

Board of Education Agenda Item

Item: E.

Date: November 29, 2006

Topic: First Review of Proposed Amendments to Virginia's Consolidated State Application Accountability Plan Under the *No Child Left Behind Act of 2001*

Presenter: Dr. Linda M. Wallinger, Assistant Superintendent for Instruction
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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: January 10, 2007

Previous Review/Action:

No previous board review/action

Previous review/action
date October 25, 2006
action Final Review of Proposed Amendments to Virginia's Consolidated State Application Accountability Plan Affecting Calculations of Adequate Yearly Progress (AYP) for the 2007-2008 School Year Based on Assessments Administered in 2006-2007

Background Information:

The *No Child Left Behind Act of 2001* (NCLB), which is a reauthorization of the Elementary and Secondary Education Act (ESEA), requires all state educational agencies (SEA) to submit for approval to the United States Department of Education (USED) individual program applications or a consolidated state application. In May 2002, the Virginia Board of Education submitted and received USED approval for its initial Consolidated State Application under NCLB. The NCLB application process involves multiple submissions of information, data, and policies. A major component of the consolidated application is Virginia's Consolidated State Application Accountability Workbook. The workbook describes a single statewide accountability system for the Commonwealth. Virginia received USED approval for its accountability workbook in June 2003. Additional amendments were made to Virginia's workbook in September 2003, May 2004, June 2005, and June 2006. The policies and procedures that were used to determine Adequate Yearly Progress (AYP) ratings for the 2006-2007 school year based on 2005-2006 assessment results are described in the amended workbook dated June 28, 2006.

States are permitted to revise their Consolidated State Application Accountability Workbook by submitting requests for review and approval to USED. USED has requested that states submit their amendment requests that would impact AYP determinations for 2007-2008 by February 15, 2007. At the October Board of Education meeting, certain amendments affecting the calculation of AYP for the 2007-2008 school year were approved. Based on five years of implementing NCLB, the Virginia Department of Education has identified additional policy changes that will minimize unintended consequences in implementation of AYP policies. As a result, consideration of the additional proposed amendments for submission to USED is requested.

Summary of Major Elements

Revisions are being proposed to several critical elements in the Consolidated State Application Accountability Plan. The statutory authority that permits states to request, and the U. S. Secretary of Education to approve, waivers to requirements in NCLB is found in Section 9401 of the federal law:

“SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

- (a) IN GENERAL – Except as provided in subsection (c), the Secretary may waive any statutory agency, Indian tribe, or school through a local educational agency, that –
- (1) receives funds under a program authorized by this act; and
 - (2) requests a waiver under subsection (b).”

Virginia’s proposed amendments fall under five areas: 1) reversing the order of the public school choice and supplemental educational services sanctions; 2) extending flexibility in AYP calculations for students with disabilities (SWD); 3) identifying targets for graduation rate for certain years; 4) modifying testing and AYP calculation policies for limited English proficient (LEP) students; and 5) expansion of options for the other academic indicator. Attachment A describes each proposed amendment and the rationale for the proposed request.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed amendments to the Virginia Consolidated State Application Accountability Plan as permitted in Section 9401 of the federal law.

Impact on Resources:

The provisions of the *No Child Left Behind Act of 2001* require the Department of Education to collect and analyze data related to determining Adequate Yearly Progress (AYP) for all schools and school divisions in the state as well as to collect and report additional data on English language proficiency for LEP students. These requirements will continue to have an impact on the agency’s resources.

Timetable for Further Review/Action:

Following final approval, the proposed revisions will be submitted to the United States Department of Education as amendments to Virginia’s Consolidated State Application Accountability Workbook by the deadline of February 15, 2007.

**Proposed Amendments to Virginia’s Consolidated State Application
Accountability Plan as Required by the *No Child Left Behind Act of 2001*
(NCLB)**

November 29, 2006

NCLB Statutory Authority for Amendment Requests:

“SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

- (a) IN GENERAL – Except as provided in subsection (c), the Secretary may waive any statutory agency, Indian tribe, or school through a local educational agency, that –
- (1) receives funds under a program authorized by this act; and
 - (2) requests a waiver under subsection (b).”

<p><i>1. Reversing Order of School Improvement Sanctions (Critical Elements 1.6 and 4.1)</i></p>

Request: Virginia will allow schools the flexibility to reverse the order of sanctions in the first two years of school improvement. Supplemental educational services may be offered to eligible students attending Title I schools in improvement in the first year and public school choice in the second year.

Rationale: Currently, USED requires Title I schools in Year One Improvement status to provide eligible students the option of public school choice. Title I schools in Year Two Improvement status must provide eligible students supplemental educational services (SES) and continue to offer choice. An effective school choice plan requires time to develop and communicate to parents and the public. AYP is calculated using test scores from the spring administration; therefore, AYP determinations are not available until late July or early August. This is too close to the opening of school for choice plans to be implemented effectively. A more effective intervention strategy for the first year of improvement is offering eligible students SES while planning for choice implementation. If the school moves to Year Two Improvement status, the school would offer choice while continuing to provide SES.

Virginia has participated in a USED pilot for the past two years that permits four school divisions to provide SES to eligible students in Title I schools in the first year of school improvement in lieu of choice, thereby reversing the order of sanctions as specified in the law. The pilot divisions report favorable results in higher levels of student participation as well as improved student achievement.

