

COMMONWEALTH OF VIRGINIA
BOARD OF EDUCATION
RICHMOND, VIRGINIA

MINUTES

June 23, 2004

The Board of Education and the Board of Career and Technical Education met for the regular business meeting 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	Mr. David L. Johnson
Mrs. Susan L. Genovese, Vice President	Mr. Thomas G. Johnson, Jr.
Mrs. Isis M. Castro	Dr. Gary L. Jones
Mr. Mark Emblidge	Dr. Ella P. Ward
Mr. M. Scott Goodman	
	Dr. Jo Lynne DeMary, Superintendent of Public Instruction

Mr. Thomas M. Jackson, Jr., president, presided and called the meeting to order at 9 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 AGENDA

Mr. Jackson noted that Item I, *First Review of a Proposal Regarding Establishing Standards of Learning Testing Windows in Order to Comply with Reporting Requirements of the No Child Left Behind Act of 2001*, will be removed from the agenda. Mr. Jackson also noted that Item U, *First Review of Annual Report on Electronic Meetings Held by the Board of Education: 2003-04*, will be moved to the consent agenda. The motion was made by Mrs. Genovese, seconded by Mr. Goodman, and carried unanimously for approval of the agenda as submitted.

APPROVAL OF MINUTES

Mrs. Castro made a motion to approve the minutes of the May 26, 2004, meeting of the Board. Mrs. Genovese seconded the motion, which carried unanimously. Copies of the minutes had been distributed to all members of the Board of Education.

RESOLUTIONS/RECOGNITION

- A Resolution of Recognition was presented to Mrs. Judith Singleton, director of governmental relations for the Fairfax County Public Schools, for outstanding service to public education in Virginia.

PUBLIC COMMENT

The following persons spoke during the time allotted for public comment:

Tim Moore
Linda Moore
Debi Abadie

CONSENT AGENDA

Mr. Goodman 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 Page County School Division for Placement of Two Projects on the First Priority Waiting List for a Literary Fund Loan
- First Review of Annual Report on Electronic Meetings Held by the Board of Education: 2003-04

First Review of a Request from Page County School Division for Placement of Two Projects on the First Priority Waiting List for a Literary Fund Loan

The Department of Education's recommendation that these two projects be approved for placement on the First Priority Waiting List contingent upon receipt by the Department of Education of the final plans and specifications and review and approval of the applications by the Office of the Attorney General and that the Board waive first review and move to final approval for the placement of these projects on the First Priority Waiting List, was approved by the Board's vote on the consent agenda.

First Priority Waiting List

COUNTY, CITY, OR TOWN	SCHOOL	AMOUNT
Page County	Luray High	\$7,500,000.00
Page County	Page County High	7,500,000.00
	TOTAL	\$15,000,000.00

First Review of Annual Report on Electronic Meetings Held by the Board of Education: 2003-04

The recommendation to waive first review and approve the *Annual Report on Electronic Meetings Held by the Board of Education: 2003-04*, was approved by the Board's vote on the consent agenda.

ACTION/DISCUSSION ON BOARD OF EDUCATION REGULATIONS

First Review of Notice of Intended Regulatory Action (NOIRA) to Revise the Classification of Expenditures Regulation (8 VAC 20-210-10 et seq.)

Mr. Dan Timberlake, assistant superintendent for finance, presented this item. Mr. Timberlake said that the Board of Education promulgated the *Classification of Expenditures Regulation* (8 VAC 20-210 et seq.) in response to § 22.1-115 of the Code of Virginia, which requires the Board to prescribe specific major classifications for expenditures of school funds. The Code of Virginia has been amended and the classifications prescribed by the Board of Education's regulation no longer comport with the Code of Virginia requirement. Therefore, the regulation must be amended to conform to changes in Virginia statutory law.

Mr. Timberlake said that the Administrative Process Act (§ 2.2-4006 of the Code of Virginia) exempts changes to regulations that are necessary to conform to changes in Virginia statutory law when no agency discretion is involved.

The proposed regulation amends the Board regulation to comport with Section 22.1-115 of the Code of Virginia. Currently, the Board's regulation prescribes the following five major classifications of expenditures for use by local school boards: instruction, general support, non-instructional operation; other uses of funds; and facilities. Section 22.1-115 of the Code, as amended, requires the Board to prescribe the following eight major classifications: instruction; administration, attendance and health; pupil transportation; operation and maintenance; school food services and other non-instructional operations; facilities; debt and fund transfers; and contingency reserves.

The Board accepted the item for first review.

Final Review of Notice of Intended Regulatory Action (NOIRA) and Adoption of Emergency Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours (8 VAC 20-520-10 et seq.)

Mr. Charles Finley, assistant superintendent for educational accountability, presented this item. Mr. Finley said that the Board of Education promulgated the *Regulations Governing Reduction of State Aid When Length of School Term Below 180 School Days* (8 VAC 20-520 et seq.) in response to § 22.1-98 of the Code of Virginia. The most recent amendments to the regulations became effective in 1980.

Mr. Finley explained that the 2004 Virginia General Assembly passed three bills that amended this section of the Code and made the changes effective from passage of the bills. The bills were HB 1256 (Van Landingham), SB 452 (Whipple), and HB 575 (Hamilton). HB 1256 and SB 452 clarify the schedule of makeup days and circumstances in which a waiver may be granted by the Board of Education so that state basic aid funding will not be reduced because of school closings due to severe weather conditions or other emergency situations. HB 575 permits the Board of Education to waive the requirement that school divisions compensate for school closings resulting from a declared state of emergency.

Mr. Finley noted that HB 575 and SB 452 have emergency enactment clauses and are effective upon passage. HB 1256 and SB 452 require the Board of Education to promulgate regulations to implement the provisions to be effective within 280 days of enactment.

Mr. Finley said that the proposed regulations incorporate the changes required by the amendments to the Code of Virginia and clarify certain other requirements. The changes include a definition of “severe weather conditions or other emergency situations,” authorization for school divisions to make up missed instructional days by providing equivalent instructional hours, specific requirements for the number of instructional days or instructional hours that must be made up based on the number of days a school has been closed, and a provision for the Board of Education to waive the requirement that school divisions provide additional teaching days or hours to compensate for school closings resulting from a declared state of emergency.

