

COMMONWEALTH OF VIRGINIA  
BOARD OF EDUCATION  
RICHMOND, VIRGINIA

**MINUTES**

October 22, 2003

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

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

Mr. Thomas G. Johnson, Jr.  
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 9:10 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***

Mrs. Rogers made a motion to approve the minutes of the September 17, 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.

***CONSENT AGENDA***

The following item will be deferred until the November Board meeting: *Item A, 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 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.)*.

Mrs. Rogers made a motion to accept the following consent agenda. Dr. Ward seconded the motion, and it carried unanimously.

- First Review of Notice of Intended Regulatory Action (NOIRA) for the Regulations Governing the General Educational Development Certificates (8 VAC 20-360-10 et seq.)

- First Review of Notice of Intended Regulatory Action (NOIRA) for the Regulations Governing Adult High School Programs (8 VAC 20-30-10 et seq.)

**First Review of Notice of Intended Regulatory Action (NOIRA) for the Regulations Governing the General Educational Development Certificates (8 VAC 20-360-10 et seq.)**

The Department of Education's recommendation that the Board waive first review and authorize the Department to proceed with the NOIRA process for the revision of the Regulations Governing the General Educational Development Certificates, was accepted by the Board of Education's vote on the consent agenda.

**First Review of Notice of Intended Regulatory Action (NOIRA) for the Regulations Governing Adult High School Programs (8 VAC 20-30-10 et seq.)**

The Department of Education's recommendation that the Board waive first review and authorize the Department to proceed with the NOIRA process for the revision of the Regulations Governing the Adult High School Programs, was accepted by the Board of Education's vote on the consent agenda.

***ACTION ITEMS***

**First Review of Proposed Changes in List of Instructional Models/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 after the Board approved the revised criteria in January 2003, based on the changes necessitated by *No Child Left Behind Act*, the developers of the instructional models/programs that appeared on the board-approved list were asked to resubmit evidence based on the revised criteria.

Dr. Wright said that 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. As a result of this review, the department is recommending 19 additional models/programs and a grade-level modification in Saxon Mathematics, a previously approved model/program. Three model/program developers did not resubmit their programs for review and will be deleted from the Board's list. They are: Sadler Phonics Word Study Program, Cooperative Integrated Reading and Comprehension, and National Writing Project.

Dr. Ward made a motion that the Board of Education accept for first review the proposed addition, deletions, and modifications to the list of Board-approved instructional models/programs. The motion was seconded by Mrs. Rogers and carried unanimously.

**First Review of Resolution Pertaining to the Amber Alert Program**

Mr. Douglas Cox, assistant superintendent, division of special education and student services, presented this item. Mr. Cox said the 2003 session of the General Assembly amended the *Code of Virginia* (' 2.2-1161.1) with House Bill 1832, creating the Virginia Amber Alert Program. The bill added ' 22.1-16.2 to the *Code of Virginia* and specified certain Board activities with respect to this program. Mr. Cox said the resolution expresses the will of the Board that school divisions collaborate with law enforcement agencies to make information about the Amber Alert Program available to parents.

Mr. Goodman made a motion to waive first review and approve the resolution. The motion was seconded by Mrs. Rogers and carried unanimously.

The resolution reads as follows:

***Resolution of the Board of Education***

*WHEREAS* House Bill 1832 established the Virginia Amber Alert Program.

*NOW THEREFORE BE IT RESOLVED* that the Board of Education encourages school divisions to collaborate with law enforcement agencies in making available to parents information about the Virginia Amber Alert Program, including appropriate identification information about their children.

Adopted in Richmond, Virginia, This Twenty-second Day of October in the year 2003.

The resolution will be distributed to school divisions, along with information about resources, to assist with the Amber Alert Program.

**First Review of Science Textbooks and Instructional Materials for State Adoption**

Mr. James Firebaugh, director, office of middle instructional services, presented this item. Mr. Firebaugh said that the Board'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* (8 VAC 20-220-30) specifies the types of materials that may be adopted as follows:

*Only those materials which are designed to provide basic support for the instructional program of a particular content area at an appropriate level will be adopted.*

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. On March 29, 2002, the department posted Superintendents' Memorandum No. 15, which provided a textbook adoption schedule for statewide adoptions through 2004-2005.

Mr. Firebaugh's report included a master list of recommended textbooks. The recommended list was accompanied by profile sheets for all textbooks, which provided the more detailed information used to determine the recommendations and a sample science textbook review worksheet. In addition, the report included a list of textbooks that were withdrawn during the process.

