

COMMONWEALTH OF VIRGINIA
BOARD OF EDUCATION
RICHMOND, VIRGINIA

MINUTES

November 19, 2003

The Board of Education and the Board of Career and Technical Education met in Conference Rooms D and E at the James Monroe State Office Building, Richmond, Virginia, with the following members present:

Mr. Thomas M. Jackson, Jr., President
Mrs. Susan L. Genovese
Mr. Mark E. Emblidge
Mr. M. Scott Goodman

Mr. Thomas G. Johnson, Jr.
Dr. Gary L. Jones
Mrs. Ruby W. Rogers
Dr. Ella P. Ward

Dr. Jo Lynne DeMary,
Superintendent of Public Instruction

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

MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Mr. Jackson asked for a moment of silence and led in the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Goodman made a motion to approve the minutes of the October 22, 2003, meeting of the Board. Mrs. Genovese seconded the motion that carried unanimously. Copies of the minutes had been distributed to all members of the Board of Education.

RESOLUTIONS AND RECOGNITIONS

- A Resolution of Recognition was presented to Mark A. Edwards, Ed.D., Superintendent of the Henrico County Public Schools, recipient of the 2003 Harold W. McGraw, Jr., Prize in Education.
- A Resolution of Appreciation was presented to Joan W. Murphy, Esq., Senior Assistant Attorney General, for outstanding service as adviser to the Virginia Board of Education.

- A Resolution of Appreciation was presented to Comcast Digital Cable for Outstanding Public Service to enhance parental involvement in the public schools

CONSENT AGENDA

Mrs. Rogers made a motion to accept the following consent agenda. The motion was seconded by Mrs. Genovese and carried unanimously.

- First Review of a Request from Alleghany County for a Partial Release of a Literary Fund Lien
- First Review of a Request from Manassas Park City Concerning a Deed of Easement for Property on Which There is a Literary Fund Lien

First Review of a Request from Alleghany County for a Partial Release of a literary Fund Lien

The Department of Education's recommendation that the Board waive first review and vote to release the six acre parcel from the Literary Fund Loan lien, which will allow Alleghany County to lease the parcel to the YMCA on a long-term basis, was accepted by the Board of Education's vote on the consent agenda.

First Review of a Request from Manassas Park City Concerning a Deed of Easement for Property on Which There is a Literary Fund Lien

The Department of Education's recommendation the Board waive first review and vote to authorize the Superintendent of Public Instruction to sign the Deed of Easements and Vacations on behalf of the Board, was accepted by the Board of Education's vote on the consent agenda.

ACTION ITEMS

First Review of a Notice of Intended Regulatory Action (NOIRA) for the Standards for Interdepartmental Regulation of Children's Residential Facilities (22 VAC 43-10-10 et seq.) and Notice of Intended Regulatory Action (NOIRA) for the Standards for Interdepartmental Regulation of Children's Residential Facilities (22 VAC 42-11-10 et seq.)

Mr. Charles Finley, assistant superintendent for educational accountability, presented this item. Mr. Finley said that the Office of Interdepartmental Regulation is the office that coordinates the children's residential regulatory activities conducted by the four departments. It facilitates the development of regulations and conducts training for regulatory personnel and providers of children's residential services on a variety of

topics. The office also processes background checks for facilities licensed by the Departments of Education (DOE); Juvenile Justice (DJJ); Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS); and Social Services (DSS).

This regulatory action will begin the process to repeal the existing regulation, 22 VAC 42-10-10 et seq., *Standards for Interdepartmental Regulation of Children's Residential Facilities* and promulgate a new regulation, 22 VAC 42-11-10 et seq., bearing the same title. The new regulation is intended to: (a) protect the vulnerable children who are separated from their families and reside in children's residential facilities and (b) assure that an acceptable level of care, treatment, and education are provided by the licensees.

In addition, the new regulation will meet federal regulations, ensure that services provided to residents are appropriate for their needs, bring the standards in line with current industry standards and needs, clarify frequently misinterpreted standards, and delete unnecessary requirements.

