

COMMONWEALTH of VIRGINIA

Board of Education Agenda

Date of Meeting: May 30-31, 2007

Time: As Shown

Location: Jefferson Conference Room, 22nd Floor, James Monroe Building
101 North 14th Street, Richmond, Virginia



WEDNESDAY, MAY 30, 2007

9 A.M.

BOARD OF EDUCATION BUSINESS MEETING

Full Board Convenes

Moment of Silence

Pledge of Allegiance

Approval of Minutes of the April 27, 2007, Meeting of the Board

Public Comment

Action/Discussion on Board of Education Regulations

- A. First Review of the Proposed Repeal of the *Regulations Governing Textbooks-Free or Rentals Systems State Aid* (8 VAC 20-190-10 et seq.) and the *Regulations Governing Student Insurance Programs* (8 VAC 20-500-10 et seq.)
- B. First Review of the Notice of Intended Regulatory Action (NOIRA) to Amend and Consolidate Certain Board of Education Regulations
- C. First Review of Proposed Revisions to the *Regulations Governing Educational Services for Gifted Students* (8 VAC 20-40-10 et seq.)

Action/Discussion Items

- D. Final Review of a Request for Increased Graduation Requirements from Waynesboro Public Schools

Action/Discussion Items (continued)

- E. Final Review of a Request for Increased Graduation Requirements from Botetourt County Public Schools
- F. Final Review of a Request for Approval of an Alternative Accreditation Plan from the Richmond City Public Schools for Richmond Alternative School
- G. Final Review of Approval of Local School Division Remedial Plans
- H. Final Review of a Resolution Delegating the Approval of Other States' Comprehensive Subject Area Assessments as Substitute Tests, Pursuant to the Board of Education's *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards of Accrediting Public Schools in Virginia*
- I. 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
- J. First Review of an Appeals Process for Supplemental Educational Services Providers Under the *No Child Left Behind Act of 2001*
- K. First Review of an Appeals Process for Instructional Interventions to Satisfy Provisions in *Regulations Establishing Standards for Accrediting Public Schools in Virginia*
- L. First Review of a Recommendation of the Advisory Board on Teacher Education and Licensure (ABTEL) to Grant Continuing Accreditation to the Teacher Education Program at Lynchburg College
- M. First Review by the Virginia Board of Education to Ratify and Appoint the School Division Superintendent in Newport News City Schools Pursuant to Sections 22.1-60 and 22.1-61 of the *Code of Virginia*
- N. First Review of Guidelines for Schools for Students with Disabilities Fund
- O. First Review of Action Required to Continue the Process of Consolidating the Two Virginia Schools for the Deaf and the Blind

Discussion of Current Issues - by Board of Education Members and Superintendent of Public Instruction

Adjournment of Business Session

Note: The Board of Education will convene for the annual planning session following the adjournment of the business session.

VIRGINIA BOARD OF EDUCATION

Planning Session Agenda **Wednesday, May 30, 2007** *(times are approximate)*

1:00 p.m.	Introduction	Dr. Billy Cannaday
1:10 p.m.	Board Roles and Responsibilities in Planning	Dr. Mark Emblidge
1:20 p.m.	Overview of Process	Stuart Gravatt
1:30 p.m.	Review of Major Board Issues, 2007-2009	DOE Staff
2:45 p.m.	Board Discussion: new policy directions or areas of emphasis	Stuart Gravatt and Board
3:15 p.m.	Adjourn for the day	

Planning Session Agenda **Thursday, May 31, 2007** *(times are approximate)*

9:00 a.m.	Review of Current Vision and Mission Statements and Comprehensive Plan	Stuart Gravatt and Board
9:40 a.m.	Analysis and Revision of Comprehensive Plan Objectives	Stuart Gravatt and Board
10:30 a.m.	Break	
10:45 a.m.	Continue Review of Plan Objectives; Review of Overall Objectives	Stuart Gravatt and Board
11:30 a.m.	Implementing the Plan: Board Committees	Dr. Mark Emblidge and Board
Noon	Adjourn	

PUBLIC NOTICE

The Board of Education members will meet for dinner at 6:30 p.m. at the Crowne Plaza Hotel on Tuesday, May 29, 2007. Items for the Board agenda may be discussed informally at that dinner. No votes will be taken, and it is open to the public. The Board president reserves the right to change the times listed on this agenda depending upon the time constraints during the meeting.

GUIDELINES FOR PUBLIC COMMENT

1. The Board of Education is pleased to receive public comment at each of its regular monthly meetings. In order to allow the Board sufficient time for its other business, the total time allotted to public comment will generally be limited to thirty (30) minutes. Individuals seeking to speak to the Board will be allotted three (3) minutes each.
2. Those wishing to speak to the Board should contact Dr. Margaret Roberts, Executive Assistant for Board Relations at (804) 225-2924. Normally, speakers will be scheduled in the order that their requests are received until the entire allotted time slot has been used. Where issues involving a variety of views are presented before the Board, the Board reserves the right to allocate the time available so as to insure that the Board hears from different points of view on any particular issue.
3. Speakers are urged to contact Dr. Roberts in advance of the meeting. Because of time limitations, those persons who have not previously registered to speak prior to the day of the Board meeting cannot be assured that they will have an opportunity to appear before the Board.
4. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views.

amend or repeal a regulation using the fast track process will be published in the Virginia Register and will appear on the Virginia Regulatory Town Hall (the electronic site for all state agency regulations).

The publication of this notice will be followed by a public comment period of at least 60 days. If an objection to the proposed regulatory change is received during the public comment period, the proposed rulemaking is continued using the usual APA process. If, however, there are no objections, the proposed regulation or repeal will become effective 15 days after the close of the public comment period, unless the regulation is withdrawn or a later effective date is specified by the Board of Education.

Summary of Major Elements: The purpose of this agenda item is to recommend two regulations for repeal that are unnecessary. The text of each regulation is attached.

The *Regulations Governing Textbooks – Free or Rental Systems State Aid* (8 VAC 20-190-10 et seq.) apply to the 1980-1982 biennium and do not reflect the current rate of reimbursement. The regulation is both out of date and unnecessary because the language providing for this reimbursement is in the appropriation act.

The *Regulations Governing Student Insurance Programs* (8 VAC 20-500-10 et seq.) authorize local school divisions to purchase, at their discretion, student accident insurance coverage for school-related injuries. This regulation does not require local school divisions to purchase student insurance, it simply permits them to do so. Since school divisions can already purchase student accident insurance coverage for school-related injuries, and it does not prescribe or require any action to be taken by local school divisions, this regulation is unnecessary.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act..

Impact on Resources: The repeal of the regulations as proposed is expected to have a minimal to no fiscal or administrative impact on the local school divisions or on the Department of Education.

Timetable for Further Review/Action: The timetable for further action will be governed by the requirements of the Administrative Process Act. Following the final approval of the repeal of the regulations as proposed, the fast track provisions of the APA will be initiated. All appropriate entities, including local division superintendents, will be notified and given opportunity to comment.

8 VAC 20-190-10. Reimbursement from state funds.

During the 1980-82 biennium, reimbursement from state funds is authorized by the Appropriations Act at the rate of \$2.00 per pupil in average daily membership in school systems which maintain rental or free textbook systems, as follows:

1. Free or rental textbook systems already established; or
2. Free or rental textbook systems established during the current biennium.

To participate in the distribution of this fund, a locality must have established, or agreed to establish, a rental or free textbook system. Such a system will not be eligible to school divisions on an individual grade basis, but any combination of grade levels (K-12) will qualify.

In the event sufficient funds are not available to reimburse localities for average daily membership as described above, this fund will be distributed on a pro rata basis.

During the 1980-82 biennium, reimbursement from state funds is authorized by the Appropriations Act to assist localities in furnishing free basic textbooks to students in the first and second grades the first year of biennium, and in the first, second, and third grades in the second year who qualify for free or reduced-price lunch programs.

Prior to receiving such reimbursement, each school division must certify to the Board of Education that all students have basic texts.

If sufficient funds are not available to reimburse as provided above, this fund will be distributed on a pro rata basis.

8 VAC 20-500-10. Accident insurance coverage for students.

Local school authorities are authorized to purchase, at their discretion, student accident insurance coverage for school-related injuries upon such terms as local school authorities determine to be in the best interest of the school system; however, no school division is to receive credit for sums expended in providing insurance in the distribution of state aid funds.

Board of Education Agenda Item

Item: B.

Date: May 30, 2007

Topic: First Review of the Notice of Intended Regulatory Action (NOIRA) to Amend and Consolidate Certain Board of Education Regulations

Presenter: Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

Telephone Number: (804) 225-2403 E-Mail Address: Anne.Wescott@doe.virginia.gov

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: The *Regulations Governing School Boards Local*, 8 VAC 20-490-10 et seq., were adopted on or before September 1, 1980. These regulations have not been amended since that time and are out of date. Additionally, several other regulations have been promulgated that address regulatory requirements for local school boards and school divisions. Some of these regulations were adopted on or about September 1, 1980, as well. They all lend themselves to consolidation with the *Regulations Governing School Boards Local*. This proposal is to adopt revised regulations governing local school boards under the title *Regulations Governing Local School Boards and School Divisions* and to incorporate the applicable regulatory requirements from these other regulations so that local school boards and school divisions will have one regulation containing applicable regulatory requirements and will not have to look to several regulations for guidance.

Summary of Major Elements: The attached Notice of Intended Regulatory Action (NOIRA) Background Document summarizes the major elements of this project. As noted above, this proposal is to amend and reenact the *Regulations Governing School Boards Local* (8 VAC 20-490-10 et seq.) into the *Regulations Governing Local School Boards and School Divisions* by consolidating several applicable regulations into one concise regulation. The regulations to be consolidated into this one regulation are attached to this agenda item and are as follows:

8 VAC 20-150-10 et seq.	Regulations Governing Management of the Student’s Scholastic Record in the Public Schools of Virginia
8 VAC 20-170-10	Regulations Governing Instructional Materials – Selection and Utilization by Local School Boards
8 VAC 20-180-10	Regulations Governing School Community Programs
8 VAC 20-240-10 et seq.	Regulations Governing School Activity Funds
8 VAC 20-250-10	Regulations Governing Testing Sight and Hearing of Pupils
8 VAC 20-270-10 et seq.	Regulations Governing Textbook Fund Management and Handling on Local Level
8 VAC 20-310-10	Rules Governing Instruction Concerning Drugs and Substance Abuse
8 VAC 20-320-10	Regulations Governing Physical and Health Education
8 VAC 20-390-10 et seq.	Rules Governing Division Superintendent of Schools
8 VAC 20-410-10	Rules Governing Allowable Credit for Teaching Experience
8 VAC 20-420-10	Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards
8 VAC 20-460-10 et seq.	Regulations Governing Sick Leave Plan for Teachers
8 VAC 20-490-10 et seq.	Regulations Governing School Boards Local
8 VAC 20-565-10 et seq.	Regulations for the Protection of Students as Participants in Human Research

The regulations that have been incorporated into the *Regulations Governing Local School Boards and School Divisions* will be repealed simultaneously with the promulgation of the new regulations.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act regarding the Notice of Intended Regulatory Action for promulgating regulations.

Impact on Resources: The administrative impact for the review and revision of these regulations is not expected to be unduly burdensome on the Department of Education and is expected to have a minimal to no fiscal or administrative impact on the local school divisions.

Timetable for Further Review/Action: The timetable for further action will be governed by the requirements of the Administrative Process Act.



Virginia
Regulatory
Town Hall

townhall.state.va.us

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-490-10 et seq.
Regulation title	<i>Regulations Governing School Boards Local</i>
Action title	Revisions to the <i>Regulations Governing School Boards Local</i>
Document preparation date	May 12, 2007

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The *Regulations Governing School Boards Local*, 8 VAC 20-490-10 et seq., were adopted on or before September 1, 1980. These regulations have not been amended since that time and are out of date. Additionally, several other regulations have been promulgated that address regulatory requirements for local school boards and school divisions. Some of these regulations were adopted on or about September 1, 1980, as well. They all lend themselves to consolidation with the *Regulations Governing School Boards Local*. This proposal is to adopt revised regulations governing local school boards under the title *Regulations Governing Local School Boards and School Divisions* and to incorporate the applicable regulatory requirements from these other regulations so that local school boards and school divisions will have one regulation containing applicable regulatory requirements and will not have to look to several regulations for guidance.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 22.1-16 of the Code of Virginia provides that “The Board of Education may adopt bylaws for its own governance and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” These regulations are necessary for the governance of schools and programs by the Board of Education.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

As noted above, this proposal is to amend and reenact the *Regulations Governing Local School Boards* (8 VAC 20-490-10 et seq.) into the Regulations Governing Local School Boards and School Divisions by consolidating several applicable regulations into one concise regulation. The regulations to be consolidated into this one regulation are as follows:

- | | |
|-------------------------|--|
| 8 VAC 20-150-10 et seq. | Regulations Governing Management of the Student’s Scholastic Record in the Public Schools of Virginia |
| 8 VAC 20-170-10 | Regulations Governing Instructional Materials – Selection and Utilization by Local School Boards |
| 8 VAC 20-180-10 | Regulations Governing School Community Programs |
| 8 VAC 20-240-10 et seq. | Regulations Governing School Activity Funds |
| 8 VAC 20-250-10 | Regulations Governing Testing Sight and Hearing of Pupils |
| 8 VAC 20-270-10 et seq. | Regulations Governing Textbook Fund Management and Handling on Local Level |
| 8 VAC 20-310-10 | Rules Governing Instruction Concerning Drugs and Substance Abuse |
| 8 VAC 20-320-10 | Regulations Governing Physical and Health Education |
| 8 VAC 20-390-10 et seq. | Rules Governing Division Superintendent of Schools |
| 8 VAC 20-410-10 | Rules Governing Allowable Credit for Teaching Experience |
| 8 VAC 20-420-10 | Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards |
| 8 VAC 20-460-10 et seq. | Regulations Governing Sick Leave Plan for Teachers |
| 8 VAC 20-490-10 et seq. | Regulations Governing School Boards Local |
| 8 VAC 20-565-10 et seq. | Regulations for the Protection of Students as Participants in Human Research |

The regulations that have been incorporated into the Regulation Governing Local School Boards and School Divisions will be repealed simultaneously with the promulgation of the new regulation.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

Other alternatives to amending the regulations have not been considered by the Board of Education as many of them are out of date. Additionally, the consolidation of the regulations will assist school divisions. The only acceptable alternative would be to amend the appropriate regulations without consolidating them.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The proposed amendments to the regulations are not expected to have an impact on the institution of the family and family stability.

