

Board of Education Agenda Item

Item: _____ A. _____

Date: January 11, 2006

Topic: Final Review of Regulations Governing the Re-enrollment of Students Committed to the Department of Juvenile Justice (8 VAC 20-660-10 et seq.)

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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: _____ (date)

Previous Review/Action:

No previous board review/action

Previous review/action

date September 22, 2004

action Approval of Notice of Intended Regulatory Action (NOIRA) to Promulgate Regulations Governing Re-enrollment Plans

date February 23, 2005

action Approval of First Review of Proposed Regulations Governing Re-enrollment Plans

date November 30, 2005

action Deferral until January 11, 2006

Background Information:

Section 22.1-17.1 of the Code establishes the responsibility of the Board of Education to promulgate regulations for the re-enrollment of children who have been in the custody of the Department of Juvenile Justice (DJJ) into the public schools as follows:

§ 22.1-17.1. Regulations for re-enrollment.

The Board of Education, in cooperation with the Board of Correctional Education, shall promulgate regulations for the re-enrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. Such regulations shall include the components required in a reenrollment plan and shall provide for consistency in the curricula, standards and policies between the educational programs required by this title, and those of the Board of Correctional Education.

The re-enrollment plan's purpose is to facilitate sharing of information about a student's record and the planning for placement in public schools upon release from correctional facilities, in order that educational services continue without disruption. Preparation of the re-enrollment plan relies on communication and information sharing among school divisions, DJJ juvenile correctional and court services units, and the Department of Correctional Education (DCE) juvenile schools (§ 16.1-293 and § 22.1-17.1 of the Code).

Subsequent to the enactment of § 22.1-17.1, the Departments of Education, Correctional Education, and Juvenile Justice developed model re-enrollment procedures and provided statewide training on re-enrollment planning. In 2000, the Department of Criminal Justice Services (DCJS) funded an evaluation of the re-enrollment process and plan by the College of William and Mary. The study included a survey of persons involved in implementation of the model plan procedures, focus groups, and interviews with parents. Recommendations from the evaluation included the need for revisions to procedures and additional staff training on the re-enrollment planning process. An interagency planning committee with representatives from DOE, DCE, DJJ, and school divisions revised the re-enrollment planning procedures and trained school divisions staff, DCE guidance counselors, transition specialists, and probation/parole officers in 2003.

The evaluation of the process provided information that was used by an interagency committee with representatives from DCE, DJJ, DOE, and school divisions in the drafting of regulations that were brought before the Board of Education in 2002. The draft regulations were authorized by the Board of Education for continuation in the promulgation requirements of the Administrative Process Act. However, the required review process was not completed within the necessary time period, and the regulations could not be brought before the Board of Education for final adoption.

On September 22, 2004, the Board of Education approved a Notice of Intended Regulatory Action for *Re-enrollment in Public Schools of Children in the Custody of the Department of Juvenile Justice*. A Re-enrollment Task Force of 16 members was convened and met on October 25, 2004, to discuss re-enrollment and areas of concern. The members included a parent, an involved citizen, an advocate from JustChildren, a principal from the public schools, a principal from an alternative school, an administrator for student conduct who handles transition in a school division, a principal in a juvenile correctional center high school, parole officers, and representatives from the Department of Correctional Education, the Department of Juvenile Justice, and the Department of Education.

The task force discussed the requirements of the Code, the work that had been done thus far to establish procedures for re-enrollment and coordination among agencies and the school divisions, and the process that currently takes place. Issues were identified that affect the success of transitioning from the school division to the juvenile justice system and back into the school system in terms of continuity for the student's education. Using the list of issues as a framework, a representative subcommittee of the full task force drafted regulations, which were reviewed by the entire task force. Subsequent revisions in

response to the comments of task force members produced the proposed regulations.

The goals of the regulations include the following:

- Creating a positive impact on the family, the student, court services, school divisions, correctional centers, and detention homes/centers as they are seeking to continue the student's education upon his or her release from a juvenile correctional center
- Providing for consistency in curricula, standards and policies among all educational programs
- Providing for the timely transfer of information among court services, school divisions and correctional centers or detention homes/centers

On February 23, 2005, the Board of Education waived first review and approved the proposed regulations and authorized staff to proceed with the remaining steps required by the Administrative Process Act. On September 21, 2005, a public hearing was held to receive comments on the proposed regulations. Based on the comments received, the proposed regulations have been amended to provide clarity and increased specificity concerning procedures to allow school age students above the compulsory school age to be included, and to specify the inclusion of detention centers.

At the Board of Education meeting of November 30, 2005, JustChildren proposed three additional amendments to the proposed regulations in the interest of clarity and emphasis. The proposed amendments would:

- Replace the language in Part III, 8 VAC 20-660-40 C.(1), that is, "The re-enrollment plan shall make it possible for the student to enroll and receive instruction in the receiving school district within two school days of release." with "The re-enrollment plan shall be implemented by the receiving school division within two days of the student's release."
- Add an ending clause to the last sentence in Part III, 8 VAC 20-660-40 A.(4) as follows: "The student shall be consulted in the development of the plan and have the opportunity to participate, by telephonic or electronic means, in the meeting where the final re-enrollment plan is developed."
- Use a consistent and standard definition for "eligible" when referring to students or youth affected by the regulations. JustChildren suggested the following language be used in place of "eligible": "who is of school attendance age or is eligible for special education services pursuant to Section 22.1-213 of the Code of Virginia."