Mr. Finley said that this regulation will be jointly promulgated by the Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services. These agencies, through the Interdepartmental Regulation Coordinating Committee, have joined together under a joint agency number in the *Virginia Administrative Code* to promulgate one set of regulations.

Mr. Goodman made a motion to waive first review and approve the NOIRA to begin the Administration Process Act requirements to repeal the existing regulation and promulgate the new regulations. Mrs. Rogers seconded the motion, and it carried with a 7 to 1 vote.

Dr. Jones recused himself from this issue and from all votes on this issue that come before the Board because the organization he works for is regulated under these regulations. Dr. Jones said he would, however, participate in the debate on these regulations.

First Review of Proposed Regulations Governing Scoliosis Screening Programs (8 VAC 20-690-10 et seq.)

Mrs. Gwen Smith, specialist for school health, presented this item. Mrs. Smith said that House Bill 1834 enacted by the 2003 General Assembly, and codified in Section 22.1-273 of the Code of Virginia, requires the Board of Education to promulgate regulations for the implementation of a program of regular scoliosis screenings for pupils in grades five through 10:

Pupils in grades five through 10 would not have to be screened if such students are pupils admitted for the first time to a public school who have been so tested as part of the comprehensive

physical examination required by Section 22.1-270 or if parents of such students have indicated their preference that their children not participate in such screening.

Each school board is required to provide parent educational information or implement a program of regular screening for scoliosis for pupils in grades five through 10. Local school boards are required to develop procedures for parents to indicate their preference that their children not participate in the scoliosis screening.

On July 23, 2003 the Board approved the first review of Notice of Intended Regulatory Action for a program of regular scoliosis screenings for students in grades five through 10.

Mr. Goodman made a motion to accept the proposed regulations for first review and authorize the Department of Education staff to proceed with the public comment procedures under the Administrative Process Act and the Executive Orders. This action will initiate the 60-day public comment period. The motion was seconded by Mrs. Genovese and carried unanimously.

First Review of Additional Revisions to the Regulations Governing the Operations of Proprietary Schools and Issuing of Agent Permits (8 VAC 20-350-10 et seq.)

Mr. Charles Finley presented this item. Mr. Finley said the *Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits* currently provide regulations for private proprietary career schools and private schools for students with disabilities. These regulations were first promulgated in 1970 and revised in 1974 to include regulations for private schools for students with disabilities.

Mr. Finley said The *Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits* were last amended in 1996. Staff of the Department of Planning and Budget (DPB) reviewed the first draft of the proposed regulation following the March 26, 2003 meeting of the Board and raised concerns about several provisions.

Mr. Finley said DPB asked for additional information from staff relative to its intent with the new language concerning surety bonds, the tuition guaranty fund, and proposed administrative fees. Before that information could be sent, the review period time expired and DPB recommended to the Secretary of Education that the proposed regulations be rejected. Staff in the secretary's office discussed the findings with staff of DPB and staff of the department. It was decided that department staff would make additional revisions to the proposed regulations in an attempt to satisfy DPB's concerns. Mrs. Finley said those changes have been made and staff is ready to move forward to the public comment period required by the APA.

Mrs. Genovese made a motion to accept the changes to the proposed regulations for submission to the next phase of the Administrative Process Act (APA) that would permit them to be published for public comment. The motion was seconded by Mrs. Rogers and carried unanimously.

First Review of Fast Track Proposed Regulations Governing the General Educational Development Certificates (8 VAC 20-360-10 et seq.)

Dr. Yvonne Thayer, director of adult education presented this item. Dr. Thayer said that the current regulations governing General Educational Development Certificates (8 VAC 20-360-10) were last amended in 1980 and are no longer aligned with § 22.1-254.2 of the *Code of Virginia*. The current regulations are not consistent with new GED Testing Service policies resulting from the release of the 2002 series of the GED Tests.

Dr. Thayer said regulations have been revised to reflect the current requirements of GED Testing Service, issues defined in the *Code of Virginia* or Superintendent's Memoranda, and current practice.