Regulations Governing Management of the Student's Scholastic Record in the Public Schools of Virginia

8 VAC 20-150-10 et seq.

8VAC20-150-10. Definitions.

The terms used in this chapter, except as otherwise defined herein, shall be in accord with the definitions contained in the Family Educational Rights and Privacy Act, 20 USC §1232g, 34 CFR 99; the Individuals with Disabilities Education Act, 20 USC §§1400-1485, 34 CFR 300; and §22.1-289 of the Code of Virginia.

8VAC20-150-20. Management of scholastic record.

A. Local education agencies shall manage the scholastic records of all students in compliance with applicable law, including the Family Educational Rights and Privacy Act of 1974, 20 USC §1232g, 34 CFR 99; the Individuals with Disabilities Education Act, 20 USC §§1400-1485, 34 CFR 300; and §§2.1-377 through 2.1-386, 16.1-260, 16.1-305.1, 16.1-305.2, 22.1-3.1, 22.1-270, 22.1-271.2, 22.1-287, 22.1-287.1, 22.1-288, 22.1-288.2, 22.1-289, 32.1-36.1 and 42.1-76 through 42.1-91.

B. Every notice of adjudication or conviction received by a local superintendent, and information contained in the notice, which is not a disciplinary record, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against the student based upon an incident which formed the basis for the adjudication or conviction, the notice shall become a part of the student's disciplinary record. As used herein, "disciplinary record" means a record which is directly related to a student and any disciplinary action taken against that student for violation of school rules or policies occurring on school property or at school-sponsored events.

8VAC20-150-30. Access.

A parent, guardian or other person having control or charge of a student shall be notified of his right to review, and to request an amendment of, the student's scholastic record in accordance with the procedures set forth in 34 CFR 99.

Regulations Governing Instructional Materials – Selection and Utilization by Local School Boards

8 VAC 20-170-10

8VAC20-170-10. Responsibility - local school boards.

The Board of Education places with local school boards the responsibility for the selection, approval, and utilization of instructional materials.

In the selection of instructional materials, the local school board is responsible for the following:

1. Developing local criteria for selection (the Board of Education will assist by publishing guidelines for the development of criteria);
2. Approving materials which are consistent with instructional goals and objectives;
3. Appointing a division evaluation committee which should include, when appropriate, parents, students, teachers, supervisors, and nonparent patrons;
4. Providing for the examination of materials by appropriate committees and individuals (local boards may choose to exempt certain types of materials from the formal evaluation process - maps, charts, games, etc.);
5. Providing notice to parents that books and materials under consideration for approval will be available at designated locations for review by any interested citizens. Provisions should be made for those reviewing such materials to present their comments and observations, if any, to the school board through locally approved procedures. Those actions should be taken which are necessary to assure appropriate consideration of such citizen observations and adequate time for such consideration should be allowed. Such actions might include (i) opportunity to meet with the board, or (ii) opportunity to meet with board-appointed professional committees assigned responsibility for making recommendations to the board;
6. Requesting special assistance in the evaluation of proposed materials, if desired, from the Department of Education;
7. Establishing procedures for the reconsideration of challenged materials;
8. Placing special emphasis on the thorough evaluation of materials related to controversial or sensitive topics such as sex education, moral education, and religion;
9. Including in the curriculum and schedule options for students whose parents choose to withdraw them from class for the duration of the treatment of a sensitive or controversial topic. Parents should be required to justify their requests.

Regulations Governing School Community Programs

8 VAC 20-180-10

8VAC20-180-10. School improvement plan.

Each school division shall involve the staff and community in revising and extending biennially a six-year school improvement plan. This plan shall be reviewed and approved by the local school board and submitted by January 15 of each odd-numbered year to the Superintendent of Public Instruction for approval in accordance with criteria of the Board of Education. The plan shall include:

1. The objectives of the school division which can be measured by outcomes related to pupil performance, whenever possible;
2. An assessment of the extent to which the objectives are being achieved, including evidence from follow-up studies of former students;
3. Strategies for achieving the objectives of the school division; and
4. Evidence of community participation in the development of the six-year plan.

A report shall be made by November 1 of each year to the local school board and to the public on the extent to which the measurable objectives of the preceding two school years were achieved. Deviations from the plan shall be explained.

Regulations Governing School Activity Funds

8 VAC 20-240-10 et seq.

8VAC20-240-10. Classification; responsibility for administration of regulations, exclusion of specific funds.

All funds derived from extracurricular school activities, such as entertainment, athletic contest, cafeteria, club dues, etc., and from any and all activities of the school involving personnel, students, or property are by this chapter classified as school activity funds (internal accounts). The local school boards shall be responsible for the administration of this chapter in the schools under their control and may determine which funds in any school may be excluded from those subject to this chapter. (Funds defined by law as public funds are not subject to this chapter and are to be handled as provided by law.)

8VAC20-240-20. Records, school finance officer, bonds.

Each school shall keep an accurate record of all receipts and disbursements so that a clear and concise statement of the condition of each fund may be determined at all times. It shall be the duty of each principal to see that such records are maintained in accordance with this chapter and rules promulgated by the local school board. The principal or person designated by him shall perform the duties of school finance officer or central treasurer. The school finance officer shall be bonded, and the local school board shall prescribe rules governing such bonds for employees who are responsible for these funds.

8VAC20-240-30. Forms.

The use of forms prescribed by the Board of Education is not mandatory but the basic information required by the uniform system must be incorporated in any system substituted for that designed by the Board of Education.

8VAC20-240-40. Audits; monthly and annual reports.

School activity funds (internal accounts) shall be audited at least once a year by a duly qualified accountant or accounting firm approved by the local school board and a copy of the audit report shall be filed in the office of the division superintendent. Monthly reports of such funds shall be prepared and filed in the principal's office, and annual reports shall be filed in the office of the principal or division superintendent. The cost of such an audit is a proper charge against the school operating fund or school activity funds.

8VAC20-240-50. Interpretation of regulations and forms.

Nothing in this chapter or suggested forms shall be construed as superseding or modifying the federal-state plan for operation of cafeterias under the National School Lunch Act, 42 USC §1751 et seq.

Regulations Governing Testing Sight and Hearing of Pupils

8 VAC 20-250-10

8VAC20-250-10. Testing of sight and hearing; monitoring.

That sight and hearing of pupils in grades K, 3, 7, and 10 be screened within 60 administrative working days of the opening of school. Whenever a pupil is found to have any defect of vision or hearing or a disease of the eyes or ears, the principal shall notify the parent or guardian in writing, of such defect or disease. This screening of pupils will be monitored through the administrative review process.

Regulations Governing Textbook Fund Management and Handling on Local Level

8 VAC 20-270-10 et seq.

8VAC20-270-10. General.

Although most school systems distribute textbooks to students on a free or rental basis, some systems still use retail sales to students. In the following sections, references to "retail sales" or "unsold textbooks on hand" refer to this type of distribution. Books are secured from publishers on a consignment basis and payment is made quarterly as the books are sold. Books not sold may be held until the end of an adoption period and returned to the publisher for credit.

Only those textbooks selected by school divisions from the list of state-adopted texts are subject to the prices and regulations set forth in contracts between the publishers having books on the adopted list and the Virginia Board of Education.

8VAC20-270-20. Establishment and designation of special fund; establishment of special bank account.

A separate fund shall be established by the school board and the chief fiscal officer of the county, city, or town (of which the school board is a part), to which shall be credited all proceeds received from the sale of textbooks in the local school system. This special fund shall be designated:

County, City, or Town of.....

School Textbook Fund

The chief fiscal officer is requested to establish a special bank account titled as follows:

County, City, or Town of.....

School Textbook Fund

By.....

(Treasurer/Director of Finance or such title as he may have.)

8VAC20-270-30. Textbook sales, receipts, and disbursements; bonds for clerk and other personnel handling funds.

The school board shall designate the clerk of the school board, who shall be bonded as provided by law, to handle the sale of textbooks. Additional personnel employed to assist the clerk in handling textbook funds shall be covered by a fidelity and faithful performance bond, a copy of which shall be filed in the school board office.

The local school board shall require the clerk to deposit intact, with the treasurer or the director of finance or in any bank designated by the chief fiscal officer, all moneys

received from the sale of textbooks; and the treasurer or the director of finance, in turn, will deposit these sums to the credit of the special bank account aforementioned. When ordering payments to publishers, or the payment of any expense from the proceeds of the sale of textbooks, the county, city, or town school board shall issue its warrant made payable to the publisher, agency, or individual to whom the payment is being made; this warrant shall be signed by the chairman of the school board and countersigned by the clerk of that board.

In each instance, each warrant shall indicate that it is payable from the school textbook fund as set forth above. All expenditures shall be approved and a warrant in payment thereof authorized by the school board in accordance with the procedure for the expenditure of regular school funds. The procedure to be followed for the disbursement of funds credited to the school textbook fund in cities shall conform to the procedure in effect for the disbursements of school funds; the only distinction being that the school board and the chief fiscal officer shall maintain a separate fund and separate bank account for the receipts and disbursements incident to the handling of textbooks.

8VAC20-270-40. Accounting and records; verification of book shipments received.

The school board shall require the clerk of the board to maintain a record of receipts and disbursements of the textbook fund and to reconcile the balance in this fund each month with the chief fiscal officer of the county, city or town. It shall also require the maintenance of a ledger account with each publisher to which will be credited the value of books received for sale and to which will be charged all payments made to the publisher on account and all transactions for exchanged and returned books. This account shall be reconciled with the reports of unsold books on hand. The invoices received from the publishers for books shipped to the school board shall be filed in separate folders by the names of publishers. Each shipment of books received shall be verified by actual count and the date and quantity of books received should be written on the invoice opposite each title and signed by the person making the count.

8VAC20-270-50. School systems having free or rental textbook systems and also selling textbooks.

In counties, cities, and towns where free or rental textbook systems are in operation in some schools and textbooks are sold to pupils in other school systems, all textbooks purchased from the publishers should be handled through the textbook fund. Books which are used for that portion of the school system from which rental or free textbooks are furnished should be purchased from the textbook fund and be paid for with a warrant drawn on the regular school operating fund or the school textbook rental fund.

8VAC20-270-60. Transfers between school operating fund and textbook fund.

If the school board makes an appropriation for the operation of the school textbook fund, a warrant should be drawn on the regular school operating fund and deposited to the credit of the school textbook fund. If the school board authorizes the use of surplus school textbook funds for general school operation, a warrant should be drawn on the textbook fund and credited to the regular school operating fund.

8VAC20-270-70. Reports and payments to publishers; unsold textbooks on hand as of June 30.

Copies of reports to publishers listing all new unsold textbooks on hand and showing balances due for all books sold as of October 15, January 15, March 31, and June 30 shall be kept by the school board. The school board shall forward the original of each periodic report, together with its remittance, directly to the publishers on the dates designated. Each report to the publisher certifying unsold textbooks on hand as of the date of the report shall be certified by the persons responsible for the handling of the textbooks and the superintendent, or some person designated by the superintendent, who shall verify the accuracy of the report by an actual count of the books on hand. Unsold textbooks on hand as of June 30 of each year shall be listed on the Virginia textbook requisition (elementary and high) for the current year.

8VAC20-270-80. Books for resale to be segregated from those owned by the school board.

Books received from the publishers for resale shall be segregated and maintained under a separate inventory control from books which are owned outright by the school board and used in a rental or a free- textbook system.

8VAC20-270-90. Responsibility for books placed in specific schools.

Where the school board finds it necessary to place books in a school for resale to pupils, the principal of the school (or other person approved by the school board) shall be required to sign a receipt listing the titles and retail sale prices of all books placed in his or her custody; the individual shall be responsible for the total value of books received and be required to account to the school board not less than quarterly in money and value of books returned equal to the total value of books receipted for by him.

8VAC20-270-100. Audits; preservation of records.

The school textbook fund shall be audited annually on order of the school board or by the governing board as a part of the overall county, city, or town audit. A copy of the audit report shall be furnished to the Board of Education. The records required by this chapter shall be preserved in the same manner as other public records.

8VAC20-270-110. Fire insurance on textbooks in stock.

The entire stock of textbooks shall be adequately covered by fire insurance and any loss shall be payable to the school board. A copy of the policy shall be filed with the school board and satisfactory proof of coverage submitted to the Board of Education.

8VAC20-270-120. Retail sales of textbooks to be for cash.

Textbooks shall be sold at retail for cash only.

8VAC20-270-130. Issuance of warrants between board meetings.

The school board may provide, by resolution, for the issuance of warrants drawn on the textbook fund in payment of amounts due publishers and for freight, or drayage falling due between meeting of the board. All such warrants shall be signed by the chairman and countersigned by the clerk of the school board and presented to the school board for approval at the next meeting following the issuance of such warrants.

Rules Governing Instruction Concerning Drugs and Substance Abuse

8 VAC 20-310-10

8VAC20-310-10. Health education program.

The Board of Education recognizes that the illegal and inappropriate use of certain substances constitutes a hazard to the development of students. Elementary and secondary schools shall include in the health education program instruction in drugs and drug abuse.