The Code of Virginia in § 22.1-1 provides a definition of "person of school age" as "a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year." Section 22.1-5 of the Code allows school boards to accept students "for whom English is a second language who entered school in Virginia for the first time after reaching their twelfth birthday, and who have not reached 22 years of age on or before August 1 of the school year." Should the above suggestion to use a standard definition of "eligible" be accepted, Part I, Definitions, 8 VAC 20-660-10 would be amended to add the following:

“Eligible” means of school age or eligible for special education services as defined in §§ 22.1-1, 22.1-5, and 22.1-213 of the Code of Virginia.”

The Board of Education deferred final action on the regulations until the January 2006 board meeting to allow time for consideration of the suggested changes.

Summary of Major Elements:

The “Summary of Major Elements” presents the changes recommended to the proposed regulations as a result of the public comments received since the board approved them for review according to the Administrative Process Act. They include the suggestion to add a standard definition of “eligible” in order to provide consistency in the proposed regulations. Language in 8 VAC 20-660-40 C, Part III, remains as proposed in the November 30 document since it reflects the objectives of student participation in re-enrollment planning and the accomplishment of student re-enrollment with receipt of instruction within a maximum of two days of release through adherence to the proposed procedures.

The Foreword, which explains its purpose and goals:

- Detention homes and centers are specified as addressed by regulations

Part I, which provides definitions of terms:

- Definition of “educational status” added for specificity
- Definition of “eligible” added for consistency and specificity
- Reference to “compulsory school attendance” in “educational programs” deleted to expand application to students age 18 and over
- Reference to “compulsory” deleted from school attendance age in definition of “preliminary re-enrollment plan” to expand eligibility for students to have a re-enrollment plan to students age 18 and over
- Definition of “re-enrollment” added for specification and clarity
- References to detention home/center personnel and Individualized Education Plan (IEP) team added to personnel who work with the re-enrollment coordinator under definition of “re-enrollment coordinator” to include detention centers/homes and to specify involvement of IEP team if applicable
- Under definition of “re-enrollment team,” “or qualified designee” added after “special education director” to permit designee to participate in re-enrollment team meetings when special education director is not available
- Under definition of “re-enrollment team,” reference to required consultation with the student added to specify participation in planning
- Under definition of “re-enrollment team,” reference to coordination with IEP team if student is eligible for special education added for specificity
- Definition of “students in detention homes/centers:” added to specify those students remaining in detention homes or centers for more than 30 calendar days
- Under definition of “transition team,” references to detention homes/centers and the IEP team if applicable are added to include detention and to specify coordination with IEP team

- Under definition of “transition team,” “in consultation with the student” added to reference to development of preliminary re-enrollment plan to specify participation of the student

Part II, 8 VAC 20-660-30, which presents the minimum components of the re-enrollment plan:

- Under A.(1), reference to educational status and recommendations “at” commitment changed to “prior to” commitment for clarity
- Under A.(4), reference to educational goals “developed in coordination with the student’s IEP team if applicable” added for specificity
- Under A, number 8 added to include contact information for agencies involved in development of re-enrollment plans for specificity

Part III, 8 VAC 20-660-40, which delineates the re-enrollment process, procedures, and responsibilities of participating agencies and school divisions:

- Under A. Notification and Convening of Teams (1) “detention home/center educational program principal” added to parties to receive notification of release or scheduled case review in court
- Under A.(2), “detention home/center superintendent” added to parties responsible for providing a letter of pending release to the receiving school division
- Under A.(3), “Detention Home Educational Program” added to parties responsible for forwarding the student’s scholastic record and preliminary re-enrollment plan to school division re-enrollment coordinator
- Under A.(3), “student” amended to “student’s” for clarity in reference to scholastic record
- Under A.(3) and A.(4), consultation with the student has been added to specify participation in the development of the preliminary re-enrollment plan and final re-enrollment plan.
- Under B. Development of Final Re-Enrollment Plan (1)(d), “contact information” for the members of the transition and re-enrollment teams for specificity
- Under B.(1)(e), reference to “an approved IEP if the student is enrolled in special education” is added for specificity
- Under C. Re-enrollment, number 4 is added to require “weekly counseling for a determined period of time” upon re-enrollment to support the transition for the student
- Under C, number 5 is added to specify the protection of the confidentiality of the student’s juvenile justice record

Part IV, 8 VAC 20-660-50, which provides the procedures for the maintenance and transfer of the scholastic record:

- Under B., reference to “special education eligibility and services” added for inclusion in student’s record
- Under B., reference to detention home/center and Detention Home Education Program added to parties to receive student’s record
- Under C., reference to Detention Home Education Program added to parties to provide year-end transcripts to sending school division

Superintendent's Recommendation:

The Acting Superintendent of Public Instruction recommends that the Board of Education approve the proposed *Regulations Governing the Re-enrollment of Students Committed to the Department of Juvenile Justice* and authorize staff of the Department of Education to proceed with notification of stakeholders and provision of information to school divisions.

Impact on Resources:

The impact on resources is not expected to be significant. There will be some administrative costs to local school divisions that must increase the numbers of individual staff members who participate in re-enrollment planning.

Timetable for Further Review/Action:

Upon approval, information will be provided to school divisions and to the Boards of Correctional Education and Juvenile Justice, and to the Departments of Correctional Education and Juvenile Justice. Joint training sessions will be planned and implemented.