Mr. Goodman suggested that future sites to review science textbooks include the following: Charlottesville, Old Dominion University, and Norfolk State University.

The Board accepted for first review the list of science textbooks and instructional materials recommended for state adoption. Therefore, a 30-day public comment period will be announced. Science textbook and instructional materials may be reviewed at the following nine sites: Virginia State University, The College of William and Mary, Mary Washington College, George Mason University, James Madison University, Radford University, The University of Virginia's College at Wise, Longwood University, and the Department of Education. The recommended list will be presented for final review at the January 7, 2004, meeting of the Board.

#### **First Review of K-5 Reading Textbooks for State Adoption**

Mrs. Linda Poorbaugh, director, office of elementary instructional services, presented this item. Mrs. Poorbaugh said that after the review process, the review committee submitted six textbook series for the Board's review. Five of the six textbooks series were recommended. Mrs. Poorbaugh's report included a master list for all recommended textbooks accompanied by the profile sheets for each textbook series. The profile sheets provided more detailed information used to determine the recommendations. The report also included a sample reading textbook review worksheet.

The Board accepted for first review the list of K-5 reading textbooks recommended for state adoption. Therefore, a 30-day public comment period will be announced. Reading textbook and instructional materials may be reviewed at the following nine sites: Virginia State University, The College of William and Mary, Mary Washington College, George Mason University, James Madison University, Radford University, The University of Virginia's College at Wise, Longwood University, and the Department of Education. The recommended list will be presented for final review at the January 7, 2004, meeting of the Board.

#### **First 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 the *Virginia Code* requires the Board to submit an annual report on the condition and needs of the public schools in Virginia as follows:

*§ 22.1-18. Report on education and standards of quality for school divisions; when submitted and effective.*

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 the newly prescribed revisions to the Standards of Quality and the rationale for making each revision. In addition, the report includes the following information:

- ✓ 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
- ✓ A Statistical Portrait of Virginia's Schools
- ✓ 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 noted that in several sections of the report, pertinent information will be added as it becomes available. It was also noted 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 15<sup>th</sup> date specified in ' 22.1-18 of the *Virginia Code* because the data needed to complete the required components of the report will not be available for the Board's review prior to that date.

The Board accepted the working draft of the report for first review. The updated document will be presented for final review at the November 19, 2003, meeting of the Board.

### **First 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 the session of the 2002 Virginia General Assembly resulted in amendments to previous statutes governing public charter schools as follows:

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.

Mrs. Jay said that the department collected information on the number of charter school applications approved and denied by local school boards through a Superintendents' 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 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.

The Board received the 2003 Annual Report on Charter Schools in Virginia for first review. The report will be presented at the November 19, 2003, meeting of the Board for final approval. Following final approval, the report will be forwarded to the Governor and the General Assembly as required by §22.1-212.15, *Code of Virginia*.

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

Mrs. Brenda Spencer, Title I specialist, office of program administration and accountability, presented this item. Mrs. Spencer said 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.

Mrs. Spencer said that 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.

Mrs. Spencer said the *No Child Left Behind Act of 2001* requires states to identify and maintain a list of supplemental educational services providers. Supplemental educational services are tutoring and academic enrichment services that are provided in addition to daily instruction and that are provided outside of the regular school day. A supplemental educational service provider can be a non-profit entity, a for-profit agency, or another 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 English and Mathematics Standards of Learning and in earning proficiency on Standards of Learning tests. NCLB requires that states maintain an approved list of supplemental educational services providers across the state and by school division from which parents can select.

Mrs. Spencer stated 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:

- Demonstrate the ability to provide parents and the local education agency (LEA) with information on the progress of children in a format and language that parents can understand;
- Document a track record of effectiveness;
- 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;
- Meet all federal, state, and local health and safety and civil rights laws;
- Ensure that all instruction and content are neutral and non-ideological; and
- Offer services within a financially sound management structure.

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

The department recommends revising the service delivery of one previously recommended company to reflect live instruction in addition to Web-based instruction. The company, Kaplan K-12 Learning Services, presented sufficient documentation to the department to warrant the recommendation. The department also recommends adding one company to Virginia's Board-approved list.

Mr. David Johnson made a motion to waive first review and amend the service delivery of one supplemental educational services provider and add one provider to the board-approved list. The motion was seconded by Mrs. Genovese and carried unanimously.