Therefore, the public schools of the Commonwealth shall:

1. Be concerned with education and prevention in all areas of substance use and abuse.
2. Establish and maintain a realistic, meaningful substance abuse prevention and education program that shall be developed and incorporated in the total education program.
3. Establish and maintain an ongoing in-service substance abuse prevention program for all school personnel.
4. Cooperate with government and approved private agencies involved with health of students relating to the abuse of substances.
5. Encourage and support pupil-run organizations and activities that will develop a positive peer influence in the area of substance abuse.
6. Create a climate whereby students may seek and receive counseling about substance abuse and related problems without fear of reprisal.

Regulations Governing Physical and Health Education

8 VAC 20-320-10

8VAC20-320-10. Health education program.

Elementary and secondary schools shall present a comprehensive health education program which focuses on instruction related to alcohol and drug abuse, smoking and health, personal growth and personal health, nutrition, prevention and control of disease, physical fitness, accident prevention, personal and family survival, environmental health, mental health, and consumer education. These shall be developed in accordance with procedures outlined in the Curriculum Guide for Health Education.

Rules Governing Division Superintendent of Schools

8 VAC 20-390-10 et seq.

8VAC20-390-10. Qualifications.

Division superintendents of county, town, and city school systems are required by law to be appointed from a list of eligible persons approved by the State Board of Education. To be placed on the list of eligibles, applicants must meet the following qualifications:

1. Personal qualities. Eligibility shall be limited to individuals whose records attest to good character and demonstrated ability as an educational administrator.
2. Education. The applicant shall have earned 60 semester hours of graduate work from an institution of higher learning accredited by the state accrediting agency and shall hold the Master's degree or be pursuing a doctoral program approved by any such accredited institution.

The applicant shall have completed graduate work in the following areas: history or philosophy of education, courses designed to develop competence in supervision and curriculum development, administration, finance, law, plant, personnel management or school-community relations, research, or statistical methods.

3. Experience. The applicant shall have had at least five years of satisfactory and full-time experience in administration or supervision, or both, in public schools.* This experience shall have been acquired in the principalships or positions, or both, within the central administrative offices of the school division. A maximum of two years of this requirement may be met through full-time experience in the assistant principalship. Certification as to whether the applicant has served satisfactorily in full-time positions of administration or supervision, or both, must be mailed directly to the Department of Education by the division superintendent.

4. Recency of professional education or experience, or both, and status report. A portion of either professional education or experience, or both, shall have been within a period of four years immediately prior to the application. An individual not serving as a division superintendent is required to complete a status report every four years. The report should include current information about the individual, such as current position, professional growth activities, and other pertinent data. The Department of Education will request the status report early in the school year prior to commencement of the new term for the division superintendents.

5. Conditions. Superintendents in office in Virginia as of November 1, 1967, shall not be required to meet these qualifications as long as they serve continuously in such positions in the state.

Persons on the eligible list as of November 1, 1967, who did not meet the education requirement effective that day shall submit to the department official transcripts of graduate work in support of at least six semester hours beyond the master's degree each

two years thereafter until such time as they meet the new academic requirement. Any person who does not comply with this requirement will be removed from the eligible list.

*Comparable experience in accredited private schools or other educational systems may be accepted upon the recommendation of the Superintendent of Public Instruction and the approval of the Board of Education.

8VAC20-390-20. Part-time service as school principal.

The division superintendent of schools, on a part-time basis, may with the consent of the Board of Education serve as school principal.

8VAC20-390-30. Acting superintendents.

In case of a vacancy occurring during the regular four-year term of office of the division superintendent, an acting superintendent shall be designated by the school board or boards to serve until the newly appointed superintendent assumes office. The local school board or boards may compensate such acting superintendent from local funds and such board or boards may provide necessary traveling expenses.

8VAC20-390-40. Observing regulations; making annual and special reports.

It shall be the duty of each division superintendent to observe such directions and regulations as the Superintendent of Public Instruction or Board of Education may prescribe and to make special reports to the Superintendent whenever required.

8VAC20-390-50. School accounts.

It shall be the duty of the division superintendent to inspect the accounts of the clerk of the school board from time to time during the year and see that such accounts are kept correctly and that all school funds are properly applied.

8VAC20-390-60. Distribution of state reports, forms, laws, and regulations.

Superintendents shall distribute promptly all reports, forms, laws, and regulations which may be received from the Superintendent of Public Instruction, in accordance with his directions.

8VAC20-390-70. Explanation of school system; enforcement of school laws, regulations, etc.

Superintendents shall explain the school system and give information about it on all suitable occasions, and shall make certain that all school laws and regulations are strictly enforced and that the decisions of the Superintendent of Public Instruction and of the Board of Education are complied with. When such decisions are not complied with, the division superintendent shall inform the Superintendent of Public Instruction.

8VAC20-390-80. Inspection and supervision of schools.

It shall be the duty of the division superintendent to visit and inspect each school in his division. He shall inquire into all matters relating to the management of the school, the

course of study, method of instruction, and use of textbooks, and shall give particular attention to the conditions of the school buildings.

8VAC20-390-90. Supervision of teachers.

The division superintendent shall see to it that teachers discharge faithfully the duties assigned to them, and any neglect or violation by teachers of any of the laws or regulations shall be promptly reported to the school board with recommendations for appropriate action.

8VAC20-390-100. Condemnation of school buildings.

The superintendent shall have authority to condemn school buildings, as provided by law, when such school buildings are not safe and may endanger the health of pupils.

8VAC20-390-110. Promotion of improvement and efficiency of school personnel; promotion of appreciation, etc. of education.

It shall be the duty of superintendents to promote the improvement and efficiency of teachers and other school personnel by all appropriate methods. They shall also endeavor by all appropriate means to promote an appreciation and desire for education among the people.

Rules Governing Allowable Credit for Teaching Experience

8 VAC 20-410-10

8VAC20-410-10. Teaching experience credit.

Credit for teaching experience may be allowed:

1. For teaching in public schools in the state and out of the state.
2. For teaching in accredited institutions of higher learning in and out of the state.
3. For teaching in schools operated in military installations, supported by federal tax funds, and for which academic credit is accepted for admission to the public schools of Virginia.
4. For teaching in public resident schools, such as the Virginia School for the Deaf and Blind.
5. For teaching in accredited private schools and in private schools for which teachers receive credit under the provisions of the Virginia Retirement System.

Teachers in the field of vocational education, where the requirement calls for occupational work experience beyond the apprenticeship level, may be allowed credit for one year of teaching experience for each two years of work experience.

Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards

8 VAC 20-420-10

8VAC20-420-10. Library personnel.

All such persons employed in any public school library or any library operated under joint contract between a school board or boards and the trustees of a county or regional library system shall be under the direction, supervision, and control of the local school board or boards.

Regulations Governing Sick Leave Plan for Teachers

8 VAC 20-460-10 et seq.

8VAC20-460-10. Allowances.

Allowances shall be as follows:

1. Each full-time teacher in the public free schools shall earn a minimum of 10 days each year.
2. Earnings for less than a full year of full-time employment shall be at the rate of one day per month, or major fraction thereof. This provision applies to teachers who do not begin teaching at the start of the school term and to those who do not complete the full year.
3. A teacher cannot claim any portion of earned leave unless he or she has actually reported for duty for the regular school term in accordance with the terms of the teacher's contract. If a teacher is unable, because of illness, to begin teaching when school opens in the fall, such teacher may be allowed to use accumulated leave not to exceed the balance credited to him or her as of June 30 of the immediate preceding school year.
4. School boards may, by resolution, permit teachers to anticipate sick leave earnings for the current school year, provided adequate provision is made for a refund in the event the teacher terminates employment before such credit is earned.

8VAC20-460-20. Accumulating sick leave.

Sick leave, if not used, may accumulate to a minimum of 90 days.

8VAC20-460-30. When substitute employed.

When a substitute has to be employed, such leave shall be allowed for personal illness, including quarantine, or illness or death in the immediate family requiring the attendance of the employee for not more than three days in any one case, unless the local school board by resolution wishes to allow an extension.

8VAC20-460-40. "Immediate family" defined.

The "immediate family" of an employee shall be interpreted to include natural parents, adoptive parents, foster parents, stepmother, stepfather, wife, husband, children, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and any other relative living in the household of the teacher ("any other relative living in a household of a teacher" is limited only in that the relative, however distant, must live in the household of a teacher).

8VAC20-460-50. Termination of accumulative sick leave; transfer of sick leave; when teacher presumed to have left teaching profession.

All accumulated sick leave shall terminate, except as defined below, upon the expiration of employment as a teacher. A teacher may transfer from one school system to another in Virginia and also may transfer any accumulated leave if the school board of the system to which the transfer is being made signifies its willingness to accept such transfer.

A teacher will be presumed to have left the teaching profession if he or she accepts employment other than in the public school system of Virginia, or is unable to teach in the public schools of Virginia for a period of three consecutive years because of illness or physical disability or family responsibilities. Teachers who leave the teaching profession to enter the armed services do not forfeit accumulated earnings unless they fail to return to the teaching profession immediately upon discharge from an original tour of duty in the armed services.

8VAC20-460-60. Local supplementary regulations.

Local school boards may adopt supplementary rules and regulations, not in conflict with this chapter, and, in the discretion of the local board, such local regulations may provide for the submission of a doctor's certificate in case of absence due to illness.

Regulations Governing School Boards Local

8 VAC 20-490-10 et seq.

8VAC20-490-10. Familiarity with and implementation of school laws and regulations.

It is the duty of all school officials to acquaint themselves with the school laws and regulations and to see that they are implemented.

8VAC20-490-20. Teacher contracts.

The school board shall enter into written agreements with teachers before they begin their duties, but no teacher may be employed or paid from public funds who is not certified to teach in the public schools of Virginia. Contracts with teachers shall be executed on behalf of the board by the chairman and the clerk.

8VAC20-490-30. Length of the school day.

The time for opening and closing schools shall be prescribed by the local school board upon recommendation of the division superintendent, provided that the daily program for students in grades 1 through 12 shall average at least 5 ½ hours, not including meal intermissions. If the required program length is maintained, the local school board may approve occasional shortened days for staff development, conferences, planning, and other activities designed to improve the instructional program, provided that no more than one day in each five-day week may be shortened to no less than four hours. The daily program for kindergarten shall be at least three hours, not including meal intermissions. The student day here described shall be considered a minimum day rather than an optimum day; a longer student day is encouraged to accommodate the instructional program and student needs.

When exceptions in the length of the daily program are necessary for special education, alternative education, double shifts, and scheduling or other unusual situations, the local board shall request approval by the Superintendent of Public Instruction of the exceptions by August 1 preceding the school year for which they are applicable. The affected programs must be in compliance with such other regulations as may apply to them.

The length of the work day for employees shall be determined by the local school board. It shall be of sufficient length to allow for the daily program for students and additional time as may be necessary for such activities as planning, preparation, meetings, workshops, conferences, meal intermissions, or other contractual obligations.

8VAC20-490-40. Textbooks.

School officers and teachers shall require all children who apply for admission into the public free schools to be provided with such books as have been duly approved under the regulations of the Board of Education. In the case of children whose parents or guardians are financially unable to furnish them, school boards shall provide, free of charge, such textbooks and workbooks required for courses of instruction.

There shall be kept in every school a copy of the list of textbooks prescribed for use in that division.

8VAC20-490-50. Policy manual.

Each local school board shall maintain an up-to-date policy manual which shall include:

1. The grievance procedure prescribed by the Board of Education;
2. A system of communication between the local school board and its employees in order that views of all school employees may be received in an orderly and constructive manner in matters of concern to them; and
3. A cooperatively developed procedure for personnel evaluation.

An up-to-date copy of the local school board policy manual shall be kept in the library of each school in that division, and shall be available to employees and to the public.

8VAC20-490-60. Annual report.

With the assistance of the division superintendent, each school board shall make a report on or before the first day of August of each year, covering the work of the schools for the year ending the 30th day of the preceding June. The report shall be made to the Board of Education on forms supplied by the Superintendent of Public Instruction. The Superintendent of Public Instruction may grant, for good cause, an extension of time not to exceed 15 days for making such report.

Regulations for the Protection of Students as Participants in Human Research

8 VAC 20-565-10 et seq.

8VAC20-565-10. Definitions.

The terms in this chapter, except as otherwise defined herein, shall be in accord with the definitions contained in Chapter 5.1 (§[32.1-162.16](#) et seq.) of Title 32.1 of the Code of Virginia entitled "Human Research."

8VAC20-565-20. Scope.

No human research involving students shall be conducted or authorized by the Virginia Department of Education or any public school of the Commonwealth, including the Virginia Schools for the Deaf and Blind, or any proprietary schools certified by the Board of Education, unless in compliance with this chapter and other applicable law, including 45 CFR 46.

8VAC20-565-30. Informed consent.

No such research shall be conducted or authorized unless the student and the student's parents or legally authorized representative give their informed consent. Such informed consent shall be evidenced by a signed and witnessed informed consent form. Such form shall comply with §[32.1-162.18](#) A of the Code of Virginia.

8VAC20-565-40. Research committee.

Any such research shall be approved and conducted under the review of a human research committee, which shall be established by the agency or school conducting or authorizing the research. Any such committee shall comply with the provisions of §[32.1-162.19](#) of the Code of Virginia. Each committee shall submit to the Governor, the General Assembly, and the Superintendent of Public Instruction or his designee at least annually a report on the student projects reviewed and approved by the committee, which shall state significant deviations from the proposals as approved.

8VAC20-565-50. Exemptions.

There shall be excluded from the operation of this chapter those categories of research as set forth in §[32.1-162.17](#) of the Code of Virginia which exempts "Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies, the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods, or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subjects. . . ."

4. Revision of components of the local plan for the education of the gifted;
5. Revision of the role and function of the local advisory committee for the education of the gifted to comply with section 22.1-18.1 of the *Code of Virginia*; and
6. Addition of annual report expectations to comply with section 22.1-18.1 of the *Code of Virginia*.

Public comments were received via the Virginia Regulatory Town Hall Web site and through communications provided directly to the Department. The table in Attachment A summarizes written comments received by March 8, 2007, regarding the current (1993) regulations.