Dr. Ward made a motion to accept the proposed regulations for first review and authorize the Department of Education staff to proceed with the fast track revision process established in the Administrative Process Act by the 2003 General Assembly, including public comment, for adopting regulations governing the General Educational Development Certificates. The motion was seconded by Mrs. Rogers and carried unanimously.

First Review of a Request to Withdraw Section 8 VAC 20-21-100 from the Proposed Licensure Regulations for School Personnel

Dr. Thomas Elliott, assistant superintendent for teacher education and professional licensure, presented this item. Dr. Elliott said that the *No Child Left Behind Act of 2001* (NCLB) requires all public school teachers of core academic subjects to be "highly qualified" for the core academic subjects they teach by the end of school year 2005-06.

Dr. Elliott said that states have the option of developing a method by which experienced, fully licensed teachers can demonstrate competency in each subject they teach on the basis of a "high objective uniform state standard of evaluation" (HOUSSE). States can establish a process for evaluating teacher knowledge and ability based on a high uniform state standard of evaluation that meets each of the following criteria:

1. Is set by the state for both grade-appropriate academic subject matter knowledge and teaching skills;
2. Is aligned with challenging state academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

3. Provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
4. Is applied uniformly to all teachers in the same academic subject and teaching in the same grade level throughout the state;
5. Takes into consideration, but is not based primarily on, the time the teacher has been teaching in the academic subject;
6. Is made available to the public upon request; and
7. May involve multiple, objective measures of teacher competency.

Dr. Elliott said since the approval of the proposed Licensure Regulations for School Personnel on June 25, 2003, by the Board of Education, the Department of Education has received further guidance regarding the implementation of No Child Left Behind legislation. At the request of Superintendent of Public Instruction, Dr. Jo Lynne DeMary, the United States Secretary of Education provided technical assistance on November 4, 2003, to Virginia through the Teacher Assistance Corps. During this meeting, there was considerable discussion regarding the HOUSSE requirement. The criteria for highly qualified teachers is a separate policy issue from requirements for licensure; therefore, the HOUSSE should not be incorporated in the licensure regulations but should be approved as policy by the Virginia Board of Education.

Mr. Goodman made a motion to waive first review and approve the request to withdraw section 8 VAC 20-21-100 from the proposed Licensure Regulations for School Personnel. The motion was accepted by Mrs. Genovese and carried unanimously.

Item Added To Agenda: Pass Scores on the Work Keys Test

Mr. Goodman made a motion to add the following item to the agenda: *First Review of Recommended Scores on the Work Keys: Writing Test to be Considered as Equivalent to Pass/Proficient and Pass/Advanced on the Standards of Learning (SOL) End-of Course English: Writing Test*. The motion was seconded by Mrs. Genovese and carried unanimously.

Final Review of the 2003 Annual Report on the Condition and Needs of the Public Schools in Virginia

Mrs. Anne Wescott, assistant superintendent for policy and communications, presented this item. Mrs. Wescott said that the Virginia Code sets forth the requirement for the Board of Education to submit an annual report on the condition and needs of the public schools in Virginia.

Mrs. Wescott explained that this section of the Code requires that by November 15 of each year, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein which have failed to establish and maintain schools meeting the existing prescribed standards of quality.

Such standards of quality shall be subject to revision only by the General Assembly, pursuant to Article VIII, Section 2 of the Constitution of Virginia. Such report shall include a complete listing of the current standards of quality for the Commonwealth's public schools, together with a justification for each particular standard, how long each such standard has been in its current form, and whether the Board recommends any change or addition to the standards of quality.

Mrs. Wescott said the draft report includes an overview of the rationale and the text of the revisions to the Standards of Quality. The revisions were adopted by the Board of Education at its June 2003 meeting and will be presented for action by the 2004 Session of the Virginia General Assembly. The report also describes the Board's efforts to meet the requirements of the *No Child Left Behind Act of 2001*, which resulted in the state's application for funding being approved by the U.S. Education Department.