The proposed regulation also provides for the Board of Education to authorize the Superintendent of Public Instruction to approve reductions in the school term without a proportionate reduction in the amount paid by the commonwealth from the Basic School Aid Fund.

The regulations also include a definition of “declared state of emergency,” and require school divisions, when using instructional days to make up missed days, to make them the same length as prescribed for regular school days by the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131). Additionally, if a school division chooses to extend the instructional day to make up lost instructional time, the extension has to be of sufficient length to permit the provision of meaningful instructional services.

Dr. Ward made a motion to approve the *Emergency Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours* for final review. The motion was seconded by Mrs. Castro and carried unanimously.

ACTION ITEMS

Final Review of Criteria for Identifying School Divisions for Division-Level Academic Reviews

Dr. Cheri Magill, director of accreditation, presented this item. Dr. Magill said that the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (SOA) require a school to be “Accredited with Warning (in specified academic area or areas)” if its pass rate on any Standards of Learning test does not meet required benchmarks to qualify for any other accreditation rating (8 VAC 20-131-300.C.4). Any school rated “Accredited with Warning” must undergo an academic review in accordance with guidelines adopted by the Board (8 VAC 20-131-340.A). It is the responsibility of the Department of Education to develop this academic review process (8 VAC 20-131-310.A).

On July 23, 2003, the Board approved revisions to the school-level academic review process to be used during the 2003-2004 school year. As part of these revisions, the Board discussed the development of an academic review process to be used at the central office level for school divisions having a significant number or percentage of schools or types of schools rated “Accredited with Warning.”

House Bill 1294, passed by the General Assembly and signed into law on April 15, 2004, gives the Board of Education the authority to require division-level academic reviews in school divisions where findings of school-level academic reviews show that the failure of the schools to reach full accreditation is due to the local school board’s failure to meet its responsibilities under the Standards of Quality.

As a result of the Board’s discussion at its May 26, 2004, meeting, the Board of Education decided that the criteria for identifying school divisions that should be considered for division-level academic reviews are:

1. The division’s identification for improvement under the *No Child Left Behind Act of 2004*;
2. The percentage of students attending schools in the division rated accredited with warning in the current school year is higher than the statewide percentage; and
3. The failure of schools in the division to reach full accreditation has been determined to be due to the local school board’s failure to meet its responsibilities under the Standards of Quality, consistent with HB 1294.

These criteria are to be reviewed annually by the Board.

Dr. Ward made a motion to approve the criteria for identifying school divisions that should be considered for division level academic reviews. The motion was seconded by Mrs. Castro and carried unanimously.

First Review of a Request from Alleghany County Public Schools to Adjust Its Composite Index

Dr. Robert P. Grimesey, Jr., superintendent of Alleghany County public schools, presented this item. Dr. Grimesey said that on July 1, 2001, the city of Clifton Forge reverted to incorporated town status. The process resulted in the formal incorporation of Clifton Forge schools within the Alleghany County system.

Dr. Grimesey reviewed the historical background of this topic. He explained that in the event of such reversions and the resulting consolidation of school divisions, the Board of Education has the authority, pursuant to the state appropriation act, to establish a new composite index for the consolidated school division. This authority permits the Board of Education to establish a new composite index that is neither lower than the lowest nor higher than the highest composite index of the affected school divisions. Upon review and approval by the Board of Education, the recommended composite index then goes to the Governor for approval.

In 2001, the State Board of Education applied a blended composite index, which incorporated both the higher county index and the lower city index. The blended composite index resulted in a cost neutral adjustment that provided no supplemental reversion-related funding to Alleghany County, but it also did not reduce the level of funding from that previously provided to the two separate school divisions. Dr. Grimesey stated that if the Board of Education had selected the lower Clifton Forge composite index, additional supplemental funding of up to \$949,243 annually would have been provided to the new consolidated school division.

Mr. Grimesey said that local expectations for post-reversion supplemental funds have reduced significantly. Alleghany County believes goals for post-reversion supplemental funds may be reached at a rate of \$336,000 to \$360,000 per year. The locality intends to apply all supplemental reversion funds to an accelerated program of school facility replacement and renovation with intent to provide 21st century building standards for all of its students within five years. Dr. Grimesey explained that without the supplemental funding, the plan may not be completed for up to 10 additional years.

Mr. Emblidge made a motion to waive first review. The motion was seconded by Dr. Ward and carried unanimously. Mr. Goodman made a motion to approve the request to adjust the Alleghany County Public Schools composite index. The motion was seconded by Mr. Goodman and carried unanimously.

First Review of a Request for Approval of an Alternative Accreditation Plan from the Chesterfield County Public Schools

Mr. Finley introduced Dr. Billy K. Cannaday, division superintendent for Chesterfield County public schools. Mr. Cannaday presented this item and introduced staff from Chesterfield County in attendance: Lin Corbin Howerton, director of school

improvement/instructional support and Steve Chantry, executive director of secondary education.

Dr. Cannaday said that the school board of Chesterfield County is proposing an alternative accreditation plan for Perrymont Middle School. Perrymont is an alternative school that serves students who have fallen significantly behind academically early in their K-12 experience. Approximately 10 percent of the students placed in this setting are placed for disciplinary reasons. Perrymont has been rated "Accredited with Warning" in both the 2002-03 and 2003-04 school year. In the 2001-02 school year, the school was rated "Provisionally Accredited/Needs Improvement."

Dr. Cannaday said that the objective of the program is to prepare students in sixth, seventh, and eighth grades who are significantly behind in academic and behavioral fundamentals to successfully enter and complete high school.

Dr. Cannaday said that the school division is requesting that the school be accredited on the following criterion: 70 percent of students in the program for two years will pass the eighth-grade Standards of Learning assessments in English: reading, writing and mathematics and be promoted to ninth grade. The division is also requesting waivers to several provisions of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*.

Dr. Jones made a motion to accept the request of an alternative accreditation plan from Chesterfield County public schools for first review. The motion was seconded by Mrs. Castro and carried unanimously.