Timetable for Further Review/Action:

Once the proposed revised regulations have been accepted for first review, the Department of Education will proceed with the Administrative Process Act (APA).

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed changes to the *Regulations Governing Educational Services for Gifted Students*.

Impact on Resources:

The impact on resources for the revision of these regulations is not expected to be significant.

Virginia Department of Education
Public Comment on *Regulations Governing Educational Service for Gifted Students*
May 30, 2007

Commenter	Affiliation	Comment
Karen Lanning	Parent	Supports review; no specific request.
Elizabeth Boylan	Parent	Seeks increased funding especially for additional staff and faculty.
Lee Lorber	Teacher	Supports review; no specific request.
Lisa Dooley	Parent	Supports review; supports these programs.
Claire Goodwin	Parent	Seeks increased funding.
Liz Nelson	Executive Director, Virginia Association for the Gifted	<ol style="list-style-type: none"> 1. Requests that definition, identification, and enrollment shall include students, elementary through graduation, in General Intellectual Abilities (GIA) or Specific Academic Abilities (SAA), as defined by mathematics; sciences; English and language arts; or history and social studies. 2. Requests that definition, identification, and programs serving visual and performing arts and practical and technical arts programs be optional areas of service. 3. Requests that norm-referenced testing be used in the identification process when testing occurs. 4. Seeks inclusion of divisionwide screening to widen pool of candidates. 5. Requests that multiple criteria from multiple sources be used in the identification of each student. 6. Requests that all students, including special education and English language learners be screened for inclusion in gifted education programs. 7. Requests that the local school board and the Department of Education ensure that divisions are in compliance and both approve the school division's local plan for the education of the gifted. 8. Requests that modifications to local plans be submitted for reporting and approval by the Department. 9. Requests that local plans provide goals for specific identification, delivery of services, curriculum and instruction, teacher preparation, ongoing professional development, and parent and community involvement. 10. Specify that service options include accelerative provisions at the classroom, school, and school division levels to enable students to learn at their own pace. 11. Requests an add-on endorsement in gifted education including a minimum of 12 hours of graduate coursework in gifted education and shall include a practicum of at least 45 instructional hours. One year of successful full-time teaching experience in a public or accredited nonpublic school may be accepted in lieu of the practicum. A mentor with a valid license with an endorsement in gifted education must be assigned to the teacher. Seeks ongoing and comprehensive professional development in-service training that reflects research-based, best practices in the field of gifted

Commenter	Affiliation	Comment
		education.
B. Black	Parent	Seeks sufficient funding for qualified staff to provide extra gifted services, especially as compared to remedial services.
Mike Warnalis	Parent	<ol style="list-style-type: none"> 1. Supports the revision of the regulations and the opportunity to offer suggestions. 2. Requests policies to ensure that consistent educational styles and formats of services are offered at all grades, so that middle and high school programs are as strong as are elementary programs.
Kim Blair	Parent	Supports the revision of the regulations.
Cynthia Coleman	Parent	Supports increased middle and high school programs for gifted students.
Mike Mitchell	Parent	Requests the removal of the word “public” in the definition of applicability to public school students.
Dave Dubay	Teacher	<ol style="list-style-type: none"> 1. Requests funding for gifted programs to be used only for gifted programs and not rolled into the general budget. 2. Requests sufficient funding for all qualified candidates for Governor’s Schools to attend.
Deborah Piper	Parent	<ol style="list-style-type: none"> 1. Requests regulations be revised to address specific and detailed accountability procedures for the delivery of services, that differentiated instruction in heterogeneous classrooms, and that differentiation plans to be included in school divisions’ local plans for the education of the gifted. 2. Requests additional funding to ensure delivery of services.
Dr. Andreas Tolk		Seeks mandatory education for teachers of the gifted who provide differentiated services.
Margaret Turley	Gifted Education Coordinator	<ol style="list-style-type: none"> 1. Requests specific definition of “humanities” as an area of identification. 2. Requests guidelines for local plans to include improved staffing, settings, instructional approaches, and evaluation options. 3. Requests guidelines for local plans to include standards and accountability for teaching and learning, pupil-teacher ratios, and per pupil funding. 4. Requests revision to language for selection, evaluation, and training of gifted education teachers.
Louise Epstein	President, Fairfax County Association for the Gifted	<ol style="list-style-type: none"> 1. Requests establishment of the 90th percentile and above as the boundary for eligibility. 2. Requests that divisions be required to describe and evaluate gifted education programs separately for different categories of gifted students. 3. Requests requirement that gifted students’ knowledge be measured yearly through above-grade level, standardized tests, as a measure of program effectiveness, instead of the use of the <i>Standards of Learning Assessments</i>. 4. Requests that school Web sites include information about specific grade services for each grade-level served. 5. Requests that divisions be required to provide requested data

Commenter	Affiliation	Comment
		<p>within 1-2 months of such requests; specifically that Advanced Placement (AP) test scores be reported by single scores, (e.g. 3, 4, 5), not by aggregate scores (e.g. 3-5).</p> <p>6. Requests that membership by current and past employees of the school division be limited to no more than 20 percent of the local advisory committee.</p>
David and Meghan Rainey	Parents	<ol style="list-style-type: none"> 1. Requests that “humanities” be specifically defined as language arts and English and history and social science to be consistent with other state documents. 2. Requests the elimination of designation of “potentially gifted,” identifying children only as “gifted.” 3. Requests language clarification that students must be served sequentially and continuously beginning in kindergarten through graduation. 4. Requests clarification that divisions must offer either specific academic attitude (SAA) or general intellectual aptitude (GIA); with technical and practical arts (TPA) and visual and performing arts (VPA) as optional services. 5. Requests that divisions be required to use at least four evaluation criteria for all students, including special populations.
Marti Freidman		Seeks to establish grade standards for identified students in programs (“C” or above).
Bryan Byers		<ol style="list-style-type: none"> 1. Requests universal eligibility criteria across state. 2. Requests that [Governor’s] schools for gifted students be centrally located for joint participation of smaller divisions; include elementary students. 3. Requests increased services for elementary students, not just pull-out 25 minutes twice a week. 4. Requests assurance that all children who qualify for Governor’s schools be allowed to attend (not just quota per school).



Proposed Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	<u>8VAC20-40-10</u> through <u>8VAC20-40-70</u>
Regulation title	Regulations Governing Educational Services for Gifted Students
Action title	Revision of regulations school divisions must meet in their gifted education programs, Kindergarten - Grade 12
Date this document prepared	May 30, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The *Regulations Governing Educational Services for Gifted Students* provide definitions; criteria for screening, referral, and identification of gifted students; delivery of services parameters; and elements of appropriately differentiated curriculum and instruction necessary to meet the learning needs of these students. The regulations also provide requirements for professional development of instructional personnel, the school division's local plan for the education of the gifted, the annual report, and the local advisory committee for the education of the gifted.

The existing regulations were approved by the Virginia Board of Education in 1993. The purpose of these proposed revisions is to integrate findings from relevant research regarding identification, curriculum and instruction, delivery of services, and professional preparation into the standards Virginia public schools use to establish and operate programs for which the General Assembly has allocated funds through the *Standards of Quality*.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 22.1-16 of the *Code of Virginia* vests the Board of Education with the authority to adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

This action is essential to ensure that students in the Commonwealth are provided with an education that is commensurate with their abilities. The state definitions and provisions found in the *Regulations Governing Educational Services for Gifted Students* establish the basic expectation for school divisions' services for gifted students. These regulations ensure that school divisions' programs respond appropriately to the learning needs of gifted students, especially those students with economically disadvantaged backgrounds, those with limited English language proficiency, or those with disabilities. The proposed regulations reflect the relevant findings from research regarding effective program options, appropriate curricular designs and instructional strategies, and the significance of teacher professional development in providing appropriate instruction for gifted students.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The following changes are proposed to the *Regulations Governing Educational Services for Gifted Students*:

1. Additions to and revisions of critical terms;
2. Clarification of the screening, referral, identification, and placement components;
3. Addition of parental rights, notification, consent, and appeals information;
4. Revision of components of the local plan for the education of the gifted;
5. Revision of the role and function of the local advisory committee for the education of the gifted to comply with section 22.1-18.1 of the *Code of Virginia*; and
6. Addition and expansion of annual report expectations to comply with section 22.1-18.1 of the *Code of Virginia*.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantages of the proposed regulations for the public or the Commonwealth:

1. The proposed regulations require alignment of services for gifted students with current standards and practices found in relevant research and practice;
2. The proposed regulations establish basic expectations for the annual screening of all students for gifted education services;
3. The proposed regulations reduce the number of instruments used to identify gifted students from four to three;
4. The proposed regulations establish basic expectations that programs for the gifted include monitoring and assessment of student outcomes;
5. The proposed regulations establish expectations that programs for the gifted will be provided within the school day and week to ensure these students have time to study with their age-level peers, their intellectual peers, and time to study independently; and
6. The proposed regulations establish expectations that school boards, and not the Department of Education, will approve local plans that are in compliance with the regulations.

There are no perceived disadvantages to the public, to the agency, or to the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no disproportionately significant negative or positive effects of the proposed regulations to any specific locality.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board of Education is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal.

Anyone wishing to submit written comments may do so to Dr. Barbara McGonagill, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, by phone at 804-225-2884, by facsimile at 804-786-1597, or by e-mail to Barbara.McGonagill@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall Web site (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Notice of the public hearing will be posted on the Commonwealth Calendar and will be posted as required at the Department of Education. Written notice of the public hearing will be sent to interested individuals and professional organizations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>There is minimal cost to the state to implement the proposed regulation revisions. Existing allocations should be sufficient to fund the state’s responsibilities.</p>
<p>Projected cost of the regulation on localities</p>	<p>It is anticipated that additional costs would not exceed those funds currently allocated by the General Assembly through the <i>Standards of Quality</i>.</p> <ol style="list-style-type: none"> 1. SOQ Basic Aid Funding – Gifted education funding supports the state share of one full-time equivalent instructional position per 1,000 students in adjusted average daily membership. 2. Governor’s School Categorical Funding – Governor’s School funding supports gifted and talented high school students through a variety of Governor’s Schools that operate during the school year. These programs provide an opportunity for these students to study with fellow students of similar interest and abilities across the Commonwealth. The schools offer specialized curriculum offerings. State funds are provided to assist with the costs of operations for residential and regional programs held during the summer.
<p>Description of the individuals, businesses or</p>	<p>Public elementary, middle, and secondary schools,</p>

<p>other entities likely to be affected by the regulation</p>	<p>local school boards, school administrators, and institutions of higher education will be affected by the revisions to the regulations.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Elementary, middle, and secondary schools in Virginia’s 132 school divisions will be affected by the revisions to the regulations. The proposed regulations do not affect small businesses.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>Estimates of the cost of the regulations would vary based on the size and levels of service Virginia’s 132 school divisions choose to implement. However, the cost should be minimal since the proposed regulations do not impose major changes in requirements from previous regulations. The proposed regulations do not affect small businesses.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Neither the 1993 Regulations Governing Educational Services for Gifted Students nor these revisions increase the responsibilities of localities; small businesses will not be affected at all. There are no viable alternatives to updating these regulations.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The revised regulations are less stringent on school divisions since the expectation that the divisions would present their local plans for the education of the gifted to the Department of Education for approval is removed. Such approval now will become a matter for the local school board based on a process it establishes. School divisions will continue to report their implementation of the local plan through the annual report, programs for the gifted, authorized by §22.1-18.1. *Annual report on gifted education required; local advisory committee on gifted education, Code of Virginia.*

The current *Regulations Governing Educational Services for Gifted Students* do not affect small businesses; consequently, these revisions do not change the affect on small business.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Three focus groups and public comment from 19 constituents provided the department with recommendations used in the development of these revisions to the current regulations. A special regulations advisory group, the Virginia Advisory Committee for the Education of the Gifted, and the Virginia Administrative Consortium for Gifted Education offered comments and reviews of the current regulations.

The proposed regulations are more explicit and reflect relevant research and practices. The recommendations of the focus groups and the public comment were considered during the review process and were incorporated when possible.

Commenter	Comment	Agency response
Karen Lanning, parent	Supports review; no specific request.	No specific change requested.
Elizabeth Boylan, parent	Seeks increased funding especially for additional staff and faculty.	Department does not have the authority to increase or designate additional funds.
Lee Lorber, teacher	Supports review; no specific request.	No specific change requested.
Lisa Dooley, parent	Supports review; supports these programs.	No specific change requested.
Claire Goodwin, parent	Seeks increased funding.	Department does not have the authority to increase or designate additional funds.
B. Black, parent	Seeks sufficient funding for qualified staff to provide extra gifted services, especially as compared to remedial services.	Department does not have the authority to increase or designate additional funds.
Mike Warnalis, parent	<p>1. Supports the revision of the regulations and the opportunity to offer suggestions.</p> <p>2. Requests policies to ensure that consistent educational styles and formats of services are offered at all grades, so that middle and high school programs are as strong as are elementary programs.</p>	<p>1. No specific change requested.</p> <p>2. Clarification in the revised regulations of service options and curriculum and instruction expectations for school division's services at all grades, kindergarten through grade twelve.</p>
Kim Blair, parent	Supports the revision of the regulations.	No specific change requested.
Cynthia Coleman, parent	Supports increased middle and high school programs for gifted students.	Clarification in the revised regulations of service options and curriculum and instruction expectations for all grades, kindergarten through grade twelve.
Mike Mitchell, parent	Requests the removal of the word "public" in the definition of applicability to public school students.	Current regulation does not prevent school divisions from providing such services as determined by the school board. No changes were made in the revised regulations.