2. Assessing Students with Disabilities – Use of Two Percent Proxy and One Percent Exception (Critical Element 5.3)

Request: Virginia will continue to implement the United State’s Secretary of Education’s Transition Option Number 1 (2 percent proxy) for the inclusion of students with disabilities in the calculation of Adequate Yearly Progress (AYP) for the 2007-2008 school year, based on assessments administered to those students during the 2006-2007 school year. The proxy will be calculated in accordance with guidance disseminated by USED on May 10, 2005. In addition, Virginia requests an exception of 1.1 percent to the 1 percent cap on the number of proficient and advanced scores from alternative assessments based on alternate achievement standards that may be included in AYP.

Rationale: The U.S. Secretary of Education has extended the use of a proxy for students with disabilities who are pursuing modified achievement standards until final regulations on the application of flexibility for these students are promulgated. Virginia is requesting a continuation of the use of the proxy for these students under this extension.

The exception of 1.1 percent to the 1 percent cap on the number of proficient and advanced scores from the Virginia Alternate Assessment Program (VAAP) that may be included in AYP is being requested because final data on proficiency scores for VAAP are not yet available. It is possible that the number will fall below 1 percent. However, approval of the use of a 1.1 percent cap will provide the Virginia Department of Education with sufficient flexibility to work with those school divisions that have justifiably exceeded a 1 percent cap for the VAAP proficiency rate.

3. Annual Measurable Objectives for Graduation Rate (Critical Element 3.2b)

Request: Virginia will extend the current target of 57 percent as a placeholder for the annual measurable objective for the graduation rate through 2008 Adequate Yearly Progress (AYP) calculations when the statewide individual student record system is able to provide a more accurate accounting of the graduation rate in Virginia.

Rationale: Longitudinal graduation rate data will not be available to set a revised graduation rate target until 2008. At that time, the graduation rate target will be recalculated and used for 2009-2010 AYP calculations.

**4. Assessing Limited English Proficient Students – “Recently Arrived”
Definition (Critical Element 5.4)**

Request: Virginia will exempt recently arrived LEP students from the state reading/language arts assessment for two consecutive years.

Rationale: Virginia will expand the definition of recently arrived LEP students as those students who have attended schools in the United States for less than 24 months. The current USED regulations released on September 13, 2006, on this topic define recently arrived as LEP students who have attended schools in the U.S. for less than 12 months. This expansion of the definition would provide LEP students adequate time to learn English before being required to take the grade-level reading/language arts assessment.

**5. Assessing Limited English Proficient Students – Use of a Proxy Percent
(Critical Element 5.4)**

Request: Virginia will apply a proxy percent for limited English proficient (LEP) students in the calculation of Adequate Yearly Progress (AYP) for the 2007-2008 school year, based on assessments administered to those students during the 2006-2007 school year.

Rationale: Currently, USED requires that all students enrolled be included in state assessments, and that 95 percent of such students (overall and in each subgroup) participate in the assessments for a school, division, and state to demonstrate AYP. This includes LEP students, except for those students in their first year of enrollment (recently arrived) in a U.S. school, regardless of when they entered the country and their language proficiency. Use of a proxy percent would offset some of the factors that may prevent LEP students from demonstrating proficiency on the assessment. These factors include: 1) learning English at different rates; 2) level of proficiency in the native language; 3) previous schooling in their home country; and 4) age of entry into U.S. schools.

The calculation will be based on the guidance received from USED on the 2 percent proxy for students with disabilities (SWD) released on May 10, 2005. To calculate the proxy percent for SWD, states were asked to calculate the equivalent of 2 percent of the total number of students assessed solely within the SWD subgroup within the state by dividing 2 by the percentage of students who have disabilities. The percent that is derived from this calculation is added to the pass rate for the students with disabilities subgroup only if this subgroup's performance is the sole reason that a school, school division, or state does not make AYP.

The request is to apply the logic for the proxy percent calculation for SWD provided by USED to the proposed proxy percent for LEP students. The calculation for LEP students would be based on the percent of LEP students at

levels 1 and 2 of English language proficiency divided by the percent of LEP students in the total tested population. The derived percent would then be added to the pass rate for the LEP student subgroup only if this subgroup's performance is the sole reason that a school, school division, or state does not make AYP.

6. Other Academic Indicator (Critical Element 7.2)

Request: Virginia will allow school divisions to choose, for each of its elementary and middle schools and schools without a graduating class, attendance or performance on state science, writing, or history and social science assessments as the other academic indicator. The choice of using either attendance or performance on state science, writing, or history and social science as the other academic indicator will also apply to the "safe harbor" AYP calculation methodology.

Rationale: Currently, prior to the beginning of the school year, each school division chooses, for each of its elementary and middle schools and schools without a graduating class, either attendance or performance on state science assessments as the other academic indicator. This request would permit school divisions flexibility to choose attendance or performance on state science, writing, or history and social science assessments as the other academic indicator. The annual measurable objective (state target) for measuring progress in science is set at 70 percent proficient, consistent with the provisions in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. The annual measurable objective (state target) for measuring progress in writing and history and social science will be set at 70 percent proficient, consistent with provisions in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*.