In addition, the following information on the condition and needs of the public schools is described in the report:

- The Board of Education's Focus in 2003
- Highlights of Progress: Measuring Success
 - ✓ Standards of Learning statewide test results
 - ✓ Virginia Alternative Assessment Program (VAAP) test results
 - ✓ NAEP results
 - ✓ Advanced Placement test results
 - ✓ SAT-I test results
- Funding for Public Education in Virginia
- Retaining a High Quality Teaching Force in Virginia
- Condition and Needs Identified by State and National Test Results
- Condition and Needs Identified by Academic Review Teams
- Report on the Adequate Yearly Progress of Virginia's Schools under the Requirements of the *No Child Left Behind Act of 2001*
- School Division Compliance with Requirements of the Standards of Quality
- Accreditation Status of the Public Schools: 2002-03

Mrs. Wescott said that the *2003 Annual Report on the Condition and Needs of Public Schools in Virginia* will be delivered to the Governor and members of the General Assembly slightly later than the November 15th date specified in the Code because the data needed to complete the required components of the report are not available for the Board of Education's review prior to that date.

Mrs. Rogers made a motion to adopt the final *2003 Annual Report on the Condition and Needs of Public Schools in Virginia*. The motion was seconded by Mrs. Genovese and carried unanimously. The report will be transmitted to the Governor and General Assembly as required by the Code of Virginia. Mr. Goodman requested that

the Board be given additional opportunities to suggest topics that it wished to be included in future reports.

Final Review of Instructional Models and Programs that Include Instructional Methods to Satisfy Provisions in Regulations Establishing Accrediting Standards for Public Schools in Virginia

Dr. Patricia Wright, assistant superintendent for instruction, presented this item. Dr. Wright said that at the January 6, 2003, Board of Education meeting revisions to the criteria for identifying and selecting models/programs that include instructional methods as provided in 8 VAC 20-131-310 B-E were approved. The revisions are based on the *No Child Left Behind Act of 2001(NCLB)* emphasis on the use of scientifically-based research as a criteria for evaluating programs, particularly those programs purchased with federal funds. The revised criteria are:

Criteria for Recommended Models/Programs

1. Scientifically-based evidence of effectiveness: The effectiveness of models/programs are justified based on scientific research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge on the models/programs. The major components of the model/program include instructional methods and practices that have been verified through scientifically-based research. The research that documents improvement in student achievement has presented convincing evidence that the observed results were based on the model/program intervention. The model's/program's effectiveness in improving student achievement has been demonstrated in Virginia and is based on effective research-based strategies. Gains in student achievement on Virginia's Standards of Learning tests have been sustained over time.
2. Implementation and capacity for technical assistance: The model/program has explained the essential ingredients necessary to make the program fully operational, including estimates of the costs, with respect to time and money, and the requirements for implementation. The program managers have described in detail their capacity, in terms of technical assistance, to provide the staff development, consultation, and support necessary for successful implementation in a number of Virginia schools.
3. Replicability: The model/program effectiveness has been demonstrated through multiple investigations in numerous locations with low-achieving students.
4. Correlation with or adaptability to the Virginia Standards of Learning in English or mathematics: The content of the model/program correlates with the Virginia Standards of Learning in English or mathematics or the model/program can be adapted to the Virginia Standards of Learning.

Disclaimers

1. Recommendation of instructional methods or models/programs with a proven track record is not intended as a guarantee that the program will be successful as implemented in a particular school. Prior to or concurrently with adopting any model/program, a school is expected to align its curriculum with the Standards of Learning. School divisions are permitted to choose instructional methods or models/programs that are not recommended so long as they meet the Board of Education's criteria.
2. Some of the instructional models/programs have an associated textbook that may not be on the list of instructional materials reviewed or recommended as part of the state textbook adoption process. Recommendation of a model or instructional method should not be interpreted as endorsement of the associated textbook materials. Before adopting any model/program with associated materials, the school should determine whether there is sufficient Standards of Learning correlation for the grade level or course where the method will be used.
3. Products and services on the list may not be available in all areas of the commonwealth. School divisions are responsible for negotiating contracts with vendors for products or services.