Committer	Comment	Agency response
<p>Liz Nelson, executive director, Virginia Association for the Gifted</p>	<ol style="list-style-type: none"> 1. Requests that definition, identification, and enrollment shall include students, elementary through graduation, in General Intellectual Abilities (GIA) or Specific Academic Abilities (SAA), as defined by mathematics, sciences, English and language arts, or history and social studies. 2. Requests that definition, identification, and programs serving visual and performing arts and practical and technical arts programs be optional areas of service. 3. Requests that norm-referenced testing be used in the identification process when testing occurs. 4. Seeks inclusion of divisionwide screening to widen pool of candidates. 5. Requests that multiple criteria from multiple sources be used in the identification of each student. 6. Requests that all students, including special education and English language learners be screened for inclusion in gifted education programs. 7. Requests that the local school board and the Department of Education ensure that divisions are in compliance and both approve the school division's local plan for the education of the gifted. 8. Requests that modifications to local plans be submitted for reporting and approval by the Department. 9. Requests that local plans provide goals for specific identification, delivery of services, curriculum and instruction, teacher preparation, ongoing professional development, and parent and community involvement. 	<ol style="list-style-type: none"> 1. Definition for specific academic aptitude has been changed to include the core subjects of English, history and social science, mathematics, and sciences. 2. Clarification that visual and performing arts and career and technical programs are optional areas of service that school divisions may elect to serve. 3. Clarification of the areas of appropriate assessment, including norm-referenced assessment, for the identification of gifted students. 4. Current regulations and revisions continue to require divisionwide screening of all students, kindergarten through grade twelve. 5. Clarification has been incorporated to require no fewer than three sources of information or data on each referred student. 6. Clarification of language regarding responsibility to screen students whose identification may be affected because they are economically disadvantaged, have limited English proficiency, or have a disability. 7. Approval of local plan now rests with the local school board. 8. See note 7. 9. Clarifications have been added to the revised regulations for school divisions to develop goals in the prescribed areas.

Commenter	Comment	Agency response
	<p>10. Specify that service options include accelerative provisions at the classroom, school, and school division levels to enable students to learn at their own pace.</p> <p>11. Requests an add-on endorsement in gifted education including a minimum of 12 hours of graduate coursework in gifted education and shall include a practicum of at least 45 instructional hours. One year of successful full-time teaching experience in a public or accredited nonpublic school may be accepted in lieu of the practicum. A mentor with a valid license with an endorsement in gifted education must be assigned to the teacher. Seeks ongoing and comprehensive professional development in-service training that reflects research-based, best practices in the field of gifted education.</p>	<p>10. Clarification of language requiring programs for the gifted to meet the learning needs of gifted students through acceleration options. Clarification of language that requires students to be provided time to study and learn with their age-level peers, their intellectual peers, and time to study and learn independently.</p> <p>11. <i>Licensure Regulations for School Personnel</i> 8VAC20-21-270 include competencies for the add-on endorsement in gifted education, requiring 12 hours of graduate studies, and a 45-instructional hour practicum. Language has been added to the revised regulations indicating that professional development for teachers of the gifted must be based on those same competencies.</p>
<p>Dave Dubay, teacher</p>	<p>1. Requests funding for gifted programs to be used only for gifted programs and not rolled into the general budget.</p> <p>2. Requests sufficient funding for all qualified candidates for Governor's Schools to attend.</p>	<p>1. Department does not have the authority to increase or designate additional funds.</p> <p>2. Department does not have the authority to increase or designate additional funds.</p>
<p>Deborah Piper, parent</p>	<p>1. Requests that regulations be revised to address specific and detailed accountability procedures for the delivery of services, that differentiated instruction in heterogeneous classrooms, and that differentiation plans to be included in school divisions' local plans for the education of the gifted.</p> <p>2. Requests additional funding to ensure delivery of services.</p>	<p>1. Changes were made in the reporting of services through the annual report, programs for the gifted, concerning the school division's responsibility to determine its delivery of services, curriculum, instruction, and documentation of student outcomes.</p> <p>2. Department does not have the authority to increase or designate additional funds.</p>
<p>Dr. Andreas Tolk</p>	<p>Seeks mandatory education for teachers of the gifted who provide differentiated services.</p>	<p>Revised regulations continue to require divisions to indicate what training teachers of the gifted are required to have and how that training will be provided. Clarification of the language related to professional development requires that professional development be based on the competencies for the add-on endorsement in gifted education found in 8</p>

Commenter	Comment	Agency response
Margaret Turley, gifted education coordinator	<p>1. Requests specific definition of “humanities” as an area of identification.</p> <p>2. Requests guidelines for local plans to include improved staffing, settings, instructional approaches, and evaluation options.</p> <p>3. Requests guidelines for local plans to include standards and accountability for teaching and learning, pupil-teacher ratios, and per pupil funding.</p> <p>4. Requests revision to language for selection, evaluation, and training of gifted education teachers.</p>	<p>VAC20-21-270.</p> <p>1. Definition for specific academic aptitude has been changed to include the core subjects of English, history and social science, mathematics, and science.</p> <p>2. Limited changes were made since staffing, settings, instructional approaches, and evaluation options are determined at the local level. Revisions require programs for the gifted to meet the assessed learning needs of gifted students and include acceleration options. Clarification of language requires students to be provided time to study and learn with their age-level peers, their intellectual peers, and time to study and learn independently.</p> <p>3. Limited changes were made since standards, accountability for teaching and learning, pupil-teacher ratios, and per pupil funding are determined at the local level. Revisions continue to require divisions to indicate required training for teachers of the gifted.</p> <p>4. Clarification of the regulatory language related to professional development requiring that such training be based on the competencies that form the basis of the add-on endorsement in gifted education found in 8VAC20-21-270.</p>
Louise Epstein, president, Fairfax County Association for the Gifted	<p>1. Requests establishment of the 90th percentile and above as the boundary for eligibility.</p> <p>2. Requests that divisions be required to describe and evaluate gifted education programs separately for different categories of gifted students.</p> <p>3. Requests requirement that gifted students’ knowledge be measured yearly through above-grade level, standardized tests, as a measure of program effectiveness, instead of the use of the <i>Standards of Learning Assessments</i>.</p>	<p>1. Limited changes were made since identification and placement decisions are made by the school division based on their specific needs.</p> <p>2. Revisions specify that a summary of the school division’s evaluation for program effectiveness be provided as part of the annual report. Limited changes were made since gifted education program evaluation decisions are made at the local level based on the needs of local school divisions.</p> <p>3. Revised regulations include a requirement that one of the measures for identification in general intellectual aptitude or specific academic aptitude be a norm-referenced instrument, which allows divisions the opportunity to use out-of-level testing. Limited changes were made since gifted education program evaluation decisions are made at the local level based on the needs of local school divisions. Clarification has been made to require divisions to monitor and assess student</p>

Commenter	Comment	Agency response
	<p>4. Requests that school Web sites include information about specific grade services for each grade-level served.</p> <p>5. Requests that divisions be required to provide requested data within 1-2 months of such requests; specifically that Advanced Placement (AP) test scores be reported by single scores, (e.g. 3, 4, 5), not by aggregate scores (e.g. 3-5).</p> <p>6. Requests that membership by current and past employees of the school division be limited to no more than 20 percent of the local advisory committee.</p>	<p>outcomes and to include a summary of the division’s evaluation of program effectiveness to be provided as part of the division’s annual report.</p> <p>4. Limited changes were made since school divisions may use a variety of methods to make information available to the public.</p> <p>5. Limited changes were made since access to public information may be sought through requirements of the <i>Virginia Freedom of Information Act</i>.</p> <p>6. Limited revisions were made to bring the description of the role and function of the local advisory committee into agreement with §22.1-18.1. <i>Annual report on gifted education required; local advisory committee on gifted education.</i></p>
<p>David and Meghan Rainey, parents</p>	<p>1. Requests that “humanities” be specifically defined as language arts and English and history and social science to be consistent with other state documents.</p> <p>2. Requests the elimination of designation of “potentially gifted,” identifying children only as “gifted.”</p> <p>3. Requests language clarification that students must be served sequentially and continuously beginning in kindergarten through graduation.</p> <p>4. Requests clarification that divisions must offer either specific academic aptitude (SAA) or general intellectual aptitude (GIA); with technical and practical arts (TPA) and visual and performing arts (VPA) as optional services.</p> <p>5. Requests that divisions be required to use at least four</p>	<p>1. Definition for specific academic aptitude has been changed to include the core subjects of English, history and social science, mathematics, and sciences.</p> <p>2. Existing definition does not include “potentially gifted” category; no change to that language has been made.</p> <p>3. Revisions include clarification of delivery of services models and curriculum and instruction components of the local plan for the education of the gifted to include monitoring to ensure that students’ learning needs in their strength areas are supported continuously and sequentially, from kindergarten through graduation.</p> <p>4. Revisions include clarification of language to ensure that school divisions offer services in general intellectual aptitude or specific academic aptitude from kindergarten through graduation. Further clarification that services for technical and practical arts (TPA) and visual and performing arts (VPA) may be offered at the school division’s discretion.</p> <p>5. Revisions require school divisions to use a minimum of three sources of data or</p>

Commenter	Comment	Agency response
	evaluation criteria for all students, including special populations.	assessment measures to determine eligibility for each referred student. School divisions were duplicating information in the administration of both aptitude and achievement measures. Statistics indicate that the correlation between aptitude and achievement is .7, with the aptitude measure being more predictive of potential.
Marti Freidman	Seeks to establish grade standards for identified students in programs ("C" or above).	Limited changes were made since gifted education program evaluation decisions are based on the needs of local school divisions. Clarification has been made to require divisions to monitor and assess student outcomes and to provide summaries of those assessments through the annual report.
Bryan Byers	<p>1. Requests universal eligibility criteria across state.</p> <p>2. Requests that [Governor's] schools for gifted students be centrally located for joint participation of smaller divisions; include elementary students.</p> <p>3. Requests increased services for elementary students, not just pull-out 25 minutes twice a week.</p> <p>4. Requests assurance that all children who qualify for Governor's schools be allowed to attend (not just quota per school).</p>	<p>1. Limited changes were made to acknowledge that determination of area of giftedness, identification, and placement decisions are local decisions.</p> <p>2. No changes were made in regulations since participation in Governor's schools is voluntary. Department does not have the authority to increase or designate additional funds.</p> <p>3. Clarification of language for delivery of services and curriculum and instruction indicate that programs shall be continuous and sequential in nature and that student outcomes be monitored and assessed.</p> <p>4. Department does not have the authority to increase or designate additional funds.</p>

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The revision of these regulations will not affect the institution of the family or family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8VAC20-40-10. Applicability.	No change	This chapter shall apply to all local school divisions in the Commonwealth.	The proposed language clarifies the existing language and moves applicability language from 8VAC20-40-30, regarding the applicability of these services for gifted students from kindergarten through high school graduation, to this section to eliminate redundancy.
8VAC20-40-20. Definitions.	No change	The words and terms, when used in this chapter, shall have the following meanings, unless the content clearly indicates otherwise:	The proposed language indicates that the definitions apply to the given term, unless the context clearly indicates otherwise.
8VAC20-40-20. Definitions.	No change	“Appropriately differentiated curricula” for gifted students refer to curricula designed in response to their cognitive and effective needs. Such curricula emphasis on both accelerative and enrichment opportunities for (i) advanced content and pacing of instruction, (ii) original research or production, (iii) problem finding and solving, (iv) higher level thinking that leads to the generation of products, and (v) a focus on issues, themes, and ideas within and across areas of study.	The proposed language clarifies that appropriately differentiated curriculum and instruction for gifted students focuses on (1) content and strategies in the student’s area of strength, (2) that recognize the student’s need for advanced content and pacing, and (3) that are presented continuously and sequentially in response to established student outcomes and expectations.
8VAC20-40-20.	No change	No previous definition	The proposed revision adds a definition for “Eligible Student” to establish that

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Definitions.			"identification" and "eligibility" are interchangeable terms.
8VAC20-40-20. Definitions.	No change	"Gifted students" means those students in public elementary and secondary schools beginning with kindergarten through graduation whose abilities and potential for accomplishment are so outstanding that they require special programs to meet their educational needs. These students will be identified by professionally qualified persons through the use of multiple criteria as having potential or demonstrated abilities and who have evidence of high performance capabilities, which may include leadership, in one or more of the following areas:	The proposed revision clarifies that "Gifted Students" are those who demonstrate high levels of accomplishment or who show the potential in one or more specific areas for higher levels of accomplishment when compared to others of their same age, experience, and environment.
8VAC20-40-20. Definitions.	No change	1. Intellectual aptitude or aptitudes. Students with advanced aptitude or conceptualization whose development is accelerated beyond their age peers as demonstrated by advanced skills, concepts, and creative expression in multiple general intellectual ability or in specific intellectual abilities.	The proposed revision clarifies that general intellectual aptitude is demonstrated by a student's superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression across a broad range of intellectual disciplines beyond that of their age-level peers.
8VAC20-40-20. Definitions.	No change	2. Specific academic aptitude. Students with specific aptitudes in selected academic areas: mathematics; the sciences; or the humanities as demonstrated by advanced skills, concepts, and creative expression in those areas.	The proposed revision clarifies that specific academic aptitude is demonstrated by a student's superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression in English, history and social studies, mathematics, or science.
8VAC20-40-	No change	3. Technical and practical arts aptitude. Students with	The proposed revision clarifies that career

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20. Definitions.		specific aptitudes in selected technical or practical arts as demonstrated by advanced skills and creative expression in those areas to the extent they need and can benefit from specifically planned educational services differentiated from those provided by the general program experience.	and technical aptitude is demonstrated by a student's superior reasoning; persistent technical curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression in career and technology fields.
8VAC20-40-20. Definitions.	No change	4. Visual or performing arts aptitude. Students with specific aptitudes in selected visual or performing arts as demonstrated by advanced skills and creative expression who excel consistently in the development of a product or performance in any of the visual and performing arts to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience.	The proposed revision clarifies that visual and performing arts aptitude is demonstrated by a student's superior reasoning; persistent artistic curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression in visual and performing arts.
8VAC20-40-20. Definitions.	No change	"Identification" is the process of reviewing student data collected at the screening level and conducting further evaluation of student potential to determine the most qualified students for the specific gifted program available.	The proposed revision clarifies that identification of students is a multi-staged process. The proposed language indicates the identification process starts with divisionwide screening, followed by the assessment of students' aptitudes using multiple criteria, and ending with the determination of eligibility by the identification and placement committee.
8VAC20-40-20. Definitions.	No change	"Identification/Placement Committee" means a standing committee which is composed of a professional who knows the child, classroom teacher or	The proposed revision clarifies that the building- or division-level committee determines eligibility based on the student's assessed aptitude and learning needs; and it expands the definition to clarify that the identification and