**First Review of Annual Performance Report on Adult Education and Family Literacy**

Dr. Yvonne Thayer, director, office of adult education and literacy, presented this item. Mrs. Thayer said that Section 22.1-226 of the *Code of Virginia* requires school divisions to evaluate adult education programs offered by the school division by synthesizing data collected for other state and federal reports.

*They shall report the findings of the evaluation, including the effectiveness and success of programs in assisting adults in obtaining the General Educational Development (GED) Certificate and the high school diploma. The Board of Education shall collect the results and report the findings to the Governor and the General Assembly.*

Mrs. Thayer's report summarized the progress made by learners in adult education programs funded by Title II of the Workforce Investment Act. The document reports performance targets negotiated by the U. S. Department of Education and the progress made in reaching the targets.

Mr. Emblidge made a motion to waive first review and approve the report. The motion was seconded by Mrs. Rogers, and it carried unanimously.

**Status Report on the Twelve Local Educational Agencies' Implementation of the Public School Choice and the Supplemental Educational Services Requirements Under the No Child Left Behind Act of 2001**

Mrs. Spencer also presented this report. Mrs. Spencer said the *No Child Left Behind Act of 2001* requires school divisions to identify for school improvement any elementary or secondary school served under Title I that does not make Adequate Yearly Progress (AYP) in the same subject area for two consecutive years.

Mrs. Spencer said that these schools are designated as in Year One Title I School Improvement Status and must offer the public school choice option to parents. Title I schools that do not make AYP for three consecutive years in the same subject area must continue to offer public school choice and, additionally, provide supplemental educational services to eligible students. These schools are designated as in Year Two Title I School Improvement Status.

Mrs. Spencer said that schools that offered the public school choice option during the previous school year and made AYP based on 2002-2003 data must also continue to offer the public school choice option, because two consecutive years of making AYP in the same subject area are required to exit Title I School Improvement.

The Board of Education guidance on public school choice and supplemental educational services assists school divisions with the implementation of the respective Title I School Improvement requirements outlined in Section 1116 of the legislation. Additional technical assistance has been provided by the Department of Education during both the 2002-2003 and the current school years.



Mrs. Spencer reported that the public school choice requirements and guidelines specify that the school division shall:

- Fund transportation for the student to attend the alternative school;
- Provide transportation for the child and inform parents that the obligation ends at the close of a school year, if the school from which the child transferred is no longer identified for school improvement, corrective action, or restructuring;
- Permit a child who transferred to another school to remain in that school until the child has completed the highest grade in that school;
- 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 it demonstrates that it cannot provide choice to all students in low-performing schools;
- Establish to the extent practicable a cooperative agreement with other school divisions in the area, if all public schools served by the division to which a child may transfer are identified for school improvement, corrective action, or restructuring; and
- Inform parents of the public school choice option.

Mrs. Spencer added that the supplemental educational services requirements and guidelines specify that the school division shall:

- Communicate the availability of supplemental educational services providers to parents of eligible students;
- Identify providers as those from the board-approved list;
- Provide a brief description of each provider to parents;
- Assist parents with the selection of providers, if requested;
- Establish a fair and equitable procedure for assigning providers to eligible students, if capacity is limited; and
- Enter into an educational service delivery agreement with the provider on behalf of the parent and student.

Mrs. Spencer's report also included a status report that summarized the No Child Left Behind public school choice and supplemental educational services implementation in the twelve Virginia school divisions. The Board accepted the report.

### **Annual Report of the State Special Education Advisory Committee**

Mrs. Charlene Christopher, chair of the State Special Education Advisory Committee presented this item. Mrs. Christopher said the State Special Education Advisory Committee (SSEAC) is a federally mandated panel comprised of individuals with disabilities, teachers, parents, state and local officials, and local administrators. The Individuals with Disabilities Education Act (IDEA) requires that the committee submit an annual report to the state education agency.

Mrs. Christopher's report included: (1) an overview of the SSEAC mission and structure, (2) a description of priority issues in special education, and (3) a summary of future issues that the SSEAC will consider. Mrs. Spencer said the priority issues for the SSEAC included the following:

- Student achievement;
- Qualified personnel;
- Family involvement;
- Continuum of placement options and the least restrictive environment;
- Early literacy initiatives;
- Virginia Schools for the Deaf and Blind;
- Students with disabilities living in nursing homes;
- Restraint and seclusion;
- Medicaid; and
- Secondary transition.

Mrs. Spencer said future issues of the SSEAC includes the following:

- Reauthorization of the Individuals with Disabilities Education Act;
- No Child Left Behind; and
- Olmstead Plan.

