

Board of Education Agenda Item

Item: I.

Date: May 30, 2007

Topic: First Review of a Resolution Granting the Superintendent of Public Instruction Authority to Act on Behalf of the Virginia Board of Education Regarding Supplemental Educational Services and Instructional Interventions Applications and Initial Appeals

Presenter: Ms. Roberta Schlicher, Director, Office of Program Administration and Accountability

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Origin:

Topic presented for information only (no board action required)

Board review required by
 State or federal law or regulation
 Board of Education regulation
 Other: _____

Action requested at this meeting Action requested at future meeting: _____

Previous Review/Action:

No previous board review/action

Previous review/action
date _____
action _____

Background Information: Potential providers of supplemental educational services (SES) and instructional interventions submit applications to the Department of Education for review of their programs currently. The SES applications are evaluated by Department staff using criteria approved by the Board of Education on July 25, 2002 (Attachment A). The instructional intervention applications are evaluated by Department staff using criteria approved by the Board of Education on February 25, 2004, and updated on February 28, 2007 (Attachment B). The Department then makes a recommendation to the Board for approval or denial.

A process has been proposed for potential providers of SES and instructional interventions to appeal the decision regarding denial of their application. The appeals process for SES and instructional interventions outlines the steps applicants should take if they believe denial of approval of their application is unwarranted. Both appeals processes describe: 1) the time frame for the individual submitting the appeal; 2) the procedure for considering the appeal; and 3) the time frame for the consideration of the appeal.

Summary of Major Elements: The appeals process for SES and instructional interventions will be proposed to the Board of Education. The proposed process outlines the steps the applicants should take if they believe denial of approval of their application is unwarranted. Effective with this resolution, the Superintendent of Public Instruction would be granted authority to act on behalf of the Board regarding:

1) approval of the SES and instructional intervention applications; and 2) the initial appeal from providers whose applications were not approved.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education waive first review and grant him the authority to act on its behalf regarding the approval of the SES and instructional intervention applications and the initial appeal from the providers.

Impact on Resources: The responsibility can be absorbed by the agency's existing resources at this time.

Timetable for Further Review/Action: Following approval, the Superintendent of Public Instruction will be authorized to act on behalf of the Board of Education regarding the approval of the SES and instructional intervention applications and the initial appeal from the providers.

Virginia Board of Education Resolution

Granting the Superintendent of Public Instruction Authority to Act on Behalf of the Virginia Board of Education Regarding Approval of Supplemental Educational Services and Instructional Interventions Applications and Initial Appeals

WHEREAS, Section 1116(e)(4)(B-C) of the *No Child Left Behind Act of 2001* requires states to: 1) develop and apply objective criteria to potential supplemental educational services (SES) providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students on state academic content and student achievement standards; and 2) maintain an updated list of approved providers across the state, by school division, from which parents may select; and

WHEREAS, Section 8 VAC 20-131-310 of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (SOA), effective September 7, 2006, requires: 1) schools accredited with warning in English or mathematics to adopt and implement instructional interventions that have a proven track record of success at raising student achievement; and 2) the Board of Education to publish a list of recommended instructional interventions, which may be amended from time to time; and

WHEREAS, the Board of Education has the authority to approve supplemental education services and instructional intervention providers;

NOW, THEREFORE BE IT RESOLVED that the Board of Education grants the Superintendent of Public Instruction the authority to act on behalf of the Board of Education regarding the approval of supplemental educational services and instructional interventions applications and initial appeals. Such delegation shall also be subject to the following conditions: a) that the Board reserves the right to require of the Superintendent a report concerning the exercise of any authority herein delegated; b) that the Superintendent's exercise of the delegated authorities shall conform to all regulations of the Board and laws governing educational programs and policy in Virginia; c) that this delegation is not an abnegation of the Board's power and responsibility in the areas delegated; and d) that this delegation of authority shall remain in effect until amended or rescinded by the Board of Education.

Dr. Mark E. Emblidge, President
Board of Education

**VIRGINIA BOARD OF EDUCATION CRITERIA FOR PROVIDERS OF
SUPPLEMENTAL SERVICES
FOR ELIGIBLE STUDENTS IN TITLE I SCHOOLS
July 25, 2002**

Title I, Part A, Section 1116 of the "*No Child Left Behind Act of 2001*" (NCLB) requires schools that do not meet the state's Adequate Yearly Progress (AYP) targets for academic achievement for three consecutive years to offer a choice of supplemental educational services to parents of eligible children. Eligible children are those from low-income families as defined by the federal law. Funding for supplemental educational services is to come from designated Title I, Part A funds. Supplemental educational services are tutoring and academic enrichment services that are provided in addition to daily instruction. A supplemental provider can be a nonprofit entity, a for-profit agency, or a local school division. The services must be of high quality, research-based, and specifically designed to increase the academic achievement of eligible children in mastering the Standards of Learning and earning proficiency on Standards of Learning tests. NCLB requires that States maintain an approved list of supplemental service providers.