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		<p>teachers, others representing assessment specialists, gifted program staff and school administration, and others deemed appropriate. This committee may operate at the school or division level. In either case, consistent criteria must be established for the division.</p>	<p>placement committee is responsible for the determination of service options considered appropriate for the student based on the student’s assessed learning needs.</p>
<p>8VAC20-40-20. Definitions.</p>	<p>No change</p>	<p>None</p>	<p>The proposed revision adds a definition of “Learning needs of gifted students” to clarify that eligible students shall be provided instruction that responds to their needs for advanced and complex content, that is paced and sequenced to respond to their persistent intellectual, artistic, or technical curiosity; exceptional problem solving abilities; rapid acquisition and mastery of information; conceptual thinking processes; and imaginative expression across a broad range of disciplines.</p>
<p>8VAC20-40-20. Definitions.</p>	<p>No change</p>	<p>"Placement" means the determination of the appropriate educational option for each eligible student.</p>	<p>The proposed revision clarifies the existing language that multiple options may need to be provided to the identified or eligible student.</p>
<p>8VAC20-40-20. Definitions.</p>	<p>No change</p>	<p>None</p>	<p>The proposed revision adds a definition of “Referral” to define the formal and direct process that parents, teachers, professionals, or students use to request that a kindergarten through twelfth-grade student be assessed for gifted education services.</p>
<p>8VAC20-40-20. Definitions.</p>	<p>No change</p>	<p>"Screening" is the process of creating the pool of potential candidates using multiple criteria through the referral process, review of test data, or from other sources. Screening is the active search for students who should be evaluated for identification.</p>	<p>The proposed revision clarifies the existing language regarding the division-wide search conducted across all students at least once annually to determine which students should be referred for identification and service in the gifted education program. The proposed revision also indicates that, at a minimum, the annual screening shall consist of a review of current assessment data for all kindergarten through twelfth-grade students, with students selected through</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			the school division's screening process then referred for formal identification.
8VAC20-40-20. Definitions.	No change	"Service options" include the instructional approach or approaches, setting or settings, and staffing selected for the delivery of appropriate service or services that are based on student needs.	The proposed revision clarifies that service options include the instructional approaches, settings, and staffing selected for the delivery of appropriate programs based on the students' assessed needs in their areas of strength.
8VAC20-40-20. Definitions.	No change	"Student outcomes" are specified expectations based on the assessment of student cognitive and affective needs. Such outcomes should articulate expectations for advanced levels of performance for gifted learners.	The proposed revision clarifies that student outcomes for advanced achievement and performance are based on a review of the student's assessed learning needs and the goals for the program of study, and those outcomes are reviewed and reported to parents or legal guardians.
9VAC20-40-30. Applicability	Deleted		The proposed revision moves some of this language to 8VAC20-40-10 and deletes the remainder to avoid redundancy.
8VAC20-40-40. Identification	8VAC20-40-30. Screening, referral, identification, and placement.	A. Each school division shall establish a uniform procedure with common criteria for screening and identification of gifted students. If the school division elects to identify students with specific academic aptitudes, they shall include procedures for identification and service in mathematics, science, and humanities...	The proposed revision merges and realigns the screening, referral, identification, and placement processes into one section. The proposed language requires that each school division shall establish uniform procedures with common criteria for screening, referral, and identification of general intellectual or specific academic aptitude gifted students; clarification that specific academic aptitudes include procedures for identification and service in, at a minimum, English, history and social science, mathematics, and science; and an option for school divisions to identify and serve gifted students in career and technical aptitude or visual and performing arts aptitude, or both, at their discretion.
8VAC20-40-40. Identification.	8VAC20-40-30. Screening, referral, identification, and placement.	B. Each school division shall maintain a division review procedure for students whose cases are appealed. This procedure shall involve individuals, the majority of whom did not	The existing language in this section has been moved to a new section, 8VAC20-40-50. Parental rights for notification, consent, and appeal. The proposed revision clarifies that the screening process shall include, at

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		serve on the Identification/Placement Committee.	minimum, an annual review of current assessment data.
8VAC20-40-40. Identification	8VAC20-40-30. Screening, referral, identification, and placement.	C. These procedures will permit referrals from school personnel, parents or legal guardians, other persons of related expertise, peer referral and self-referral of those students believed to be gifted...	The proposed revision clarifies that school divisions shall permit referrals from school personnel, parents or legal guardians, other persons of related expertise, as well as peer- or self-referral; and that such referrals shall be accepted for kindergarten through twelfth-grade students.
8VAC20-40-40. Identification	8VAC20-40-30. Screening, referral, identification, and placement.	D. Pertinent information, records, and other performance evidence of referred students will be examined by a building level or division level identification committee. Further, the committee or committees will determine the eligibility of the referred students for differentiated programs. Students who are found to be eligible by the Identification/Placement Committee shall be offered a differentiated program by the school division.	<p>The proposed revision clarifies that the identification and placement committee shall review pertinent information; determine a student's eligibility for the division's services; and determine which service options match the learning needs of the eligible student. Additional proposed language clarifies the use of screening data in subsequent stages of the identification process.</p> <p>The proposed revision adds new language encouraging school divisions to accept valid and reliable data for transfer students from identification processes conducted previously by other school divisions.</p>
8VAC20-40-50. Criteria for screening and identification.	8VAC20-40-30. Screening, referral, identification, and placement.	<p>Eligibility of students for programs for the gifted shall be based on multiple criteria for screening and identification established by the school division, and designed to seek out high aptitude in all populations. Multiple criteria shall include four or more of the following categories:</p> <ol style="list-style-type: none"> 1. Assessment of appropriate student products, performance, or portfolio; 2. Record of observation of in-classroom behavior; 	<p>The proposed revision clarifies that the identification of gifted students shall be based on multiple criteria designed to seek out those students with superior aptitudes, including students in underserved populations, and that identification include data from multiple sources. This section also reduces the number of categories that school divisions are required to use in the identification process from four to three:</p> <ol style="list-style-type: none"> 1. Assessment of appropriate student products, performance, or portfolio; 2. Record of observation of in-classroom behavior; 3. Appropriate rating scales, checklists, or questionnaires;

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		<ol style="list-style-type: none"> 3. Appropriate rating scales, checklists, or questionnaires; 4. Individual interview; 5. Individual or group aptitude tests; 6. Individual or group achievement tests; 7. Record of previous accomplishments (such as awards, honors, grades, etc.); 8. Additional valid and reliable measures or procedures. 	<ol style="list-style-type: none"> 4. Individual interview; 5. Individual individually-administered or group-administered, norm-referenced aptitude tests; 6. Record of previous accomplishments (such as awards, honors, grades, etc.); 7. Additional valid and reliable measures or procedures.
<p>8VAC20-40-50. Criteria for screening and identification.</p>	<p>8VAC20-40-30. Screening, referral, identification, and placement.</p>	<p>If a program is designed to address general intellectual aptitude, aptitude measures must be included as one of the categories in the division identification plan. If a program is designed to address specific academic aptitude, an achievement or an aptitude measure in the specific academic area must be included as one of the categories in the division identification plan. If a program is designed to address either the visual/performing arts or technical/practical arts aptitude, a performance measure in the specific aptitude area must be used. Inclusion of a test score in a division identification plan does not indicate that an individual student must score at a prescribed level on the test or tests to be admitted to the program. No single criterion shall be used in determining students who</p>	<p>The proposed revision clarifies that the identification process for a general intellectual aptitude or a specific academic aptitude program shall include an individually administered or group-administered, norm-referenced aptitude test as one of the three measures used in the school division's identification procedure; and that visual and performing arts or career and technical aptitude identification includes a portfolio or other performance assessment measure.</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		qualify for, or are denied access to, programs for the gifted.	
8VAC20-40-50. Criteria for screening and identification.	8VAC20-40-30. Screening, referral, identification, and placement.	None	The proposed language establishes an expectation that parents or legal guardians shall receive a determination of a referred student's eligibility within 60 business days of the receipt of a referral. Additional new language indicates that identified gifted students shall be offered placement in a classroom or program setting that provides appropriately differentiated curriculum and instruction provided by professional instructional personnel trained to work with gifted students and who monitor and report student outcomes to the parents or legal guardians.
	8VAC20-40-50. Parental rights for notification, consent, and appeal.	None	The proposed language clarifies the rights of parents or legal guardians by specifying that school divisions shall provide written notification to and seek written consent from parents or legal guardians for identification of and services for eligible students.
	8VAC20-40-50. Parental rights for notification, consent, and appeal.	None	The proposed language realigns information from 8VAC20-40-40, clarifying the rights of parents or legal guardians for due process, including the right to appeal within ten days of receipt of the school division's determination of eligibility, change in placement, or exit from the school division's gifted education program.
	8VAC20-40-50. Parental rights for notification, consent, and appeal.	None	The proposed language clarifies that administrators in the student's school have access to the results of the identification and placement committee's eligibility decisions.
8VAC20-40-60. Local plan.	8VAC20-40-60. Local plan, local advisory committee, and annual	A. Each school division shall submit to the Department of Education for approval a plan for the education of gifted students. Modifications to	The proposed revision requires that each school board review and approve annually a comprehensive local plan for the education of gifted students that includes components of these regulations, and that opportunities for public review are

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	report.	the plan shall be reported to the Department of Education on dates specified by the Department.	included in the plan development, review, and approval process. It also clarifies details of each of the required components of the plan.
8VAC20-40-60. Local plan	8VAC20-40-60. Local plan, local advisory committee, and annual report.	B. Each school division shall establish a local advisory committee composed of parents, school personnel, and other community members. This committee shall reflect the ethnic and geographical composition of the school division. The purpose of this committee shall be to advise the school board through the division superintendent of the educational needs of all gifted students in the division. As a part of this goal, the committee shall review annually the local plan for the education of gifted students, including revisions, and determine the extent to which the plan for the previous year was implemented. The recommendations of the advisory committee shall be submitted in writing through the division superintendent to the school board.	The proposed language revises the regulations to comply with § 22.1-18.1. <i>Code of Virginia</i> , which establishes a local advisory committee, appointed by the school board, composed of parents, school personnel, and other community members, that reviews the local plan for the education of gifted students annually, determines the extent to which the plan for the previous year was implemented, and reports its findings annually in writing to the division superintendent and the school board.
8VAC20-40-60. Local plan	8VAC20-40-60. Local plan, local advisory committee, and annual report.		The proposed language revises the regulations to comply with § 22.1-18.1. <i>Code of Virginia</i> , which establishes that each school division shall submit an annual report to the Department of Education in a format prescribed by the Department.

These revisions to the *Regulations Governing Educational Services for Gifted Students* do not replace an emergency regulation.

1 **Virginia Administrative Code**

2 **Database updated through 21:24 V.A.R. August 8, 2005**

3 8VAC20-40-10. Applicability.

4 This chapter shall apply to all local school divisions in the Commonwealth, regarding their
5 services for students from kindergarten through high school graduation.

6 8VAC20-40-20. Definitions.

7 The words and terms, when used in this chapter, shall have the following meanings, unless the
8 ~~content~~ context clearly indicates otherwise:

9 "Appropriately differentiated ~~curricula~~ curriculum and instruction" means ~~curricula~~ curriculum
10 and instruction designed in response to their cognitive and effective needs; adapted or modified
11 to accommodate the accelerated learning aptitudes of eligible or identified students in their areas
12 of strength. Such ~~curricula~~ curriculum and instructional strategies provide emphasis on both
13 ~~accelerative~~ accelerated and enrichment opportunities that recognize gifted students' needs for
14 (i) advanced content and pacing of instruction; (ii) original research or production; (iii) problem
15 finding and solving; (iv) higher level thinking that leads to the generation of products; and (v) a
16 focus on issues, themes, and ideas within and across areas of study. Such curriculum and
17 instruction are offered continuously and sequentially to support the achievement of student
18 outcomes, and provide support necessary for these students to work at increasing levels of
19 complexity that differ significantly from those of their age-level peers.

20 “Eligible student” means a student who has been identified as gifted by the identification and
21 placement committee for the school division’s gifted education program.

22 "Gifted students" means those students in public elementary, middle and secondary schools
23 beginning with kindergarten through graduation who demonstrate high levels of accomplishment
24 or who show the potential for higher levels of accomplishment when compared to others of the
25 same age, experience, or environment. Their ~~whose~~ abilities aptitudes and potential for
26 accomplishment are so outstanding that they require special programs to meet their educational
27 needs. These students will be identified by professionally qualified persons through the use of
28 multiple criteria as having potential or demonstrated abilities aptitudes ~~and who have evidence of~~
29 ~~high performance capabilities, which may include leadership,~~ in one or more of the following
30 areas:

31 1. General ~~Intellectual~~ intellectual aptitude. ~~Students~~ Such students demonstrate or have the
32 potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of
33 language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and
34 principles; and creative and imaginative expression across a broad range of intellectual
35 disciplines ~~with advanced aptitude or conceptualization whose development is accelerated~~
36 beyond their age-level peers. ~~as demonstrated by advanced skills, concepts, and creative~~
37 expression in multiple general intellectual ability or in specific intellectual abilities.