Dr. Wright said that after the Board of Education approved the revised criteria in January 2003, based on the changes necessitated by *No Child Left Behind*, the directors of the instructional models/programs that appeared on the board-approved list were asked to resubmit evidence based on the revised criteria. In addition, several new instructional models/programs were submitted to the department for review. Based on the information provided to the Department of Education, all of the submitted instructional models/programs were reviewed for correlation to the revised criteria.

Mrs. Genovese made a motion to accept the proposed revised list of instructional models/programs and allow the Department of Education to disseminate the information to school divisions. The motion was seconded by Dr. Ward and carried unanimously.

Final Review of the 2003 Annual Report on Charter Schools in Virginia

Mrs. Diane Jay, specialist, office of program administration and accountability, presented this item. Mrs. Jay said that the session of the 2002 Virginia General Assembly resulted in amendments to previous statutes governing public charter schools. Section 22.1-212.9 of the Code of Virginia requires all local school boards to review and act on applications for public charter schools. (Legislation passed in 2000 allowed local school boards the option to review or not to review charter school applications.) Section 22.1-212.11 requires local school boards to report the number of public charter school applications that were approved and denied to the Virginia Board of Education on an annual basis. Section 22.1-212.15 maintains the requirement that local school boards submit annual evaluations of any public charter school to the state Board of Education. The Department of Education collected information on the number of charter school

applications approved and denied by local school boards through a Superintendent's Memorandum dated August 8, 2003. Additional information was collected through an annual evaluation report submitted for 2002-2003 by each of the public charter schools operating in the state.

Mrs. Jay said that since the initial state legislation for charter schools was passed in 1998, eight charter schools in eight school divisions have been approved and opened for students. They continue to operate and provide programs designed to increase educational opportunities for at-risk students. Information collected from school division superintendents in August 2003 revealed that no new charter school applications were approved during 2002-2003. Four charter school applications were denied in four school divisions.

Mrs. Genovese made a motion to accept and approve the 2003 Annual Report on Charter Schools in Virginia pursuant to Section 22.1-212.15, Code of Virginia. The motion was seconded by Mrs. Rogers and carried unanimously.

First Review of the 2003 Annual Report on Regional Alternative Education Projects

Mrs. Jay also presented this item. Mrs. Jay said that Section 22.1-209.1:2 of the Code of Virginia requires that a report be provided annually by the Board of Education to the Governor and the General Assembly on the effectiveness of the Regional Alternative Education Projects. The 1993 General Assembly approved legislation and funding to create regional pilot projects to provide an educational alternative for certain students who have a pending violation of school board policy, have been expelled or long term suspended, or are returning from juvenile correctional centers. A formula based on staffing patterns and the composite index of local ability-to-pay determines continuation funding. The state appropriation for 2003-2004 is \$5,210,891.

Mrs. Jay said that the alternative education projects are designed to meet the needs of students in the school divisions where they are located. There were 30 regional projects in operation involving 114 school divisions during 2002-2003 with 3,403 placements. Various factors contribute to the success of these programs. They include small school size, low teacher-pupil ratio, individual and small group instruction, infusion of technology, effective communication and collaboration, and support from parents and school boards.

Mrs. Genovese made a motion to waive first review and approve the 2003 Annual Report on Regional Alternative Education Projects pursuant to Section 22.1-209.1:2, Code of Virginia. The motion was seconded by Mrs. Rogers and carried unanimously. The report will be forwarded to the Governor and General Assembly.

First Review of Addition to the Board-Approved List of Supplemental Educational Services Providers Under the No Child Left Behind Act of 2001

Mrs. Brenda Spencer, specialist, office of program administration and accountability, presented this item. Mrs. Spencer said that the *No Child Left Behind Act of 2001* (NCLB) requires Title I schools that do not meet the state's Adequate Yearly Progress (AYP) targets for three consecutive years in the same subject area to offer a choice of supplemental educational services to parents of eligible children. Virginia has schools that must offer supplemental educational services during the 2003-2004 school year. Several school divisions offered supplemental educational services during the 2002-2003 school year in lieu of their ability to fully offer public school choice or due to long-term Title I School Improvement identification of certain schools under the previous law. The *No Child Left Behind Act of 2001* requires states to identify and maintain a list of supplemental educational services providers.