First Review of a Request for Approval of an Alternative Accreditation Plan from the Hampton City Public Schools

Mr. Finley introduced Dr. Kathleen P. Brown, interim division superintendent for Hampton City Public Schools. Dr. Brown introduced the following staff from Hampton City Public Schools in attendance: Dr. Linda Shifflette, assistant superintendent for secondary instruction; Mrs. Cynthia Cooper, director of adult and alternative education; Mr. Andrew James, principal of Hampton Harbour Academy Charter School; Mr. Henry Godfrey, vice chairman of the school board; Ruth Ann Kellum, member of the school board; and a private citizen.

Dr. Shifflette reported that the school board of Hampton City is proposing an alternative accreditation plan for Hampton Harbour Academy, which is a charter school that serves students who have fallen significantly behind academically early in their K-12 experience. The school currently serves 186 students in grades 3-8 and approximately 30 transitional students not making progress toward a high school diploma. Hampton Harbour, established in 2002, has been rated "Accredited with Warning" in both the 2002-03 and 2003-04 school years. All of the students are overage and are at least two years behind academically.

Dr. Shifflette said that the objective of the program is academic recovery and the program of instruction will focus on reading and mathematics. The school division is requesting that the school be accredited on the following criteria: 70 percent of students enrolled in the program for a full year will show a gain of 1.5 years in reading comprehension and math problem solving/application, and 70 percent of the students tested as part of the remediation recovery program will pass the test(s) they are eligible to retake.

Mrs. Genovese made a motion to accept the request of an alternative accreditation plan from Hampton City Public Schools for first review on the contingency that Dr. DeMary and staff will visit the Hampton City public schools. The motion was seconded by Dr. Ward and carried unanimously.

First Review of Proposed Rewards and Sanctions for School Divisions as Required Under the No Child Left Behind Act of 2001

Dr. Cheri Magill presented this item. Dr. Magill explained that 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 may have rewards for school divisions that exceed adequate yearly progress (AYP) requirements, and states must have sanctions and corrective actions for school divisions that do not make AYP for two consecutive years or more.

Dr. Magill said that the Board of Education must take corrective action with respect to any school division that is in “division in improvement status” if the division fails to make AYP in the same content area by the end of year two of “division in improvement status.” Dr. Magill explained that this means that the state must take corrective action with respect to a school division that enters year three of “division in improvement status.” The Board of Education may take corrective actions, including those allowable under NCLB Section 1116(c)(10)(c), during the first year a school division receiving Title I funds is identified as in improvement status. In determining whether or not to take corrective actions, the Board of Education will consider the history of progress or lack of progress in the content area in schools in the school division.

Dr. Magill said that while NCLB is silent regarding rewards and sanctions for school divisions not receiving Title I funds and while no school divisions in Virginia are in this situation, current guidance from the United States Education Department suggests that states must address rewards and sanctions for school divisions not receiving Title I funds. Dr. Magill then reviewed a detailed listing of possible rewards and sanctions.

Mr. David Johnson made a motion to accept the guidelines for school division sanctions and rewards required under NCLB for first review. The motion was seconded by Dr. Ward and carried unanimously.

Final Review of Proposed Guidelines for Drug-Testing in the Public Schools

Mr. Doug Cox, assistant superintendent for special education and student services, presented this item. Mr. Cox reported that HB 2091 from the 2003 General Assembly requires the Board of Education to develop guidelines that address voluntary and mandatory drug testing procedures in accordance with constitutional principles. The bill also stated that any provisions being developed should not be construed to require school boards to adopt policies requiring drug testing; however, school boards may choose to require drug testing in accordance with the Board of Education's guidelines.

In 1995, the U.S. Supreme Court upheld random drug testing of athletes involved in competitive sports (*Vernonia v. Acton*). A 2002 decision (*Board of Education of I.S.D. No 92 v Earls*), allowed for required drug testing as a precondition of participation in all competitive extracurricular activities (athletic and non-athletic).

Mr. Cox noted that guidelines have been developed in consultation with the Office of the Attorney General. Mr. Cox emphasized that the proposed guidelines are intended to supplement existing guidelines for student searches and student conduct policies and for use as technical assistance by local school boards to develop their own policies and procedures. The guidelines are not regulatory in nature and do not attempt to replace local school board authority.

Mr. Goodman made a motion to amend the document to include the word "only" under the section labeled *confidentiality*. The motion was seconded by Dr. Jones and carried unanimously. The revised section reads as follows:

Confidentiality

*It is critically important that the local policy include provisions to ensure that the results of testing of individual students are kept confidential. Test results should be kept in files separate from the student's other educational records and should be disclosed to parents and **only** those school personnel who have a need to know. Test results may not be disclosed to law enforcement authorities. The policy also should set forth clear procedures to ensure the confidentiality of information provided by students concerning their lawful use of prescription or over the counter drugs. Local school boards may consider use of a medical review officer to review positive test results and determine whether there could be a legitimate explanation.*

Mrs. Genovese made a motion to approve the amended drug testing guidelines. The motion was seconded by Dr. Jones and carried unanimously.

The full text of the guidelines, as amended, is contained in Appendix A.

First Review of Proposed Guidelines for Alternatives to Animal Dissection

Mr. Jim Firebaugh, Jr., director of middle school instructional services, presented this item. Mr. Firebaugh said that pursuant to House Bill 1018, the 2004 General Assembly amended the Code of Virginia to include § 22.1-200.01 directing the Board of

Education to establish guidelines to be implemented by school divisions regarding alternatives to animal dissection. § 22.1-200.01 states:

Local school divisions shall provide students with alternatives to animal dissection techniques within the relevant public school curriculum or course. The Board of Education shall establish guidelines to be implemented by local school divisions regarding such alternative dissection techniques. Such guidelines shall address, but shall not be limited to, (i) the use of detailed models of animal anatomy and computer simulations as alternatives to dissection; (ii) notification of students and parents of the option to decline to participate in animal dissection; and (iii) such other issues as the Board deems appropriate.

Mr. Firebaugh said that a review of legislation and education policy from a sample of nine states was conducted. Congruence of language among these was identified. A discussion draft of guidelines was developed to meet all key points of the Virginia legislation. The discussion draft was presented to a focus group of Virginia science education leaders representing 29 school divisions. The original draft of the proposed guidelines was amended based on the input of the focus group.