38 2. Specific academic aptitude. ~~Students~~ Such students demonstrate or have the potential to
39 demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language;
40 exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles;
41 and creative and imaginative expression beyond their age-level peers ~~with specific aptitude in~~
42 selected academic areas; that include English, history and social science, mathematics, ~~the~~ and

43 sciences; ~~or the humanities as demonstrated by advanced skills, concepts, and creative~~
44 ~~expression in those areas.~~

45 3. Career and Technical technical and practical arts aptitude. Students Such students demonstrate
46 or have the potential to demonstrate superior reasoning; persistent technical curiosity; advanced
47 use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts,
48 and principles; and creative and imaginative expression beyond their age-level peers with
49 ~~specific aptitudes in selected~~ career and technical or practical arts fields. ~~as demonstrated by~~
50 ~~advanced skills and creative expression in those areas to the extent they need and can benefit~~
51 ~~from specifically planned educational services differentiated from those provided by the general~~
52 ~~program experience.~~

53 4. Visual or performing arts aptitude. ~~Students~~ Such students demonstrate or have the potential
54 to demonstrate superior creative reasoning and imaginative expression; persistent artistic
55 curiosity; and advanced acquisition and mastery of techniques, perspectives, concepts, and
56 principles beyond their age-level peers ~~specific aptitude in selected visual or performing arts, as~~
57 ~~demonstrated by advanced skills and creative expression who excel consistently in the~~
58 ~~development of a product or performance in any of the visual and performing arts to the extent~~
59 ~~that they need and can benefit from specifically planned educational services differentiated from~~
60 ~~those generally provided by the general program experience.~~

61 "Identification" is means the multi-staged process of finding students who are eligible for the
62 division's gifted education program. The identification process begins with a divisionwide
63 screening component, that is followed by a referral component, and that concludes with the
64 determination of eligibility by the school division's identification and placement committee. The
65 identification process includes the ~~of reviewing~~ review of valid and reliable student data based

66 on criteria established and applied consistently by the school division. collected at the screening
67 level and conducting further evaluation of student potential to determine the most qualified
68 students for the specific gifted program available. The process shall include the review of
69 information or data from multiple sources to determine whether a student's aptitudes and
70 learning needs are most appropriately served through the school division's gifted education
71 program.

72 "Identification/Placement and placement Committee committee" means a the building-level or
73 division-level standing committee that shall determine a student's eligibility for the division's
74 gifted education program, based on the student's assessed aptitude and learning needs. which is
75 composed of a professional who knows the child, classroom teacher or teachers, others
76 representing assessment specialists, gifted program staff, and school administrator, and others
77 deemed appropriate. The identification and placement committee shall determine which of the
78 school division's service options are appropriate for meeting the learning needs of the eligible
79 student. This committee may operate at the school or division level. In either case, consistent
80 criteria must be established for the division.

81 "Learning needs of gifted students" means gifted students' needs for advanced and complex
82 content that is paced and sequenced to respond to their persistent intellectual, artistic, or
83 technical curiosity; exceptional problem solving abilities; rapid acquisition and mastery of
84 information; conceptual thinking processes; and imaginative expression across a broad range of
85 disciplines.

86 "Placement" means the determination of the appropriate educational ~~option~~ options for each
87 eligible student.

88 “Referral” means the formal and direct process that parents, teachers, professionals, or students
89 use to request that a kindergarten through twelfth-grade student be assessed for gifted education
90 program services.

91 "Screening" ~~is~~ means the divisionwide search each school division conducts at least once
92 annually across all its students to determine which students should be referred for identification
93 and service in the gifted education program. The annual screening shall, at a minimum, consist
94 of a process of creating the pool of potential candidates using multiple criteria through the
95 referral process; review of current test assessment data, or from other sources for all kindergarten
96 through twelfth-grade students. Students selected through the school division’s screening process
97 are then referred for formal identification. Screening is the active search for students who should
98 be evaluated for identification.

99 "Service options" ~~include~~ means the instructional approach or approaches, setting or settings, and
100 staffing selected for the delivery of appropriate service or services programs, provided to eligible
101 students that are based on their assessed student needs in their areas of strength.

102 "Student outcomes" ~~are~~ means the advanced achievement and performance expectations
103 established for each gifted student, specified expectations through the review of the student’s
104 based on the assessment of student assessed cognitive and affective learning needs and the goals
105 of the program of study, that are reviewed and reported to parents or legal guardians. Such
106 outcomes should articulate expectations for advanced levels of performance for gifted learners.

107 **Responsibilities of the Local School Divisions**

108 ~~8VAC20-40-30. Applicability.~~

109 ~~The requirements set forth in this part are applicable to local school divisions providing~~
110 ~~educational services for gifted students in elementary and secondary schools from kindergarten~~
111 ~~through graduation.~~

112 ~~8VAC20-40-40.~~ 8VAC20-40-30. Screening, referral, identification, and placement.

113 A. Each school division shall establish a uniform ~~procedure~~ procedures with common criteria for
114 screening, referral, and identification of general intellectual or specific academic aptitude gifted
115 students. If the school division elects to identify students with specific academic aptitudes, ~~they~~ it
116 shall include procedures for identification and service in, at a minimum, English, history and
117 social science, mathematics, and science, and humanities. School divisions may identify and
118 serve gifted students in career and technical aptitude or visual and performing arts aptitude, or
119 both, at their discretion.

120 ~~B. Each school division shall maintain a division review procedure for students whose cases are~~
121 ~~appealed. This procedure shall involve individuals, the majority of whom did not serve on the~~
122 ~~Identification/Placement Committee.~~

123 B. These uniform procedures shall include a screening process that requires instructional
124 personnel to review, at a minimum, current assessment data on each kindergarten through
125 twelfth-grade student annually. Some data used in the screening process may be incorporated
126 into multiple criteria reviewed by the identification and placement committee to determine
127 eligibility, but those data shall not replace norm-referenced aptitude test data.

128 C. These uniform procedures will shall permit referrals from school personnel, parents or legal
129 guardians, other persons of related expertise, as well as peer referral and or self referral, of those

130 ~~students believed to be gifted.~~ Such referrals shall be accepted for kindergarten through twelfth-
131 grade students.

132 D. An identification and placement committee shall review ~~Pertinent~~ pertinent information,
133 records, and other performance evidence of referred students. The committee shall include a
134 professional who knows the child, as well as classroom teachers, assessment specialists, gifted
135 program staff, school administrators, or others with credentials or experience in gifted education.
136 The committee shall (1) review data from multiple sources selected and used consistently within
137 the division to assess students' aptitudes in the areas of giftedness the school division serves, (2)
138 determine whether a student is eligible for the division's services, and (3) determine which of the
139 school division's service options match the learning needs of the eligible student. The
140 committee may review valid and reliable data administered by another division for a transfer
141 student who has been identified previously.

142 1. Identification of students for the gifted education program shall be based on multiple criteria
143 established by the school division and designed to seek out those students with superior
144 aptitudes, including students for whom accurate identification may be affected because they are
145 economically disadvantaged, have limited English proficiency, or have a disability. Data shall
146 include scores from valid and reliable instruments that assess students' potential for advanced
147 achievement, as well as instruments that assess demonstrated advanced skills, conceptual
148 knowledge, and problem solving aptitudes.

149 2. Valid and reliable data for each referred student shall be examined by a the building-level or
150 division-level identification/ and placement committee. ~~Further, the~~ The committee of
151 committees will shall determine the eligibility of the each referred students student for
152 differentiated the school division's gifted education programs program. Students who are found

153 ~~to be~~ eligible by the ~~Identification~~identification/Placement and placement Committee committee
154 shall be offered a ~~differentiated program~~ programs or courses with appropriately differentiated
155 curriculum and instruction by the school division.

156 3. The identification process used by each school division must ensure that no single criterion is
157 used to determine a student's eligibility. The identification process shall include at least three
158 measures from the following categories:

159 ~~8VAC20-40-50. Criteria for screening and identification.~~

160 ~~Eligibility of students for programs for the gifted shall be based on multiple criteria for screening~~
161 ~~and identification established by the school division, and designed to seek out high aptitude in all~~
162 ~~populations. Multiple criteria shall include four or more of the following categories:~~

163 ~~1.a.~~ Assessment of appropriate student products, performance, or portfolio;

164 ~~2.b.~~ Record of observation of in-classroom behavior;

165 ~~3.c.~~ Appropriate rating scales, checklists, or questionnaires;

166 ~~4.d.~~ Individual interview;

167 ~~5.e. Individual~~ Individually-administered or group-administered, norm-referenced aptitude tests;

168 ~~6. Individual or group~~ achievement tests;

169 ~~7.f.~~ Record of previous accomplishments (such as awards, honors, grades, etc.);

170 ~~8.g.~~ Additional valid and reliable measures or procedures.

171 4. If a program is designed to address general intellectual aptitude or specific academic aptitude,
172 an individually administered or group-administered, norm-referenced aptitude measures test
173 must shall be included as one of the three measures categories used in the division school
174 division's identification plan-procedure. ~~If a program is designed to address specific academic~~
175 ~~aptitude, an achievement or an aptitude measure in the specific academic area must be included~~
176 ~~as one of the categories in the division identification plan.~~

177 5. If a program is designed to address either the visual/and performing arts or career and
178 technical/practical arts aptitude, a portfolio or other performance assessment measure in the
179 specific aptitude area ~~must be used~~ shall be included as part of the data reviewed by the
180 identification and placement committee. ~~Inclusion of a test score in a division identification plan~~
181 ~~does not indicate that an individual student must score at a prescribed level on the test or tests to~~
182 ~~be admitted to the program. No single criterion shall be used in determining students who qualify~~
183 ~~for, or are denied access to, programs for the gifted.~~

184 E. Within 60 business days of the receipt of a referral, the identification and placement
185 committee shall determine the eligibility status of each student referred for the division's gifted
186 education program and notify the parent or guardian of its decision. If a student is identified as
187 gifted and eligible for services, the identification and placement committee shall determine
188 which service options most effectively meet the assessed learning needs of the student.
189 Identified gifted students shall be offered placement in a classroom or program setting that
190 provides:

191 1. Appropriately differentiated curriculum and instruction provided by professional instructional
192 personnel trained to work with gifted students; and

193 2. Monitored and assessed student outcomes that are reported to the parents and legal guardians.

194 8VAC20-40-50. Parental rights for notification, consent, and appeal.

195 A. School divisions shall provide written notification to and seek written consent from parents
196 and legal guardians

197 1. To conduct any required assessment to determine a referred student's eligibility for the school
198 division's gifted education program;

199 2. To announce the decision of the identification and placement committee regarding a referred
200 student's eligibility for and placement in the school division's gifted education program;

201 and

202 3. To provide services for an identified gifted student in the school division's gifted education
203 program.

204 B. Each school division shall adopt a review procedure for students whose cases are appealed.

205 This procedure shall involve a committee, the majority of whose members did not serve on the

206 initial identification and placement committee and shall inform parents or legal guardians, in

207 writing, of the appeal process. Requests filed by parents or legal guardians to appeal any action

208 of the identification and placement committee shall be filed within ten business days of receipt of

209 notification of the action by the division. The process shall include an opportunity to meet with

210 an administrator to discuss the decision.

211 1. A parent or legal guardian of a student who was referred but not identified by the

212 identification and placement committee as eligible for services in the school division's gifted

213 education program shall be informed, in writing within ten business days, of the school division's
214 process to appeal the committee's decision.

215 2. A parent or legal guardian of an identified gifted student may appeal any action taken by the
216 school division to change the student's identification for, placement in, or exit from the school
217 division's gifted education program.

218 C. Following the notification and consent of a parent or legal guardian, the identification and
219 placement committee shall apprise school administrators of each student's eligibility status.

220 8VAC20-40-60. Local plan, local advisory committee, and annual report.

221 A. Each school ~~division~~ board shall ~~submit to the Department of Education for approval~~ review
222 and approve annually a comprehensive plan for the education of gifted students; that includes the
223 components identified in these regulations. ~~Modifications to the plan shall be reported to the~~
224 ~~Department of Education on dates specified by the department.~~ The development process for the
225 school division's local plan for the education of the gifted shall include opportunities for public
226 review of the school division's plan. The approved local plan shall be accessible through the
227 school division's Web site and the school division shall ensure that printed copies of the
228 comprehensive plan are available to citizens who do not have online access.

229 The plan shall include the following components: ~~as follow:~~

230 1. A statement of philosophy for the gifted education program;

- 231 2. A statement of the school division's gifted education program goals and objectives for
232 identification, delivery of services, curriculum and instruction, personnel preparation, and parent
233 and community involvement;
- 234 3. Procedures for the early and ongoing screening, referral, identification, and placement of
235 gifted students; beginning with kindergarten through ~~secondary graduation~~ twelfth-grade in at
236 least a general intellectual or a specific academic aptitude program; and, if provided in the school
237 division, procedures for the screening, referral, identification, and placement of gifted students in
238 visual and performing arts or career and technical aptitude programs;~~one of the four defined~~
239 ~~areas of giftedness;~~
- 240 4. A procedure for written notifying notification of parents or legal guardians when additional
241 testing or additional information is required during the identification process, and for obtaining
242 permission of parents or legal guardians prior to placement of a gifted students student in the
243 appropriate ~~program~~ service options;
- 244 5. A policy for written notifying notification to parents or legal guardians of identification and
245 placement decisions, including initial or changes in placement, gifted students' change of
246 placement within, and or exit from the program., which includes an opportunity for parents who
247 disagree with the committee's decision to meet and discuss their concern or concerns with an
248 appropriate administrator; appeal such decisions. Such notice shall include an opportunity for
249 parents or guardians to meet and discuss their concerns with an appropriate administrator and to
250 file an appeal;

251 6. Assurances that student records will be maintained according to 8VAC20-150-10 et. seq.,
252 Management of Student's Scholastic Record in Public Schools of Virginia in compliance with
253 applicable state and federal privacy laws and regulations;

254 7. Assurances that (i) testing and ~~evaluation~~ assessment materials selected and administered are
255 ~~sensitive to~~ free of cultural, racial, and linguistic ~~differences~~ biases, (ii) identification procedures
256 are constructed so that ~~they~~ those procedures may identify high potential/~~ability~~ or aptitude in ~~all~~
257 any student, including underserved culturally diverse, low socio-economic, and disabled
258 populations, the student whose accurate identification may be affected by economic
259 disadvantages, by limited English proficiency, or by a disability, (iii) standardized tests and other
260 measures have been validated for the specific purpose of identifying gifted students, and for
261 which they are used, (iv) instruments are administered and interpreted by a trained personnel in
262 conformity with the developer's instructions: ~~of their producer;~~

263 8. A procedure to ~~identify and evaluate student outcomes based on the initial and ongoing~~
264 ~~assessment of their cognitive and affective needs;~~

265 8. Assurances that accommodations or modifications determined by the school division's special
266 education Individual Education Plan (IEP) team as required for the student to receive a free
267 appropriate public education, shall be incorporated into the student's gifted education services.

