text of the guidelines, as adopted, follows:

**Board of Education Guidelines for Local School Boards to Award  
Verified Credits for the Standard Diploma to Transition Students  
(Implementation of Senate Bill 609 and House Bill 493)**

The following Board of Education guidelines set forth procedures and criteria for local school boards to award verified credits towards the Standard Diploma to certain students.

## Background Information

Under the Standards of Accreditation, students in the Classes of 2004-06 must earn two verified credits in English (reading and writing) and four verified credits in subjects of the student's own selection in order to earn the Standard Diploma.

These guidelines enable local school boards to award verified credits in science and history/social sciences that may be used to fulfill the requirement of four verified credits of the student's own selection. These guidelines *do not* apply to the awarding of verified credits in English or mathematics, which must be earned by passing the high school Standards of Learning tests (or approved substitute tests) in reading, writing and mathematics.

## General Eligibility

To be eligible to earn locally awarded verified credits in science, or history/social science under these guidelines, a student must:

- ◆ Enter the ninth grade for the first time in school years 2000-2001, 2001-2002, or 2002-2003 (i.e., be a member of the "transition classes");
- ◆ Pass the high school course, not pass the related Standards of Learning or approved substitute test, and score within a designated range on the Standards of Learning test that does not represent passing but does represent a certain level of achievement;
- ◆ Meet the additional achievement criteria specified below;
- ◆ Have earned fewer than four of the student-selected verified credits required for the Standard Diploma.

## Additional Criteria and Guidelines by Subject Area: Science and History/Social Science

The student

- ◆ scores within a 375-399 scale score range on any administration of the Standards of Learning test after taking the test at least twice;
- AND
- ◆ demonstrates achievement in the academic content through an appeal process administered at the local level.

The appeal process will include:

- ◆ The appointment by the local school board of a local review panel comprised of at least three educators. Different panels may be appointed for individual schools or groups of schools, at the local school board's discretion.
- ◆ The local review panel will review information which provides evidence of the student's achievement of adequate knowledge of the Standards of Learning content. The panel shall have discretion in determining the information to be considered and may include, but not be limited to, results of classroom assessments, division wide exams, course grades, and additional academic assignments (e.g., papers, projects, essay or written questions) as deemed appropriate.
- ◆ Based on the evidence reviewed, the local review panel may (a) award the verified credit, (b) deny the verified credit, (c) suggest participation in a remedial program and retesting, or (d) make additional academic assignments as deemed appropriate prior to determining whether to award the verified credit.

**General Provisions for Implementing these Guidelines**

- ◆ No more than four verified credits may be awarded through this process and these guidelines may not be used to award verified credits for the Advanced Diploma.
- ◆ The award of verified credits under these guidelines will not be used to recalculate a school's accreditation rating.
- ◆ Local school boards shall adopt policies that specify local procedures for implementing these guidelines.

**Final Review of Guidelines for Provision of Public School Choice Under the No Child Left Behind Act of 2001**

This item was presented by Dr. Cynthia Cave, director of policy at the Department of Education. Dr. Cave presented the proposed guidelines for the implementation of public school choice by school divisions. Requirements of the federal law are included in the guidelines, as well as the procedures for a school division to demonstrate its "best effort" to provide choice.

Dr. Cave explained that in order to receive Title I funds, the No Child Left Behind Act of 2001 (NCLB) requires school divisions with schools that have Title I programs to achieve academic goals for English and mathematics over a 12-year period. Beginning with 2002, all students in schools receiving Title I funds are to achieve proficiency in these subjects. The NCLB Act requires determination of school progress in achieving the goal through the establishment of annual objectives measured by Adequate Yearly Progress (AYP) targets. Individual schools, school divisions, and the state will be held accountable for reaching these Adequate Yearly Progress targets. If a school does not achieve AYP for two consecutive years, it is designated as a school "in improvement" under the federal law. Under the NCLB Act, schools are also identified for improvement if they receive Title I funds and have been *Accredited with Warning* in English and/or mathematics for two years, based on Standards of Learning tests for 2000 and 2001.