The criteria specified in NCLB require that providers:

- have the ability to provide parents and the LEA with information on the progress of children in a format and language that parents can understand;
- ensure that the instruction provided and the content used are consistent with the instruction and content used by the local education agency (LEA) and are aligned with state student academic achievement standards;
- meet all federal, state, and local health and safety and civil rights laws; and
- ensure that all instruction and content are neutral and non-ideological.

The law also specifies that the services must be furnished by a financially sound provider with a demonstrated record of effectiveness.

Additional Actions Allowable Under NCLB:

- The state will withdraw approval from providers that fail for two consecutive years to contribute to increasing the academic proficiency of students served.
- At the request of a local educational agency, a state educational agency may waive, in whole or in part, the requirement to provide supplemental educational services if the state educational agency determines that:
 - None of the providers of those services on the list approved by the state educational agency makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

- The local educational agency provides evidence that it is not able to provide those services.
- The state educational agency must notify the local educational agency within 30 days of receiving the local educational agency's request for waiver whether the request is approved or disapproved. If the request is disapproved, the state educational agency must provide the local educational agency the reasons for the disapproval in writing.

**VIRGINIA BOARD OF EDUCATION CRITERIA FOR PROVIDERS OF
INSTRUCTIONAL INTERVENTIONS**
February 25, 2004 (original criteria)
February 28, 2007 (updated criteria)

Section 8 VAC 20-131-310 of the Regulations Establishing Standards for Accrediting Public Schools in Virginia as adopted by the Virginia Board of Education on May 24, 2006, requires:

- B. Any school that is rated Accredited with Warning in English or mathematics shall adopt a research based instructional intervention that has a proven track record of success at raising student achievement in those areas as appropriate.
- C. The superintendent and principal shall certify in writing to the Board of Education that such an intervention has been adopted and implemented.
- D. The Board shall publish a list of recommended instructional interventions, which may be amended from time to time.
- E. Adoption of instructional interventions referenced in subdivisions B and D of this section shall be funded by eligible local, state, and federal funds.

At the February 25, 2004, Board of Education meeting, the original criteria were approved for identifying and selecting research-based instructional models/programs that have a proven track record of success at raising student achievement in English and/or mathematics. At the February 28, 2007, Board of Education meeting, revisions were proposed to reflect an update in the terminology from “models/programs” to “instructional interventions.”

The Board approved criteria and disclaimers follow.

Criteria for Recommended Instructional Intervention

1. **Scientifically-based evidence of effectiveness:** The effectiveness of interventions is justified based on scientific research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge on the interventions. The major components of the intervention include instructional methods and practices that have been verified through scientifically-based research. The research that documents improvement in student achievement has presented convincing evidence that the observed results were based on the intervention. The effectiveness of the intervention in improving student achievement has been demonstrated in Virginia and is based on effective research-based strategies. Gains in student achievement on Virginia’s Standards of Learning tests have been sustained over time.
2. **Implementation and capacity for technical assistance:** The intervention has explained the essential ingredients necessary to make the program fully operational, including estimates of the costs, with respect to time and money, and the requirements for implementation. The program managers have described in detail their capacity, in terms of technical assistance, to provide the staff development, consultation, and support necessary for successful implementation in a number of Virginia schools.

3. **Replicability:** The effectiveness of the intervention has been demonstrated through multiple investigations in numerous locations with low-achieving students.
4. **Correlation with or adaptability to the Virginia Standards of Learning in English or mathematics:** The content of the intervention correlates with the Virginia Standards of Learning in English or mathematics or the intervention can be adapted to the Virginia Standards of Learning.

Disclaimers:

1. Recommendation of instructional interventions with a proven track record is not intended as a guarantee that the program will be successful as implemented in a particular school. Prior to or concurrently with adopting any intervention, a school is expected to align its curriculum with the Standards of Learning. School divisions are permitted to choose instructional interventions that are not on the recommended list as long as they meet the Board of Education's criteria. School divisions selecting this option must submit for approval, documentation that the instructional interventions chosen meet the Board's criteria prior to implementation.
2. Some of the instructional interventions have an associated textbook that may not be on the list of instructional materials reviewed or recommended as part of the state textbook adoption process. Recommendation of an instructional intervention should not be interpreted as endorsement of the associated textbook materials. Before adopting any intervention with associated materials, the school should determine whether there is sufficient Standards of Learning correlation for the grade level or course where the intervention will be used.
3. Products and services on the list may not be available in all areas of the Commonwealth. School divisions are responsible for negotiating contracts with vendors for products or services.