The proposed guidelines are divided into two essential sections described below:

Alternatives to Animal Dissection

1. Alternatives to animal dissection must be available within the relevant public school curriculum or course.
2. One or more alternatives to animal dissection techniques, including, but not limited to, computer programs, Internet simulations, plastic models, videotapes, digital videodiscs, and charts, should be available in the relevant biological sciences classes that incorporate dissection exercises.
3. The alternative technique should be reasonably chosen to provide the student, through means other than dissection, with knowledge similar to that expected to be gained by other students in the course who perform, participate in, or observe the dissection.
4. Testing procedures that do not require the use of dissected specimens should be an option for those who choose an alternative technique.

Notification

1. The school division should include notice of alternatives to animal dissection in the relevant biological sciences syllabi, student course selection guides, or local school division policies or directives.
2. Students choosing the alternative should be given information on specific activities and resources to use as their alternative technique.
3. A student's objection to participating in an animal dissection should be substantiated by a signed note from his or her parent or legal guardian.

Mr. Goodman made a motion to accept the proposed *Guidelines for Alternatives to Animal Dissection* for first review. The motion was seconded by Mrs. Genovese and carried unanimously.

First Review of the Criteria and a Process for the Board of Education to Review Charter School Applications, Consistent with Existing State Law

Mrs. Diane Jay, specialist, Office of Program Administration and Accountability, presented this item. Mrs. Jay explained that the session of the 2004 Virginia General Assembly resulted in amendments to previous statutes governing public charter schools. House Bill 380, Section 22.1-212.9, provides for the review of charter school applications by the Virginia Board of Education. Mrs. Jay added that the legislation states that the Board of Education must set objective criteria, consistent with state law, for the review and comment on charter school applications as requested. In its review, the Board of Education will not consider whether the local school board should approve the application.

Mrs. Jay said that to meet the intent of the legislation, a process and criteria for examining charter school applications submitted to the Board of Education have been developed. A committee would first read and evaluate applications based on the criteria and submit a consensus report and recommendation to the Board of Education. The committee would be composed of a Board of Education member, a local representative from a school division having a charter school, and several individuals having background in budget, curriculum, the *No Child Left Behind* legislation, and special education.

The proposed criteria are based on the amended legislation by the 2004 General Assembly that states that the Board of Education shall examine applications for feasibility, curriculum, and financial soundness. Each of the areas is to be rated as “criterion met” or “criterion not met” with a place for comment on the criteria that were not met and the reasons.

Dr. Jones made a motion to accept for first review the criteria and process for the Board of Education to review charter school applications, consistent with existing state law. The motion was seconded by Mrs. Genovese and carried unanimously.

First Review of Revised Guidelines for Family Life Education as Required by HB 1015

Dr. Cindy Cave, director of student services, presented this item. Dr. Cave said that HB 1015 passed by the 2004 Virginia General Assembly requires that the Board of Education include “steps to take to avoid sexual assault, and the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law” in its curriculum guidelines for a comprehensive, sequential family life education curriculum (§ 22.1-207.1 of the Code of Virginia).

Dr. Cave said that 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. The 1988 guidelines were revised in 2002 to include the requirements of the 2002 legislation (HB 1206 - benefits of adoption).

Upon Board of Education adoption of the revised guidelines, the Department of Education will revise the 2002 document to reflect the Board of Education action in this area. The document will be made available to school divisions prior to the opening of school, so that any changes to the family life education curriculum can be made accordingly.

Dr. Jones made a motion to waive first review and adopt the revised guidelines regarding family life education. The motion was seconded by Mrs. Genovese and carried unanimously.

First Review of Approval of the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as Alternate Tests to the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students

Dr. Thomas Elliott, assistant superintendent for teacher education and professional licensure, presented this item. Dr. Elliott said that the *Licensure Regulations for School Personnel* (8 VAC 20-21-10 et seq.) allow native speakers or candidates who have learned a foreign language without formal academic credit in a college or university to meet the foreign language endorsement requirements by achieving a composite score at or above the 50th percentile on the listening, speaking, reading, writing, civilization, and culture sections of the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students, and earning a minimum of three semester hours of methods of teaching foreign languages at the elementary and secondary levels from an accredited college or university in the United States.

Dr. Elliott explained that the Modern Language Association (MLA) Proficiency Test is offered in French, German, Italian, Russian, and Spanish. Dr. Elliott added that the languages offered are limited, and test administrations are difficult to schedule. In addition, portions of the test are outdated.

Dr. Elliott reported that the Advisory Board on Teacher Education and Licensure (ABTEL) recommended for consideration the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as alternate tests to the MLA test.

The ACTFL Oral Proficiency Interview (OPI) is a face-to-face or telephone interview between a certified ACTFL tester and examinee that determines how well a

person speaks a language by comparing his or her performance of specific communication tasks with the criteria for each of 10 proficiency levels described in the ACTFL Proficiency Guidelines-Writing (Revised 1999).

The ACTFL Writing Proficiency Test (WPT) is a vehicle that measures how well a person spontaneously writes in a language (without access to dictionaries or grammar references) by comparing his/her performance on specific writing tasks with the criteria stated in the ACTFL Proficiency Guidelines – Writing (Revised 2001) descriptions. Written tests are available in the following languages: Albanian, Arabic, Chinese, French, German, Italian, Japanese, Portuguese, Russian, Serbo-Croate, and Spanish. The Spanish, German, and French written tests also are available in computerized tests via the Internet. An individual may register for the tests online; the tests are administered at a school or institution of higher education by an appropriate proctor.

The costs of the assessments are as follows: Oral Proficiency test--\$129; Written test--\$65; Both Oral Proficiency and Written Tests--\$160.

Mr. Goodman made a motion to waive first review and approve the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as alternative assessments for the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students. This motion includes the following recommendation made by Mrs. Castro: That the provisional endorsement be granted to perspective teachers interested in receiving licensure through this method for a period of one year until the Board has adopted proficiency levels for the test. The motion was seconded by Mr. Johnson and carried unanimously.