Title I schools that have been identified for "school improvement" status must meet federal requirements to provide students with the option of transferring to another public school that is not in school improvement but served by the division, including charter schools. School divisions with a Title I Schoolwide Program school identified for improvement must provide the option to all enrolled students. School divisions with a Title I Targeted Assistance school identified for improvement must provide the option to identified eligible students. Parents are to be notified of the choice option, which must be provided no later than the first day of the school year following school improvement identification. Priority must be given to the lowest performing students in the highest poverty schools, as determined by the school division. Transportation to the school, or schools of choice, as determined by the school division, must be funded by the school division, as long as the school from which a student is transferred is in improvement status.

The FY 2001 Appropriations Act, Title I Accountability, provides funds to assist Title I schools identified for school improvement status. These funds are to assist the schools to implement public school choice and to focus on school improvement activities identified in the required school improvement plans. The FY 2001 appropriation will provide \$108,367 to each of the 34 Title I schools in Virginia that will be in school improvement status at the beginning of the 2002-2003 school year.

Mrs. Rogers made a motion to adopt the proposed guidelines for the provision of public school choice by school divisions having Title I schools identified for school improvement. The motion was seconded by Mrs. Genovese and carried unanimously. The text of the guidelines follows.

**VIRGINIA BOARD OF EDUCATION GUIDELINES FOR IMPLEMENTATION OF  
NO CHILD LEFT BEHIND ACT OF 2001  
PUBLIC SCHOOL CHOICE REQUIREMENTS**

**Public School Choice Requirements of the No Child Left Behind Act of 2001:**

According to the No Child Left Behind Act of 2001, a local educational agency (school division) must identify for school improvement any elementary school or secondary school served under Title I that fails, for two consecutive years, to make adequate yearly progress. This requirement also applies to schools that are identified for improvement through transition from the previous Elementary and Secondary Education Act. For Virginia, Title I schools that have been *Accredited with Warning* in English and/or mathematics for two consecutive years prior to the enactment of the No Child Left Behind Act are those transitioned schools.

No later than the first day of the school year following school improvement identification, the local educational agency must provide all students enrolled in a Title I Schoolwide Program School and identified students enrolled in a Title I Targeted Assistance School, with the option to transfer to another public school served by the local educational agency, including a public charter school, that has not been identified for school improvement, unless such an option is prohibited by State law. In providing students the option to transfer to another public school, the local educational agency must give priority to the lowest achieving children from low-income families, as determined by the local educational agency. More specifically, the Act requires the following:

- The public school choice program shall not discriminate on the basis of race, color, national origin, sex, disability, or age and must be consistent with applicable civil rights commitments.
- The school division is obligated to fund transportation for the student to attend the alternative school.
- The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year, if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.
- A school division must permit a child who transferred to another school to remain in that school until the child has completed the highest grade in that school.
- If a school division demonstrates that it cannot provide choice to all students in low-performing schools, the school division must permit as many students as possible to transfer to a school not identified for improvement, with priority given to the lowest performing students in the highest poverty schools.
- If all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the school division shall, to the extent

practicable, establish a cooperative agreement with other local educational agencies in the area for transfer.

- Effective communication with parents must take place to inform them of the school choice opportunity.

**USED Office of Elementary and Secondary Education Guidance for Implementation of Public School Choice:**

- A school division has the flexibility to determine which schools, among those not identified for improvement, will comprise the schools to which students may transfer.
- A school division that has established an open enrollment policy may be found to meet the choice requirement, after examination of the policy.
- School divisions should consider offering supplemental education services or other choices in curriculum or instruction such as distance learning when choice is not possible.

**Virginia Demonstration of “Best Effort” Procedures for Implementation of Public School Choice:**

1. Identify the highest poverty schools in “School Improvement” status.
2. Identify and prioritize the lowest performing students in those schools to whom public school choice is to be offered.
3. Identify potential receiving schools, including available charter schools, closest in proximity to the schools in “School Improvement” status.
4. Explore scheduling alternatives, staffing alternatives, and space availability options at potential receiving schools.
5. Explore the feasibility of developing a charter school.
6. If providing choice within the school division is not possible after completing these procedures, contact school divisions in the area to establish a cooperative agreement for student transfer.
7. Document requests and responses from local school boards regarding the accepting of qualified students.