Mrs. Spencer said that on July 25, 2002, the Board of Education adopted the NCLB criteria for the approval of supplemental educational services providers. The criteria specified that providers:

1. Demonstrate the ability to provide parents and the local education agency (LEA) with information on progress of children in a format and language that parents can understand;
2. Document a track record of effectiveness;
3. Ensure that the instruction provided and the content used are consistent with the instruction and content used by the LEA and are aligned with the state's student academic achievement standards;
4. Meet all federal, state, and local health and safety and civil rights laws;
5. Ensure that all instruction and content are neutral and non-ideological; and
6. Offer services within a financially sound management structure.

Mrs. Spencer said that the department received applications in response to the Request for Proposals (RFP) from potential supplemental educational services providers. The Board of Education, at its September 2002 meeting, approved the initial list of recommended supplemental educational services providers and recommended eleven additional companies at its February, May, July, September, and October 2003 meetings.

Dr. Ward made a motion to waive first review and add the one provider, Lindamood-Bell Learning Processes, to the Board-approved list. The motion was seconded by Mrs. Rogers and carried unanimously.

First Review of the Division-Level Academic Review Process

Dr. Cheri Magill, director of accreditation, and Dr. Cindy Cave, director of policy presented this item. Dr. Cave reviewed the Virginia Constitution concerning the role of

the Board and local school boards in authorizing management and providing for school divisions. Following are some of her remarks:

While neither Virginia law nor Board of Education regulations specifically require that certain systems be in place, it is understood that effective systems and processes are needed to accomplish tasks required by the SOQ and the SOA.

The general supervision of the public school system is vested in the Board of Education through Article VIII of Virginia's Constitution. It must be noted that the Board of Education takes seriously its responsibility to supervise public school systems in Virginia. The Academic Review process may identify school division processes and practices that are not in compliance with the SOQ and/or the SOA. The SOQ provide the Board with the authority to seek school division compliance with the requirements of the SOQ, by asking that a petition for a writ of mandamus be filed in circuit court that directs and requires compliance with the standards. Schools in violation of the SOA are subject to appropriate action by the Board including, but not limited to, the adjustment or withdrawal of a school's accreditation rating.

Dr. Magill said that the division-level academic review will consist of the same types of visits and activities as a school-level academic review. Staff from the Department of Education will serve on the review teams. The academic review process will focus on determining the school system's compliance with the requirements of the Standards of Quality or the Regulations Establishing Standards for Accrediting Public Schools in Virginia.

Dr. Magill said the review will include an analysis of the systems, processes and practices that support schools in the following:

1. Aligning curriculum;
2. Obtaining and using data;
3. Making effective use of instructional time;
4. Identifying and providing professional development activities focused on improving student achievement;
5. Developing and implementing school improvement plans;
6. Selecting and implementing instructional models/programs for schools warned in English and/or mathematics; and
7. Promoting a school cultural that focuses on improving student achievement.

The Board requested a team, including the Attorney General's office, be assembled to give the Board and department further guidance on this issue. A second draft of the outline on the division-level review process will be presented at the January meeting.

First Review of the Annual Report for State Funded Remedial Programs

Dr. James Heywood, director of school improvement, presented this item. Dr. Heywood said that the Code of Virginia requires the Board of Education to collect, compile, and analyze data required to be reported by local school divisions to accomplish a statewide review and evaluation of remediation programs. The Code also requires that the Board report annually its analysis of the data submitted and a statewide assessment of remediation programs, including any recommendations, to the Governor and the General Assembly annually, beginning on December 1, 2000.

Dr. Heywood said that the *Analysis and Assessment of State-Funded Remedial Programs* report consisted of the following:

1. A summary of the remedial plans for all school divisions.
2. The regulations specifying standards for state-funded remedial programs.
3. Notes the related *Code of Virginia* citations
4. Contains a summary of funding amounts provided to each local school division for Standards of Quality Remedial Education Payments, Standards of Learning Remediation, and Standards of Learning Remedial Summer School.