First Review of Accreditation of Initial and Continuing Approved Teacher Education Programs Reviewed in 2003-04

Dr. Elliott also presented this item. Dr. Elliott said that the *Regulations Governing Approved Programs for Institutions of Higher Education in Virginia* (8 VAC 20-540 et seq.) require colleges and universities that offer programs for the preparation of professional educators to obtain program approval from the Board of Education. In Virginia, the review and approval of programs are viewed as the shared responsibility of institutions of higher education, school divisions, and the Department of Education. Final approval rests with the Board of Education.

During the 1998 session of the Virginia General Assembly, an amendment to current legislation mandated that “persons seeking initial licensure who graduate from Virginia institutions of higher education shall, on or after July 1, 2002, only be licensed as instructional personnel by the Board of Education if the endorsement areas offered at such institution have been assessed by a national accrediting agency or by a state approval process, with final accreditation by the Board of Education.”

Dr. Elliott reported that in 2003-2004, fourteen Virginia colleges and universities were scheduled for an on-site program review. Of the 14, eight were reviewed using the

NCATE process and five were reviewed under the Board of Education process. One program was not reviewed as scheduled, but will be reviewed in the spring of 2005.

In either the state review process or the NCATE process, all teacher preparation programs in Virginia must meet the following requirements:

- The professional education unit shall ensure that candidates meet Praxis I and Praxis II requirements prior to the completion of the approved program; and
- The professional education unit as a component of the teaching area evaluations shall ensure that at least 70 percent of candidates as documented in the institution's declaration of admission to the teacher education programs shall annually pass Praxis II subject area assessments.

Dr. Elliott explained that the declaration of admission requires the complete list of all teaching candidates, both full- and part-time, who are fully admitted to an institution's approved program and who have taken the Praxis II content assessments during the preceding academic year.

Mr. Thomas Johnson made a motion to waive first review and approve with stipulations the Virginia Intermont College teacher education program; that Liberty University's initial teacher education program receive full accreditation and its advanced program receive provisional accreditation; and that the College of William and Mary, Virginia Tech, George Mason University, Radford University, and Longwood University receive full continuing accreditation. The motion was seconded by Dr. Jones and carried unanimously.

First Review of Teacher Education Accreditation Council (TEAC) as an Additional Option for Teacher Education Program Accreditation in Virginia

Dr. Elliott also presented this item. The Teacher Education Accreditation Council (TEAC) is a new system of accrediting professional education programs through an academic audit. TEAC's primary work is accrediting undergraduate and graduate professional teacher education programs. TEAC's accreditation process examines and verifies the evidence teacher education programs have to support their claim that they prepare competent, caring, and qualified professional educators.

Approximately seventy programs nationally have satisfied TEAC's eligibility requirements and currently have candidate status in TEAC. Seven programs have been accredited nationally. The University of Virginia is currently the only Virginia institution to have accreditation from both TEAC and NCATE.

Dr. Elliott said that TEAC is a nonprofit organization founded in 1997 whose membership represents teacher education programs at institutions of higher education, from small colleges to large research universities, and includes professional organizations. To be accredited, an eligible program submits a research monograph, called an Inquiry Brief. TEAC accredits the program based on an audit and evaluation of

evidence supporting the Inquiry Brief. The Inquiry Brief is divided into five main sections (i.e., Introduction, Claims and Rationale, Methods, Results, Discussion, and Plan) and four appendices designed to provide program faculty with a way to document efficiently and effectively the program's adherence to TEAC's goal, standards, and quality principles.

TEAC is recognized by the Council for Higher Education Accreditation (CHEA) and by the U. S. Department of Education (USDOE). TEAC is a member of the Association of Specialized and Professional Accreditation (ASPA) and the American Council on Education (ACE). Additionally, the following higher education organizations endorsed TEAC's recognition by USDOE:

- Council of Independent Colleges (CIC)
- American Association of Universities (AAU)
- National Association of Independent Colleges and Universities (NAICU)
- National Association of State Universities and Land-Grant Colleges (NASULGC)
- American Association of State Colleges and Universities (AASCU).

At the conclusion of Dr. Elliott's presentation, Dr. Jones made a motion to receive for first review the acceptance of Teacher Education Accreditation Council (TEAC) as an option for accreditation of college and university teacher education programs based on development of a Board of Education and TEAC partnership agreement to reflect essential program components including: candidate performance in the program; student achievement; ease of reporting; individual program reviews; orientation and training of reviewers; and program review cycle. The motion to receive this item on first review was seconded and passed unanimously.

First Review of a Recommendation to Exempt Teachers of Early Childhood Special Education, Speech-Language Pathologists, and Teachers of Students with Severe Disabilities from the Virginia Reading Assessment (VRA) Requirements

Dr. Elliott presented this item. Dr. Elliott said that HJR 794), agreed to by the 2001 session of the Virginia General Assembly, requested the Department of Education, in cooperation with the State Council of Higher Education for Virginia, to study the proficiency of Virginia teachers in teaching systematic explicit phonics. A series of initiatives by the Advisory Board on Teacher Education and Licensure (ABTEL) and the Board of Education confirmed the need for consistent instruction in reading for persons aspiring to teach, as well as those already in classrooms.

On April 29, 2003, the Board of Education adopted a Resolution to Enhance the Teaching of Reading in Virginia. One goal of the plan to implement that resolution is to develop a reading assessment aligned with the Virginia Standards of Learning and the National Reading Panel's five key components of effective reading instruction (i.e., phonics, phonemic awareness, vocabulary, comprehension and fluency). That goal will be achieved through the requirement and administration of the Virginia Reading

Assessment (VRA). Additionally, the test will help identify those teaching candidates who have the knowledge and skills in teaching reading that are important for performing the job of an elementary (prek-3 or prek-6) or special education teacher or reading specialist in Virginia public schools.

The VRA will be required of all candidates applying for licensure as elementary (prek-3 or prek-6) teachers, special education teachers, or reading specialists beginning July 1, 2004. The VRA includes two separate assessments: (1) the Virginia Reading Assessment for Elementary and Special Education Teachers; and (2) the Virginia Reading Assessment for Reading Specialists.