**Final Review of Criteria for the Providers of Supplemental Educational Services Under the No Child Left Behind Act of 2001**

Mr. Charles Finley presented this item. Mr. Finley presented recommendations for criteria for the approval of providers of supplemental educational services. The recommendations include all of the requirements for services as presented in the NCLB Act. Potential providers must demonstrate that they are successful in implementing interventions with low achieving students, based on reliable measures or practical experiences before and after the intervention.

Mr. Finley summarized the requirements under this section of the NCLB Act. School divisions with a school that fails to meet Adequate Yearly Progress (AYP) for three consecutive years must provide supplemental education services from public or private sector providers. Supplemental education services are defined as tutoring or other supplemental academic enrichment services that are in addition to instruction provided during the school day. These services must be high quality, research-based, and specifically designed to increase the academic achievement of eligible children on state academic assessments. Priority must be given to low-achieving students from low-income families, and Title I funds may be used to support the costs of these services. A provider of supplemental services may be a nonprofit entity, a for-profit entity, or a local

educational agency (school division). Title I schools that are in their first year of school improvement could possibly have to provide these services as early as the 2003-2004 school year.

Mr. Finley further explained that under the federal law, the Virginia Board of Education must develop and apply objective criteria to identify potential supplemental education services providers. The criteria must include the ability of a provider to show a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the state academic content and student achievement standards. The Board is required to maintain a list of approved providers across the state, by school division, for use by parents for selection of services. Potential providers must be given annual notice of the opportunity to provide supplemental educational services and the procedures for obtaining approval from the state educational agency. At the request of a school division, the Board may waive, in whole or in part, the provision of supplemental services, if it determines that none of the approved providers are available within the division's geographic area, and the school division shows that it is not able to provide services.

Following Mr. Finley's presentation, Mrs. Genovese made a motion to approve the criteria for the providers of supplemental education services as presented and direct staff of the Department of Education to develop a process for soliciting information from potential providers to submit to the Board for approval beginning in September. The motion was seconded by Mrs. Rogers and carried unanimously. The text of the document approved by the Board follows.

#### **CRITERIA FOR PROVIDERS OF SUPPLEMENTAL SERVICES FOR ELIGIBLE STUDENTS IN TITLE I SCHOOLS**

Title I, Part A, Section 1116 of the "No Child Left Behind Act of 2001" (NCLB) requires schools that do not meet the state's Adequate Yearly Progress (AYP) targets for academic achievement for three consecutive years to offer a choice of supplemental educational services to parents of eligible children. Eligible children are those from low-income families as defined by the federal law. Funding for supplemental educational services is to come from designated Title I, Part A funds. Supplemental educational services are tutoring and academic enrichment services that are provided in addition to daily instruction. A supplemental provider can be a nonprofit entity, a for-profit agency or a local school division. The services must be of high quality, research-based, and specifically designed to increase the academic achievement of eligible children in mastering the Standards of Learning and earning proficiency on Standards of Learning tests. NCLB requires that States maintain an approved list of supplemental service providers.

#### **The criteria specified in NCLB require that providers:**

- have the ability to provide parents and the LEA with information on the progress of children in a format and language that parents can understand;
- ensure that the instruction provided and the content used are consistent with the instruction and content used by the local education agency (LEA) and are aligned with state student academic achievement standards;

- meet all federal, state, and local health and safety and civil rights laws; and
- ensure that all instruction and content are neutral and non-ideological.

The law also specifies that the services must be furnished by a financially sound provider with a demonstrated record of effectiveness.

**Additional Actions Allowable Under NCLB:**

- The state will withdraw approval from providers that fail for two consecutive years to contribute to increasing the academic proficiency of students served.
- At the request of a local educational agency, a state educational agency may waive, in whole or in part, the requirement to provide supplemental educational services if the state educational agency determines that:
  - None of the providers of those services on the list approved by the state educational agency makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and
  - The local educational agency provides evidence that it is not able to provide those services.
- The state educational agency must notify the local educational agency within 30 days of receiving the local educational agency's request for waiver whether the request is approved or disapproved. If the request is disapproved, the state educational agency must provide the local educational agency the reasons for the disapproval in writing.