Dr. Ward made a motion to waive first review and submit the report to the Governor and General Assembly as required by Section 22.1-199 of the Code.

First Review of Recommended Cut Scores for the New Standards of Learning History Tests

Mrs. Shelley Loving-Ryder, assistant superintendent, division of assessment and reporting, presented this item. Mrs. Loving-Ryder said that in 2003-2004 new standards of Learning tests measuring the 2001 history content standards will be administered. Because of the changes in the content measured by these tests, new passing scores must be adopted by the Virginia Board of Education. Consistent with the process used to set the original passing scores in 1998, committees of educators were convened to recommend to the Board of Education minimum "cut" scores for the achievement levels of pass/ proficient and pass/advanced for the new tests. Committees for the four end-of-course history tests (World History I, World History II, Virginia and U.S. History, and World Geography) met in early November.

Mrs. Loving-Ryder presented information about the range of cut scores recommended by the committees for the achievement levels of pass/proficient and pass/advanced for each of the end-of-course tests. The Board reviewed this information and adopted the following cut scores for each of the four tests:

| Test | Pass/Proficient | Pass/Advance |
|-----------------------|------------------------|---------------------|
| World History I | 30 | 50 |
| World History II | 30 | 50 |
| Virginia/U.S. History | 30 | 51 |
| World Geography | 33 | 50 |

Mrs. Genovese made a motion to waive first review and adopt cut scores for the four end-of-course history tests measuring the revised 2001 content standards. The motion was seconded by Dr. Jones and carried unanimously.

First Review of Revisions to the Limited English Proficient (LEP) Performance Indicator 2.1 to the September 1, 2003, Submission Under the No Child Left Behind Act of 2001

Dr. Wright presented this item Dr. Wright said that on July 23, 2003, the Board of Education approved Virginia's September 1, 2003, Consolidated Plan submission, which was subsequently forwarded to the United States Department of Education (USED) as required under the *No Child Left Behind Act of 2001*. On October 27, 2003, the Virginia Department of Education received notification of its consolidated grant awards under the Elementary and Secondary Education Act (ESEA) from the USED, based on the USED staff reviews of the September 1 submission.

Three conditions were placed on continuation of funding. They are:

1. Virginia must submit revised "making progress" and "cohort" definitions that include all limited English proficient (LEP) students. (Due Date: November 17, 2003)
2. Virginia must submit revised annual measurable achievement objectives (AMAOs) that show annual increases in the number or percentage of LEP students attaining proficiency and making progress in learning English. (Due Date: November 17, 2003)
3. Virginia must submit evidence of assessing the English language proficiency of all LEP students in school year 2003-04. Virginia must annually assess all LEP students at all levels of English language proficiency in all four domains of language: reading, writing, listening, and speaking. LEAs receiving Title III subgrants must annually assess LEP students in five domains of language: reading, writing, listening, speaking, and comprehension. (Due Date: April 30, 2004)

Dr. Wright said that in response to requests made by USED for revisions to the Limited English Proficient (LEP) performance indicator 2.1 to the September 1, 2003, submission, the following proposed modifications have been made to the text:

1. The wording in the description of the cohort defined as LEP students has been modified. The AMAO targets for percent or number of LEP students making

progress in acquiring English language proficiency have been modified to show an increase in increments of five as opposed to increments of one as had been originally submitted.

2. The AMAO targets for LEP students attaining proficiency have been increased in increments of five as opposed to holding them steady for two years and then three years as had been originally submitted.
3. The condition to submit evidence of assessing all LEP students with an English language proficiency assessment by April 30, 2004, will be difficult, if not impossible to meet in a timely manner. Dr. Wright explained that Virginia is participating in a consortium of states under the leadership of the Council of Chief State School Officers to develop the English Language Development Assessment (ELDA) to serve as an English language proficiency assessment for LEP students. The ELDA will not be available for administration until April 2004. Thus, the target date for submitting evidence of all LEP students by April 30, 2004, is not attainable for any school division using the ELDA.

