

# Board of Education Agenda Item

Item: G.

Date: October 28, 2004

**Topic:** Final Review of Sanctions/Corrective Actions for School Divisions in Improvement Status, as Required by the *No Child Left Behind Act of 2001*

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**Origin:**

Topic presented for information only (no board action required)

- Board review required by
- State or federal law or regulation
  - Board of Education regulation
  - Other: \_\_\_\_\_

Action requested at this meeting     Action requested at future meeting: \_\_\_\_\_

**Previous Review/Action:**

No previous board review/action

Previous review/action:

Date: June 23, 2004

Action: Board accepted proposal on first review and requested attorney general's office to advise on legal authority

**Background Information:**

The *No Child Left Behind Act of 2001* (NCLB) requires states to establish an accountability system for schools, school divisions, and the state. As part of the accountability system, states must have sanctions and corrective actions for school divisions that do not make AYP for two consecutive years or more as defined in their Consolidated State Application Accountability Workbook. Virginia's Accountability Workbook, approved by the U.S. Department of Education (USED), describes a single statewide accountability system and outlines the steps that Virginia will follow to implement this requirement of NCLB. The AYP accountability determinations for the 2004-2005 school year (based on 2003-2004 data) have resulted in the identification of certain school divisions in improvement status. School divisions that are in improvement status are subject to sanctions and/or corrective actions.

**Summary of Major Elements**

The NCLB legislation requires the state to prescribe and monitor sanctions for school divisions in improvement in accordance with federal law. NCLB describes these sanctions/corrective actions for school divisions receiving Title I funding. Section 1116(c)(3) of NCLB requires school divisions that do not make AYP for two consecutive years to develop a division improvement plan that addresses specific components, and it allows the state to impose corrective actions. The Board of Education must require a school division that does not make AYP in the same content area by the end of “Year 2 in improvement” status (i.e., four consecutive years of not making AYP in the same content area) to implement at least one of the corrective actions listed in the law.

While NCLB is silent regarding sanctions for school divisions not receiving Title I funding and while no school divisions in Virginia are in this situation, current guidance from USED suggests that states also must address sanctions for school divisions not receiving Title I funds. Guidelines for proposed sanctions and/or corrective actions are attached.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education adopt the attached guidelines for sanctions/corrective actions for school divisions in improvement status, as required by the *No Child Left Behind Act of 2001*.

**Impact on Resources:**

The impact on resources of the recommendations is being determined along with the implementation of all of the aspects of NCLB.

**Timetable for Further Review/Action:** Upon adoption by the board, the Department of Education will distribute the guidelines to school divisions and implement procedures for coordinating technical assistance and compliance monitoring as part of a single statewide system of support.

**PROPOSED**  
**Guidelines for Sanctions/ Corrective Actions**  
**for Virginia School Divisions in Improvement Status as Required by the *No Child Left Behind Act of 2001***

**Authority**

NCLB Section 1116(c)(1) and Section 200.50(a) of the Title I regulations require the state education agency (state) to annually review the progress of each local education agency (LEA) that receives funding under Title I, Part A, to determine if (a) its Title I schools are making adequate yearly progress (AYP), and (b) the LEA (school division) is carrying out its responsibilities with respect to school improvement, technical assistance, parental involvement, and professional development. NCLB Section 1116(c) is silent on sanctions/corrective actions for school divisions not receiving Title I funding that fail to make AYP for two consecutive years. Guidance from the U.S. Department of Education (USED) suggests that sanctions may be required for such school divisions.

NCLB Section 1116(c)(3) and Section 200.50(d)(1) of the Title I regulations require the state to identify for improvement a school division that, for two consecutive years fails to make AYP as described in the state's approved Consolidated State Application Accountability Workbook.

Not later than three months after the state has identified a school division for improvement the LEA must develop or revise a division improvement plan that includes components required in NCLB Section 1116(c)(7) and Section 200.52(a)(3) of the Title I regulations. The plan must also specify the fiscal responsibilities of the school division as required in Section 1116(c)(7)(A) and Section 200.52 of the federal regulations.

NCLB Section 1116(c)(10) and Section 200.53 of the Title I regulations require the state to take corrective action with respect to any LEA that is in division improvement status if the division fails to make AYP, as defined in the Consolidated State Application Accountability Workbook, by the end of Year 2 division in improvement status. The state may take corrective actions, including those allowable under NCLB, during the first year a school division receiving Title I funding is identified for improvement. The purpose and types of corrective actions the state must take against school divisions is defined in the federal law and regulations.

In accordance with NCLB Section 1116(c)(11) and Section 200.50(h) of the Title I regulations, any Virginia school division that makes AYP for two consecutive years in the content area(s) that caused it to be identified for improvement, regardless of whether or not it receives Title I funding, will no longer be subject to sanctions/corrective actions or identified for improvement.

## **Implementing Sanctions/Corrective Actions**

### Identification of Division in Improvement Status

A Virginia school division receiving Title I funding will be identified in improvement status consistent with policies approved by the U.S. Department of Education (USED) and defined in the Virginia Consolidated State Application Accountability Workbook. The school division will be identified for improvement if it does not make adequate yearly progress (AYP) for two (2) consecutive years in the same content area. Chart 1 attached describes the identification process of Virginia school divisions in improvement status.