***AGENCY BUDGET***

In response to a question from Mr. Christie, Mr. Dan Timberlake, assistant superintendent of finance at the Department of Education, stated that, according to the Code of Virginia, the Board of Education is responsible for budgets from two agencies (the Department of Education and the Virginia Schools for the Deaf, Blind, and Multi-disabled), the central office, and direct aide to public education. Mr. Timberlake reported that both agencies ended the past fiscal year with a balance that was returned to the commonwealth's general fund, as required by law.

***PUBLIC COMMENT***

No one spoke during public comment.

***DISCUSSION OF CURRENT ISSUES***

Mr. Christie opened the floor for discussion of topics and issue of interest and concern to Board members. Mr. Goodman said he hopes the Board will stay on top of what is happening with regard to public school choice. He is interested in what will happen to the children eligible for this alternative and what school divisions are doing for

students and parents to receive the information. Mr. Goodman requested regular follow-ups on this issue to be presented as agenda items at future Board meetings.

Dr. Jones announced that the next meeting of the Committee on the Standards of Quality (SOQ) meeting will be held the last week in August in Richmond.

Dr. DeMary announced that the department is in final negotiation with Standards Work, a nonprofit educational consultant group in Washington, D.C. to study the effects of the Standards of Learning tests on the state's public education system. Dr. DeMary said the study will cost no more than \$30,000 and will be completed by December. Dr. DeMary said Standards Work will compare student scores in standardized tests, such as AP, IB, Stanford 9, ACT, and the SAT, prior to the implementation of the Standards of Learning testing program to scores on those tests since the statewide program was initiated.

The Board met for dinner at the Crowne Plaza Hotel on July 24, 2002. Present were Mr. Christie, Mrs. Genovese, Mrs. Davidson, Mr. Goodman, Dr. Jones, and Mrs. Rogers. A brief discussion took place about general Board business, including discussion of items on upcoming Board agendas. No votes were taken, and the dinner meeting ended at 8:10 p.m.

***PUBLIC HEARING ON THE PROPOSED REGULATIONS GOVERNING THE EMPLOYMENT OF PROFESSIONAL PERSONNEL***

No one spoke during public hearing.

***EXECUTIVE SESSION***

Mrs. Genovese made a motion to go into executive session under Section 2.2-3711.A.1, of the *Code of Virginia*, to discuss personnel matters involving the licensing and discipline of individual teachers. The motion was seconded by Mrs. Rogers and carried unanimously. The Board went into executive session at 10:30 a.m.

Mrs. Genovese made a motion that the Board reconvene in open session. The motion was seconded by Mrs. Davidson and carried unanimously.

Mrs. Genovese made a motion that the Board certify by roll call vote that to the best of each member's knowledge, (i) only matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed and, (ii) only matters identified in the motion to have the closed session were discussed. The motion was seconded by Ms. Noble and carried unanimously.

Board Roll Call:

Mr. Goodman – Aye

Ms. Noble - Aye

Mrs. Davidson – Aye  
Mrs. Genovese – Aye  
Mr. Christie – Aye

Mrs. Rogers - Aye  
Dr. Jones - Aye  
Mr. Emblidge - Aye

Mrs. Genovese made the following motion: That the Board of Education take the following actions relative to licensure cases:

- Case #1      The Board of Education voted to issue a teaching license. The motion was seconded by Mr. Goodman and carried unanimously.
- Case #2      The Board of Education voted not issue a teaching license. The motion was seconded by Dr. Jones and carried unanimously.
- Case #3      The Board of Education voted to revoke the teaching license. The motion was seconded by Mr. Goodman carried unanimously.
- Case #4      The Board of Education voted to issue a teaching license. The motion was seconded by Mr. Goodman and carried unanimously.
- Case #5      The Board of Education voted to issue a teaching license. The motion was seconded by Mrs. Rogers carried unanimously.
- Case #6      The Board of Education voted not to revoke the teaching license. The motion was seconded by Mr. Goodman and carried unanimously.
- Case #7      The Board of Education voted to issue a teaching license. The motion was seconded by Mrs. Rogers carried unanimously.

### ***ADJOURNMENT***

There being no further business of the Board of Education and Board of Career and Technical Education, Mr. Christie adjourned the meeting at 11: 45 a.m.

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President

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Secretary