Mrs. Genovese made a motion to waive first review and approve the proposed revisions to the Limited English Proficient (LEP) performance indicator 2.1 to the September 1, 2003, submission as well as support a letter to the United States Department of Education to express concern about the requirements to submit evidence by April 30, 2004, of assessing all LEP students with an English language proficiency assessment. The motion was seconded by Mrs. Rogers and carried unanimously.

Report on the Statewide Spring 2003 Standards of Learning Test Results and Accreditation Status of the Public Schools

Mrs. Loving-Ryder also presented this item. Mrs. Loving-Ryder said that the Spring 2003 administration of the Standards of Learning Tests represents the sixth major administration of the tests. The tests are administered in grades 3, 5, and 8 and in 12 high school course areas. They are based on the Standards of Learning adopted by the Board of Education in the core areas of English, mathematics, science, and history/social science. School accreditation ratings are based on student performance on statewide tests.

Mrs. Loving-Ryder said that the 2003-2004 school year marks the fifth year that school accreditation ratings based on student test performance have been reported. They are as follows:

| Rating | 2003-2004 | 2002-2003 |
|--|------------------|------------------|
| Fully Accredited | 1414 (78%) | 1181 (65%) |
| Provisionally Accredited: Meets State Standards | 64 (3%) | 253 (14%) |
| Provisionally Accredited: Needs Improvement | 294 (16%) | 310 (17%) |
| Accredited with Warning | 51 (3%) | 85 (5%) |

The Board accepted the report on statewide Spring 2003 Standards of Learning test results and accreditation status of the public schools.

Report on the 2004-05 State Adoption of Selected Textbooks and Instructional Materials

Mr. Jim Firebaugh, director of middle school instruction, presented this item. Mr. Firebaugh said that the Board of Education's authority for approving textbooks and other instructional materials is prescribed in the Virginia Constitution and in the Code of Virginia. The Board of Education's Regulations Governing Textbook Adoption specifies the types of materials that may be adopted.

Mr. Firebaugh said that at its March 27, 2002, meeting, the Board of Education adopted a resolution to allow the Department of Education to proceed with the review of textbooks and instructional materials according to the established process. Committees of Virginia educators and Department of Education staff complete the reviews. Publishers have an opportunity to respond to the recommendations prior to submission to the Board of Education for approval.

Textbooks and instructional materials for the following core academic subjects are scheduled for adoption in 2004-2005: English 6-12, Reading and Literature 6-8, Literature 9-12, Mathematics K-12, and Foreign Languages. This process is scheduled to begin with a meeting with publisher representatives in December 2003 at the Department of Education.

Using an established review process and criteria, the Department of Education will administer the state adoption process for the Board of Education. The department will submit to the Board for approval a list of recommended materials during the fall of 2004.

The Board accepted the report and announcement of the 2004-05 textbook and instructional materials adoption process.

First Review of Recommended Scores on the Work Keys: Writing Test to be Considered as Equivalent to Pass/Proficient and Pass/Advanced on the Standards of Learning (SOL) End-of-Course English: Writing Test

Mrs. Loving-Ryder also presented this item. Mrs. Loving-Ryder said that in early November 2003, a committee of Virginia educators was convened to recommend scores on the Work Keys: Writing test that would be equivalent to scores of pass/proficient and pass/advanced on the SOL Writing Test.

Mrs. Genovese made a motion to waive first review and adopt scores on the Work Keys: Writing Test to be considered as equivalent to pass/proficient and pass/advanced on the Standards of Learning (SOL) End-of-Course English: Writing Test. Adoption of these scores will enable the Department of Education to immediately notify school divisions of the scores required on the Work Keys: Writing assessment. The motion was seconded by Mrs. Rogers and carried unanimously.

The following scores on the Work Keys: Writing Test were adopted:

| SOL Test | Substitute Test and Score Range | Proficient | Advanced |
|------------------|--|-------------------|-----------------|
| English: Writing | Work Keys: Writing | 3 | 4 |

PUBLIC COMMENT

No one spoke during public comment.

ADJOURNMENT

There being no further business of the Board of Education and Board of Career and Technical Education, Mr. Jackson adjourned the meeting at 12:30 p.m.

President

Secretary