The Board accepted and approved the report to be disseminated to the public upon request.

***Report on the Process to be Used in Setting Passing Scores for the New History Standards of Learning Test***

Mrs. Shelley Loving-Ryder, assistant superintendent, division of assessment and reporting, presented this report. Dr. Michael Beck, president, Beck Evaluation and Testing Associates, Inc, assisted Mrs. Loving-Ryder.

Mrs. Loving-Ryder reported that the 2003-2004 new tests measuring the 2001 history content standards will be administered. Because of the changes in the content measured by these tests as compared to those based on the 1995 standards, the Board must adopt new passing scores. Consistent with the process used to set the original passing scores in 1998, committees of educators will be convened to recommend to the Board minimum cut scores for the achievement levels of Pass/Proficient and Pass/Advanced.

Dr. Beck will facilitate the work of the standard setting committees for the new history tests. Dr. Beck was also the facilitator who worked with the original standard setting committees that met in 1998 to recommend cut scores on the Standards of Learning tests. Dr. Beck reviewed the process the committee will go through in order to submit recommendations to the Board at the November meeting.

The Board accepted the report.

## ***PUBLIC COMMENT***

The following persons spoke during public comment:

Dr. Chalmers Hood

## ***DISCUSSION OF CURRENT ISSUES***

Dr. DeMary introduced Mrs. Maureen Hjar, director of secondary education, to the Board. Mrs. Hjar had just returned from Russia where some Virginia students were participating in the Space Olympics. Mrs. Hjar said the four students participating in the International Space Olympics in Russia were from Bath County, Giles County, Harrisonburg City, and Salem City school divisions. In the oral presentation competition, one of the students, Gregory Minton, finished in 8<sup>th</sup> place and another student, Ryan Olsen, finished in 11<sup>th</sup> place. Mrs. Hjar said approximately 200 students from countries around the world participated in the Space Olympics. Mrs. Hjar said the Board should be proud of this delegation and the way that the students represented the commonwealth.

## ***EXECUTIVE SESSION***

Mrs. Genovese made a motion to go into executive session under *Virginia Code* ' 2.2-400.A.1, specifically to discuss personnel matters related to licensure. Mrs. Rogers seconded the motion and it carried unanimously. The Board adjourned for the Executive Session at 11:30 a.m.

Mrs. Genovese made a motion that the Board reconvene in open session. The motion was seconded by Mr. Johnson and carried unanimously. The Board reconvened at 12:15 p.m.

Mrs. Genovese made a motion that the Board certify by roll-call vote that to the best of each member's knowledge: (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive session to which this certification motion applies, and (2) only such public business matters as were identified in the motion convening the executive session were heard, discussed, or considered by the Board. The motion was seconded by Mrs. Rogers and carried unanimously.

Board roll call:

Mr. Goodman - yes  
Mrs. Rogers - yes  
Mrs. Genovese - yes  
Mr. Jackson - yes  
Dr. Jones - yes  
Mr. Emblidge - yes  
Dr. Ward - yes  
Mr. David Johnson - yes

Mrs. Genovese made the following motions:

Case #1 – That the Board accept the panel’s recommendation to continue the license. Mrs. Rogers seconded the motion, and it carried unanimously.

Case #2 – That the Board accept the panel’s recommendation to revoke the license. Mrs. Rogers seconded the motion, and it carried unanimously.

Case #3 – That the Board not continue the license, meaning that the Board deny the recommendation of the panel, and deny the application. Dr. Ward seconded the motion, and it carried unanimously.

Case #4 – That the Board accept the panel’s recommendation to issue the license. Mrs. Rogers seconded the motion, and it carried unanimously.

Case #5 – That the Board accept the panel’s recommendation to issue the license. Mrs. Rogers seconded the motion, and it carried unanimously.

Case #6 – That the Board accept the panel’s recommendation to continue the license. Mrs. Rogers seconded the motion, and it carried unanimously.

Case #7 – That the Board accept the panel’s recommendation to issue the license. Dr. Ward seconded the motion, and it carried unanimously.

Case #8 – That the Board accept the panel’s recommendation and issue the license. Mr. Goodman seconded the motion, and it carried unanimously.

Case #9 – That the Board accept the panel’s recommendation not to continue the license. Mr. Goodman seconded the motion, and it carried unanimously.

### ***ADJOURNMENT***

There being no further business of the Board of Education and Board of Career and Technical Education, Mr. Jackson adjourned the meeting at 12:20 p.m.

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President

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Secretary