Dr. Elliott further explained that the Board of Education's resolution required elementary and special education teachers and reading specialists to take a reading instructional assessment for initial licensure. In response to the inquiry of whether the VRA should be required for all teaching categories of special education or selected special education teaching areas, staff in the Division of Special Education and Student Services, Virginia Department of Education, communicated with members of the Institutions of Higher Education Council for the Early Education of Children with Disabilities (IHEC), faculty representing approved preparation programs in speech and language disorders, and the Virginia Consortium for Teacher Preparation in Severe Disabilities.

At its March 15, 2004 meeting, the assistant superintendent for special education and student services, presented to ABTEL the following recommendations from organizations and faculty in response to the inquiry:

- a) Members of the Institutions of Higher Education Council for the Early Education of Children with Disabilities (IHEC) recommend that individuals seeking early childhood special education endorsement not take the VRA. Early childhood special education teachers employ a wide variety of early literacy methods in their teaching. However, the level of reading skills competencies assessed on the VRA extends beyond that necessary for teachers seeking endorsement in this area.
- b) The VRA is not recommended for the speech-language disorders endorsement. The comprehensive nature of reading skills assessed on the VRA does not fall within the scope of practice for speech-language pathologists.
- c) The Virginia Consortium for Teacher Preparation in Severe Disabilities does not support teachers seeking endorsement in severe disabilities to be required to take the VRA.

Following the report, Mr. David Johnson made a motion to waive first review and approve the exemption of early childhood special education teachers, speech-language pathologists and teachers of students with severe disabilities from the requirements of the

Virginia Reading Assessment (VRA). The motion was seconded by Mrs. Genovese and carried unanimously.

First Review of Nominations for Appointment to the Advisory Committee on Adult Education and Literacy

Mr. Emblidge presented this item. Mr. Emblidge said that the Adult Education and Literacy Advisory Committee was established as a standing committee of the Board of Education in June 2001. The purpose of the committee is to advise the Board of needs in adult education and to assist with the development of the state plan. Members of the advisory committee represent groups that have an interest in adult education and literacy. The committee operates under bylaws, and members receive three-year term appointments by the Board of Education. The advisory committee meets three to four times each year.

The following persons are recommended for reappointment to the advisory committee for a three-year term: Mr. Mark Emblidge, Senator Emmett W. Hanger, Jr., and Mr. Scott Leath.

The following persons are recommended for appointment to the advisory committee for a three-year term: Dr. Gary L. Jones and Ms. Susan Utt. Mr. Emblidge also noted that terms are being changed to end in June rather than December.

Mr. David Johnson made a motion to waive first review and approve the recommendations for appointment to the Advisory Committee on Adult Education and Literacy. The motion was seconded by Dr. Ward and carried unanimously.

First Review of Nominations for Appointment to the Virginia Advisory Committee for the Education of the Gifted

Dr. Barbara McGonagill, specialist, Office of Governor's Schools and Gifted Education, presented this item. Dr. McGonagill stated that the Virginia Advisory Committee for the Education of the Gifted was established by the Board of Education in 1982 to provide the Board and the Superintendent of Public Instruction with recommendations regarding the educational needs of gifted students, kindergarten through grade 12.

The advisory committee typically meets four times per year at a variety of sites throughout the commonwealth. The committee is composed of 24 members who serve rotating three-year terms. Members include parents; board-level designees from professional organizations for the gifted, counselors, superintendents, and teachers; persons from business and industry; a director and an alumna/us of a Governor's School; administrators and teachers of the gifted from school divisions; representatives from higher education; and three at-large members.

To secure nominations for the advisory board vacancies, the Superintendent of Public Instruction releases annually in the fall a memorandum requesting the names of prospective new members in specific membership areas. The presidents/executive directors of professional organizations are requested to submit nominees to serve as the group's representative.

Mr. Goodman made a motion to waive first review and approve the following individuals to the Virginia Advisory Committee for the Education of the Gifted for the September 1, 2004, through June 30, 2007, term of service. The motion was seconded by Mrs. Genovese and carried unanimously.

Representing	Nominee	Position
Gifted Education Coordinator	Meg Hardt	Director of Instruction, West Point Public Schools
	Avery Wyatt	Gifted Education Coordinator, Pittsylvania County Public Schools
Higher Education (Private)	Cy Dillon	Professor, Ferrum College
Business and Industry	Earl Snyder	Newport News Northrop Grumann
Fine and Performing Arts	Jennifer Green	Shenandoah University
At-Large	Elissa Brown	The College of William and Mary
Virginia Association for the Gifted	Catherine Brighton	University of Virginia
Virginia School Boards Association	Marion Roark	
Virginia Counselors	Virginia Carey	Lafayette High School, Williamsburg-James City County Public Schools
Virginia Middle School Association	Kathryn Bremmer	

First Review of Proposed Board of Education Meeting Dates for 2005

Dr. Margaret Roberts, executive assistant to the Board of Education, presented this item. Dr. Roberts noted that the Board of Education typically meets monthly except for the months of August and December. The April meeting is reserved as a two-day planning session. In addition to the regular, monthly business meetings, the President may call special meetings of the Board of Education.

The Board accepted the proposed meeting dates for first review. Final adoption of the meeting schedule will be requested at the July Board meeting.

DISCUSSION OF CURRENT ISSUES

There was no discussion of current issues.

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. The motion was seconded by Mr. David Johnson and carried unanimously. The Board adjourned for the Executive Session at 12:25 p.m.

Mrs. Genovese made a motion that the Board reconvene in open session. The motion was seconded by Mr. David Johnson and carried unanimously. The Board reconvened at 12:50 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 Dr. Ward and carried unanimously.

Board roll call:

Mrs. Isis Castro – Yes	Dr. Jones - Yes
Mr. Thomas Johnson – Yes	Mr. Emblidge - Yes
Mr. Goodman – Yes	Dr. Ward - Yes
Mrs. Genovese – Yes	Mr. David Johnson - Yes
Mr. Jackson - Yes	

Mrs. Genovese made the following motions:

Case #1 – That the Board of Education issue the license. Dr. Jones seconded the motion and it carried unanimously.

Case #2 – That the Board of Education continue the case at the July Board meeting. Dr. Ward 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 12:55 p.m.