### Division in Improvement Plan

Any school division receiving Title I funding that does not make AYP for two consecutive years in the same content area will be required to develop within 90 calendar days of notification, a division improvement plan deemed to be part of the plan required by the *Standards of Quality*. The Department of Education may, on behalf of the Board of Education, review such plans. The school division must monitor plan implementation and may be required to report the status of implementation of the division improvement plan to the Department of Education by October 1 of each year, for as long as the division remains in improvement status. A review of the implementation of the improvement plan may be included in the academic review and federal program monitoring processes coordinated at the division and school levels. The Department of Education will report such statuses to the Board.

The purpose of the improvement plan is to improve student achievement throughout the school division. Therefore, the plan overall must identify actions that, if implemented, have the greatest likelihood of accomplishing this goal.

Specifically, the plan must:

- Address the fundamental teaching and learning needs of schools in the division, especially the academic problems of low-achieving students;
- Define specific measurable achievement goals and targets for each of the student subgroups whose disaggregated results are included in the state's definition of AYP;
- Incorporate strategies grounded in scientifically based research that will strengthen instruction in core academic subjects;
- Include, as appropriate, student learning activities before school, after school, during the summer, and during any extension of the school year;

- Provide for high-quality professional development for instructional staff that focuses primarily on improved instruction;
- Include strategies to promote effective parental involvement in the schools served by the division; and
- Include a determination of why the division's previous plan did not bring about increased student academic achievement.

The plan must also specify the fiscal responsibilities of the school division as required in NCLB Section 1116(c)(7)(A) and Section 200.52 of the Title I regulations. School divisions must certify to the Department of Education that it has reviewed and amended its budget and plan submitted as part of the Title I application for the current school year to ensure correlation with the division improvement and/or corrective action plan.

The division must implement its improvement plan no later than the beginning of the school year immediately following the year in which the assessments were administered that resulted in the division's identification for improvement. For example, if the division does not make AYP in the same content area during the 2002-03 and 2003-04 school years, it will be identified for improvement and enter improvement status beginning with the 2004-2005 school year, at which time it must implement its improvement plan.

#### Division in Corrective Action

The Board of Education will take corrective action with respect to any school division that is in division improvement status if the division fails to make AYP in the same content area by the end of "Year 2 division in improvement" status. In other words, the state must take corrective action with respect to a school division that enters "Year 3 division in improvement" status (i.e., fails to make AYP in the same content area after four consecutive years). The Board may take corrective actions, including those allowable under NCLB Section 1116(c)(10)(c), during the first year a school division receiving Title I funding is identified in improvement status. In determining whether or not to take corrective actions, the Board will consider the history of progress or lack of progress in the content area in schools in the school division.

#### Section 1116(c)(10)(c) of the law states:

*In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:*

- (i) *Deferring programmatic funds or reducing administrative funds.*

- (ii) *Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.*
- (iii) *Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.<sup>1</sup>*
- (iv) *Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.<sup>2</sup>*
- (v) *Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.<sup>1</sup>*
- (vi) *Abolishing or restructuring the local educational agency.<sup>2</sup>*
- (vii) *Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F), and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9), in conjunction with carrying out not less than one additional action described under this subparagraph.*

<sup>1</sup> *The Virginia Constitution does not allow the Board of Education (the State educational agency) to replace local educational agency personnel (iii) or to appoint a receiver or trustee to administer the local educational agency (v).*

<sup>2</sup> *The Virginia Constitution places constraints on the Board of Education's authority. LEA consent is required.*

Any school division in improvement that does not make AYP in the same content area in subsequent years may be subject to additional sanctions or corrective actions allowable under NCLB. In determining the additional corrective actions, the Board will consider the history of progress or lack of progress in the content area in schools in the school division and any corrective actions the school division may have already taken or intends to take. A school division may request to implement corrective actions that are defined in NCLB Section 1116(c)(10)(c) and are not within the Board of Education's authority to require.

#### Sanctions: Non-Title I Divisions

Should sanctions be required, any school division in Virginia not receiving Title I funding that does not make AYP in the same content area for two consecutive years will be required to analyze its data and develop a division improvement plan that will be part of the six-year plan required by the *Standards of Quality*. The Department of Education may, on behalf of the Board of Education, review such plans.

### Division in Improvement Exit Criteria

Any school division that makes AYP for two consecutive years in the content area(s) that caused it to be identified for improvement, regardless of whether or not it receives Title I funding, will no longer be subject to sanctions/corrective actions or identified for improvement.

**Chart 1: NCLB LEA Improvement/Corrective Action Status for Divisions Receiving Title I Funding (Example)**

School Year	LEA Makes AYP in <u>Same Content Area</u>	LEA Improvement Status	Sanction/Corrective Action Required by SEA
By the end of 2002-2003	No		
By the end of 2003-2004	No		
Beginning of 2004-2005		Year 1 Division Improvement Status	Division Improvement Plan After state assistance provided, at least one corrective action <u>may</u> be required
By the end of 2004-2005	No		
Beginning of 2005-2006		Year 2 Division Improvement Status	Division Improvement Plan updated After state assistance provided, at least one corrective action <u>may</u> be required
By the end of 2005-2006	No		
Beginning of 2006-2007		Year 3 Division Improvement/ Corrective Action Status	At least one corrective action <u>shall</u> be required. Additional corrective actions may be required. Division Improvement/Correction Action Plan updated
By the end of 2006-2007	Yes		
Beginning of 2007-2008		Remain in Year 3 Division Improvement Status/Corrective Action Status	Continue implementing Division Improvement/Corrective Action Plan
By the end of 2007-2008	No		
Beginning of 2008-2009		Year 4 Division Improvement Status/ Corrective Action Status	Division Improvement/Corrective Action Plan updated Additional corrective actions <u>shall</u> be required.