Secretary

President

Appendix A

GUIDELINES CONCERNING STUDENT DRUG TESTING IN VIRGINIA PUBLIC SCHOOLS

Authority for Guidelines

The 2003 Virginia General Assembly amended sections 22.1-279.6 and 22.1-279.7 of the *Code of Virginia* to authorize the Virginia Board of Education to develop guidelines for local school boards concerning the implementation of voluntary or mandatory drug testing. The state statutory provisions do not require the adoption of drug testing programs by local school boards, but leave to local board discretion whether drug testing will be encouraged or required. Section 22.1-279.6 of the *Code* provides that “ a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education’s guidelines and model student conduct policies required by subsection A [of section 22.1-279.6] and the Board’s guidelines for student searches required by § 22.1-279.7.”

The Board of Education’s guidance for procedures relating to voluntary and mandatory drug testing in schools are required by § 22.1-279.6 of the *Code* to include, but not be limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

These guidelines concerning student drug testing are intended to supplement existing guidelines for student searches and student conduct policies. They are intended for use as technical assistance by local school officials to develop local policies and procedures. These guidelines are not regulations and do not replace local discretion; it is incumbent upon local school boards and their legal counsel to assure that related local policies and practices are in compliance with state and federal laws and constitutional principles.

These Guidelines Concerning Student Drug Testing in Virginia Public Schools were approved by the Board of Education on June 23, 2004.

Background

In *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646 (1995), the United States Supreme Court upheld a school division’s random drug testing program of student athletes. The school, in response to an increasing drug problem, had developed special classes and speakers’ programs regarding the problems of drug abuse. Despite these efforts, students continued to glamorize drug use and classroom disruptions increased three-fold. Parent-teacher meetings provided unanimous approval for the random drug testing of student athletes. The program was upheld (6-3) by the United States Supreme Court because it was narrowly tailored to protect students who choose to play sports, and the “role model” effect of student athletes’ drug use is important in deterring drug use among children. *See also Miller v. Wilkes*, 172 F.3d 574 (8th Cir. 1999) (upholding under Fourth and Fourteenth Amendments a policy of random urine testing of students for the presence of controlled substances and alcohol, with disqualification from extra activities as a sanction

for refusal to submit to a test or for testing positive); *Todd v. Rush County Sch.*, 133 F.3d 984 (7th Cir. 1998), *reh'g en banc, denied*, 139 F.3d 571 (7th Cir. 1998), *cert denied*, 525 U.S. 824 (1998) (upholding school district policy requiring random drug tests for all students participating in extracurricular activities); *Willis by Willis v. Anderson Community Sch. Corp.*, 158 F.3d 415 (7th Cir. 1998), *cert. denied*, 526 U.S. 1019 (1999) (overturning as violative of the Fourth Amendment a school division's policy that required drug testing of all suspended students, regardless of their offense).

More recently, in *Bd. of Educ. v. Earls*, 536 U.S. 822 (2002), the United States Supreme Court ruled, in a 5-4 decision, that a School District policy requiring all middle and high school students to consent to urinalysis testing for drugs in order to participate in any extracurricular activity is a reasonable means of furthering the School District's important interest in preventing and deterring drug use among its schoolchildren and does not violate the Fourth Amendment. The district policy required students to take a drug test before participating in an extracurricular activity, to submit to random drug testing while participating in the activity, and agree to be tested at any time upon reasonable suspicion. Students providing urine samples are monitored by a listening faculty member. The test was designed to test the use of illegal drugs only, but test results are not turned over to any law enforcement authority. Test results are kept confidential and apart from other educational records and shared with school personnel on a "need to know" basis. After a first positive test, the school contacts the parent or guardian for a meeting; the student may continue to participate in the activity upon a showing that he has received drug counseling and submits to a second drug test. After a second positive result, the student is suspended from extracurricular activity for 14 days, must complete substance abuse counseling, and submit to monthly drug tests. A third positive result will result in suspension from extracurricular activities for the rest of the school year or 88 school days, whichever is longer. Writing for the majority, Justice Clarence Thomas cast this case as a logical extension of *Vernonia*.

Because searches by public school officials implicate Fourth Amendment interests, the Court reviewed the policy for "reasonableness" – termed "the touchstone of constitutionality." "In contrast to the criminal context, a probable cause finding is unnecessary in the public school context because it would unduly interfere with the maintenance of the swift and informal disciplinary procedures that are needed."² Throughout its analysis the Court focused on the school's "custodial and tutelary responsibility." In upholding the suspicionless drug testing of athletes, the *Vernonia* Court conducted a fact-specific analysis balancing the intrusion on the children's Fourth Amendment rights against the promotion of legitimate governmental interests. In *Earls*, the Supreme Court applied *Vernonia's* principles to decide whether the challenged search was "reasonable" under the Fourth Amendment. The Court's four-part analysis and essential findings are as follows:

¹ From *Virginia School Search Resource Guide* (2000). Memorandum of Legal Principles Animating Guidelines (August 20, 1999), Office of the Attorney General.

² *Bd. Of Educ. v. Earls*, 536 U.S. 822 (2002), LEXIS 4882 (2002).

Principle 1. Privacy interests of students affected by the policy.

Findings: Students affected by the policy have a limited expectation of privacy. Students who participate in competitive extracurricular activities voluntarily subject themselves to many of the same intrusions on their privacy as do athletes.

Principle 2. Character of the intrusion into that privacy.

Findings: The invasion of students' privacy is not significant, given the minimally intrusive nature of the sample collection and the limited uses to which the test results are put. Test results are kept in separate, confidential files, released only on a "need to know" basis, and not turned over to any law enforcement authority. Consequences of a failed drug test are limited to the student's privilege of participating in extracurricular activities.

Principle 3. Nature and immediacy of the School District's interest.

Findings: The policy effectively serves the School District's interest in protecting its students' safety and health. Preventing drug use by schoolchildren is an important governmental concern. The need to prevent and deter the substantial harm of childhood drug use provides the necessary immediacy for the school testing policy.

Principle 4. Degree to which the policy satisfies those interests.

Findings: Given the nationwide epidemic of drug use and the evidence of increased drug use in Tecumseh schools, it was entirely reasonable for the School District to enact this particular drug testing policy.³

Policy

Development of Local Policy

The question of whether to test students for drugs involves myriad complex issues that must be fully understood and carefully weighted before testing begins. Although in *Earls* the United States Supreme Court upheld a drug testing program for students involved in competitive extracurricular activities, it is not a blanket endorsement of drug testing for all students. Before implementing a drug testing program, local school boards should consult with legal counsel familiar with the laws regarding student drug testing.

The Office of National Drug Control Policy (ONDCP) advises that the development of local policy involves the entire community and provide ample opportunities for public input – including that of drug-testing opponents. In addition to local school board members, school administrators and staff (including the school division's Safe and Drug-Free Schools Program Coordinator), those who should be consulted include parents, community leaders, drug prevention and treatment professionals, officials at schools that already have drug-testing programs, and students.

³ *Id.* at 831-836.

ONDCP further advises that schools first determine whether there is a need for drug testing. Although the Supreme Court ruled that a demonstrated drug abuse problem is not always necessary to the validity of a testing regime, the Court noted that some showing of a problem does shore up an assertion of a special need for a suspicionless general search. As a practical matter, a needs assessment provides objective information about both the nature and the level of drug use among students. A needs assessment yields information important in deciding drugs to target for testing and in assessing whether the drug testing program is truly effective in preventing drug use.

Purpose and Intent

Local school board policy should include a statement of purpose and intent. In *Earls*, the Court affirmed "the School District's important interest in detecting and preventing drug use among its students" and concluded that "the Policy effectively serves the School District's interest in protecting its students' safety and health."⁴ Findings from the school division's needs assessment can provide more specific justification for the policy. Additional purposes that local school boards may consider include providing students who are found to be using drugs with assistance to overcome the problem, giving students additional reasons for declining to use drugs, and ensuring that students set an appropriate example for fellow students for whom they are role models.

Definitions

Local school board policy should clearly define which groups of students may be tested. In *Earls*, the policy upheld applied only to students in "competitive extracurricular activities" sanctioned by the Oklahoma Secondary Schools Activities Association and included activities such as Future Farmers of America, Future Homemakers of America, Academic Team, Band, Vocal, Pom Pom, Cheerleader and Athletics. In addition to defining the group subject to testing, local policy should clearly define key terms including "drug/alcohol use test," "random selection," "illegal drugs," "performance-enhancing drugs," "positive test result" and "reasonable suspicion."

Relationship to Existing Discipline Policies

Local policy governing student drug testing should supplement and complement other local policies, rules, and regulations related to student searches and to student conduct. The relationship of student drug testing policy to policies governing student searches and student conduct should be explicitly stated.

⁴ *Id.* at 838.

Procedures

Consent

Local school board policy also should explicitly state that participation in school-sponsored extracurricular activities is a privilege and that consent to drug testing is a mandatory prerequisite for all students to participate in any school extracurricular program. Local school boards may require consent for participation in any required training program that is a prerequisite for the extracurricular program.

Local policy should require that students seeking to participate in extracurricular activities receive a copy of the drug testing policy and that written consent is obtained from the student and parent or legal guardian. Such written consent should be obtained before the student becomes eligible to practice or to participate in any extracurricular program.

Consent should provide for drug testing (a) when the student is chosen on the basis of random selection; (b) at any time there is reasonable suspicion of drug use; and (c) when a student voluntarily discloses, or a parent reports, drug use by the student. Local policy may include other circumstances for testing such as the student's annual physical examination or for eligibility to participate.

Random Selection Procedure

Local policy must establish a neutral plan for selecting students to be tested that clearly prescribes the random selection method that will ensure that students selected are not singled out on the basis of individualized suspicion or other impermissible criteria.

Collection Protocol

The specific procedures for collecting samples will be dictated by the drug testing method used. Urinalysis is the most common drug testing method and was the method used by the Tecumseh Public Schools whose policy was challenged and upheld in *Earls*. According to the Office of National Drug Control Policy, urinalysis has been demonstrated to be accurate and reliable and has undergone rigorous challenge in courts, and is currently the only technique approved for drug testing in the Federal workforce.

Other commonly used methods involve testing of hair, oral fluids, sweat, and breath. Each type of test has different applications and is used to detect a specific drug or group of drugs; some tests show recent use only while others indicate use over a longer period. Local school boards should conduct a review of the latest drug testing technology as part of the policy development process. Additionally, findings from the school division's needs assessment should influence the selection of drug testing method(s) and professional laboratory services.

Regardless of the drug testing method used, a random drug testing policy must specify the procedures for selecting and handling samples so as to minimize intrusiveness of the procedure and to safeguard the personal and privacy rights of the student. Local policy should require the drug testing laboratory chosen to conduct the testing to be fully

qualified and to have detailed written procedures to ensure proper chain of custody of samples, proper laboratory control, and scientifically validated testing methods.

Confidentiality

It is critically important that the local policy include provisions to ensure that the results of testing of individual students are kept confidential. Test results should be kept in files separate from the student's other educational records and should be disclosed only to parents and those school personnel who have a need to know. Test results may not be disclosed to law enforcement authorities. The policy also should set forth clear procedures to ensure the confidentiality of information provided by students concerning their lawful use of prescription or over the counter drugs. Local school boards may consider use of a medical review officer to review positive test results and determine whether there could be a legitimate explanation.

Consequences

Consequences of a failed drug test should be to limit the student's privilege of participating in extracurricular activities. No academic penalty can be imposed solely as the result of a positive test result. Consequences may reflect graduated sanctions for first and subsequent violations. Local policy should clearly state that a refusal to provide a sample, or the alteration or falsification of a specimen or test result, will be treated as a resignation from all extra-curricular activities for a period of time to be determined by the school board.

Intervention

Because drug use can lead to addiction, punishment alone may not necessarily halt this progression. Local policy may include provisions for linking students and their parents to substance abuse intervention resources in the community or requirements for drug-positive students to enroll in a drug education intervention activity.

Appeal

Local policy should include specific procedures for appeal of suspensions of the privilege of participating in extracurricular activities resulting from a positive drug test. A local board may deem a student ineligible to participate in extracurricular activities pending the appeal.