268 9. Assurances that a written copy of the school division's approved local plan for the education
269 of the gifted is available to parents or legal guardians of each referred student, and to others upon
270 request;

271 10. A framework for appropriately

272 10. A procedure to match Evidence that gifted education service options from kindergarten
273 through twelfth grade are offered continuously and sequentially, with instructional time during
274 the school day and week (i) to work with their age-level peers, (ii) to work with their intellectual
275 and academic peers, (iii) to work independently; and (iv) to foster intellectual and academic
276 growth of gifted students. Parents and legal guardians shall receive assessment of each gifted
277 student's intellectual and academic growth. including instructional approaches, settings, and
278 staffing, to designated student needs;

279 ~~11. Procedures for the selection/evaluation of teachers and for the training of personnel to~~
280 ~~include administrators/supervisors, teachers, and support staff;~~

281 11. A description of the school division's program of differentiated curricula curriculum and
282 instruction demonstrating ~~accelerative~~ accelerated and advanced and enrichment opportunities
283 in content within programs or courses;

284 12. Policies and procedures that allow access to programs of study and advanced courses at a
285 pace and sequence commensurate with their learning needs;

286 13. Evidence that school divisions provide professional development based on the competencies
287 specified in 8VAC 20-21-270, Gifted education (add-on endorsement), for instructional
288 personnel who deliver services within the gifted education program; and

289 ~~12.~~ 14. Procedures for the annual evaluation of the effectiveness of the school division's gifted
290 education program, including review of student outcomes and the intellectual and academic
291 growth of gifted students. Such evaluations shall be based on multiple criteria and shall include
292 multiple sources of information. for gifted students; and

293 ~~13. Other information as required by the Department of Education.~~

294 B. Each school division shall establish a local advisory committee composed of parents, school
295 personnel, and other community members, who are appointed by the school board. This
296 committee shall reflect the ethnic and geographical composition of the school division. This
297 committee shall have two responsibilities: ~~be to advise the school board through the division~~
298 ~~superintendent of the educational needs of all gifted students in the division. As a part of this~~
299 ~~goal, the committee shall~~ (1) to review annually the local plan for the education of gifted
300 students, including revisions; and (2) to determine the extent to which the plan for the previous
301 year was implemented. The findings of the annual evaluation of program effectiveness and the
302 recommendations of the advisory committee shall be submitted annually in writing to ~~through~~
303 the division superintendent and the school board.

304 C. Each school division shall submit an annual report to the Department of Education in a
305 format prescribed by the Department.

306 ~~8VAC20-40-70. Funding.~~

307 ~~State funds administered by the Department of Education for the education of gifted students~~
308 ~~shall be used to support only those activities identified in the school division's plan as approved~~
309 ~~by the Board of Education.~~

The Board's *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards of Accrediting Public Schools in Virginia*, adopted by the Board on October 26, 2006, gives school divisions guidance in prescribing additional credit requirements for the Standard and Advanced Studies diplomas. The guidance document says, in part:

Standard Diploma: Generally, the Board will approve requests from local school divisions to require up to two additional local credits to obtain the Standard Diploma, up to a maximum of 24 required credits. Generally, the Board will approve local requests for additional graduation credit requirements in the core discipline areas of the Standards of Learning (English, mathematics, science or history/social science)... Requests for additional local credits in disciplines outside the core discipline areas will be considered on a case-by-case basis.

Advanced Studies Diploma: Generally, the Board will approve requests from local school divisions for local additional credits required for the Advanced Studies Diploma above the 24 contained in the standards if the credits are in the discipline areas of English, mathematics, science, history/social studies, fine arts (including performing arts), career and technical education, or foreign language. The Board will consider credits outside these disciplines on a case-by-case basis.

Transfer Students: Any local school division receiving approval to increase its course credit requirements may not deny either the Standard or Advanced Studies Diploma to any transfer student who has otherwise met the requirements contained in the standards, if the transfer student can only meet the division's requirements by taking a heavier than normal course load in any semester, by taking summer school, or by taking courses after the time when he or she otherwise would have graduated.

Prospective Application / Advance Notice: A local school division's additional credit requirements should apply only to students who have not yet entered ninth grade at the time the additional credits are approved.

Allocation of Electives: Generally the Board will approve requests from local school divisions to allocate elective credits for local prescribed course requirements, while reducing the number of electives by an equal amount so that the total number of graduation credit requirements remains unchanged....

Summary of Major Elements: Waynesboro Public Schools is requesting approval to require students to have successfully completed a course in finance, incorporating the Board's objectives in economic education and financial literacy. The student could complete either a full year, credit bearing course from the finance concentration sequence in Career and Technical Education, for which the student would earn a standard credit. As an alternative, if the student has sufficient credits for graduation, the student could complete a shorter, online course, which would also be based on the finance concentration sequence in Career and Technical Education. Transfer students could also take advantage of the online option. Students choosing the online option would not earn a standard credit for successfully completing this course.

This requirement would become effective for the students entering the ninth grade for the first time in the 2007-2008 school year, as specified in both the Standards of Accreditation and the guidance document.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board approve Waynesboro City Public School's request to increase graduation requirements.

Impact on Resources: There is no impact on resources at the Department of Education.

Timetable for Further Review/Action: Upon approval of the request, Department of Education staff will notify Waynesboro City Public Schools of the Board's action.

Board of Education Agenda Item

Item: E.

Date: May 30, 2007

Topic: Final Review of a Request for Increased Graduation Requirements from Botetourt County Public Schools

Presenters: Ms. Anne Wescott, Assistant Superintendent for Policy and Communications

Telephone Number: (804) 225-2403

E-Mail Address: Anne.Wescott@doe.virginia.gov

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 April 27, 2007

action First review

Background Information: The Standards of Quality (SOQ), in § 22.1-253.13:4 of the *Code of Virginia*, require local school boards to "...award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who earn the units of credit prescribed by the Board of Education, pass the prescribed tests, and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education."

Standard 8 VAC 20-131-50 of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* addresses graduation requirements. The regulation says, in part: "The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.... The following requirements shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the Board of Education. All additional requirements prescribed by local school boards that have been approved by the Board of Education, remain in effect until such time as the local school board submits a request to amend or discontinue them...."

The Board's *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards of Accrediting Public Schools in Virginia*, adopted by the Board on October 26, 2006, gives school divisions guidance in prescribing additional credit requirements for the Standard and Advanced Studies diplomas. The guidance document says, in part:

Standard Diploma: Generally, the Board will approve requests from local school divisions to require up to two additional local credits to obtain the Standard Diploma, up to a maximum of 24 required credits. Generally, the Board will approve local requests for additional graduation credit requirements in the core discipline areas of the Standards of Learning (English, mathematics, science or history/social science)... Requests for additional local credits in disciplines outside the core discipline areas will be considered on a case-by-case basis.

Advanced Studies Diploma: Generally, the Board will approve requests from local school divisions for local additional credits required for the Advanced Studies Diploma above the 24 contained in the standards if the credits are in the discipline areas of English, mathematics, science, history/social studies, fine arts (including performing arts), career and technical education, or foreign language. The Board will consider credits outside these disciplines on a case-by-case basis.

Transfer Students: Any local school division receiving approval to increase its course credit requirements may not deny either the Standard or Advanced Studies Diploma to any transfer student who has otherwise met the requirements contained in the standards, if the transfer student can only meet the division's requirements by taking a heavier than normal course load in any semester, by taking summer school, or by taking courses after the time when he or she otherwise would have graduated.

Prospective Application / Advance Notice: A local school division's additional credit requirements should apply only to students who have not yet entered ninth grade at the time the additional credits are approved.

Allocation of Electives: Generally the Board will approve requests from local school divisions to allocate elective credits for local prescribed course requirements, while reducing the number of electives by an equal amount so that the total number of graduation credit requirements remains unchanged....

Summary of Major Elements: Currently, Botetourt County Public School's graduation requirements are exactly the same as the minimum required in the *Regulations Establishing Standards of Accrediting Public Schools in Virginia*. Botetourt County is requesting approval to require students to have successfully completed four additional electives to earn a Standard, Advanced Studies, or Modified Standard Diploma. The Board of Education's guidance document does not provide for increased requirements to the Modified Standard Diploma.

The additional electives would be phased in over a four-year period, so that:

- First-time ninth graders in the 2007-2008 school year would need one additional elective, compared to the current graduation requirements;
- First-time ninth graders in the 2008-2009 school year would need two additional electives;
- First-time ninth graders in the 2009-2010 school year would need three additional electives; and
- First-time ninth graders in the 2010-2011 school year would need four additional electives.

Botetourt County Public Schools is making the request to enable its students to be competitive with students in nearby school divisions. The chart below summarizes the number of standard credits required for graduation in neighboring school divisions:

School Division	Standard Diploma	Advanced Studies Diploma
Botetourt County (9 th grade class of 2010-2011)	26	28
Pulaski County	26	28
Craig County	25	27
Smyth County	25	27
Franklin County	24	26
Floyd County	23	24

Botetourt County Public Schools would not prescribe the electives that a student must take in order to graduate, but would allow students, their parents, and the school counselor to plan a program of study for each student. This would enable students to “build their resume” to prepare for post-secondary education and the workplace. Students could choose from a variety of options, including courses in career and technical education, art, music, languages, and other academic subjects.

Botetourt County Public Schools would have a policy in place to accommodate transfer students, as required by the *Regulations Establishing Standards of Accrediting Public Schools in Virginia*. Transfer students would not be denied a diploma if they would otherwise meet the graduation requirements in the Standards of Accreditation, but could meet the requirements for additional electives only by taking a heavier than normal course load, attending summer school, or taking courses after the time when the student otherwise would have graduated, as determined on a case-by-case basis.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board approve Botetourt County Public Schools request to increase graduation requirements.

Impact on Resources: There is no impact on resources at the Department of Education.

Timetable for Further Review/Action: Upon approval of the request, Department of Education staff will notify Botetourt County Public Schools of the Board’s action.

Standard Diploma						
	Verified Credits	Standard Credits				
	Current	Current	9 th Grade Class of 2007-2008	9 th Grade Class of 2008-2009	9 th Grade Class of 2009-2010	9 th Grade Class of 2010-2011
English	2	4	4	4	4	4
Mathematics	1	3	3	3	3	3
Laboratory Science	1	3	3	3	3	3
History and Social Sciences	1	3	3	3	3	3
Health and Physical Education		2	2	2	2	2
Fine Arts or CTE		1	1	1	1	1
Electives		6	7	8	9	10
Student Selected	1					
Total	6	22	23	24	25	26

Advanced Studies Diploma						
	Verified Credits	Standard Credits				
	Current	Current	9 th Grade Class of 2007-2008	9 th Grade Class of 2008-2009	9 th Grade Class of 2009-2010	9 th Grade Class of 2010-2011
English	2	4	4	4	4	4
Mathematics	2	4	4	4	4	4
Laboratory Science	2	4	4	4	4	4
History and Social Sciences	2	4	4	4	4	4
Foreign Language		3	3	3	3	3
Health and Physical Education		2	2	2	2	2
Fine Arts or CTE		1	1	1	1	1
Electives		2	3	4	5	6
Student Selected	1					
Total	9	24	25	26	27	28

Modified Standard Diploma						
	Standard Credits					
	Current	9 th Grade Class of 2007-2008	9 th Grade Class of 2008-2009	9 th Grade Class of 2009-2010	9 th Grade Class of 2010-2011	
English	4	4	4	4	4	4
Mathematics	3	3	3	3	3	3
Laboratory Science	2	2	2	2	2	2
History and Social Sciences	2	2	2	2	2	2
Health and Physical Education	2	2	2	2	2	2
Fine Arts or CTE	1	1	1	1	1	1
Electives	6	7	8	9	9	10
Total	20	21	22	23	23	24

Board of Education Agenda Item

Item: F

Date: May 30, 2007

Topic: Final Review of a Request for Approval of an Alternative Accreditation Plan from the Richmond City Public Schools for Richmond Alternative School

Presenter: Mrs. Kathleen M. Smith, Director of the Office of School Improvement
Dr. Deborah Jewell-Sherman, Superintendent, Richmond City Public Schools
Dr. Yvonne Brandon, Associate Superintendent for Instruction and Accountability,
Richmond City Public Schools

Telephone Number: 804-225-2865

E-Mail Address: Kathleen.Smith@doe.virginia.gov

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 April 27, 2007

action Received for first review an alternative accreditation plan from Richmond City Public Schools for Richmond Alternative School as a requirement for conditional accreditation

Background Information:

The *Regulations Establishing Standards for Accrediting Public Schools in Virginia* adopted by the Board in September 2006 Section 8 VAC 20-131.315.C of the standards states:

As an alternative to the memorandum of understanding outlined in subsection B of this section, a local school board may choose to reconstitute a school rated Accreditation Denied and apply to the Board of Education for a rating of Conditionally Accredited. The application shall outline specific responses that address all areas of deficiency that resulted in the Accreditation Denied rating and may include any of the provisions of subsection B of this section.

Section 8 VAC 20-131-5 of the standards states that the definition of “reconstitution means a process that may be used to initiate a range of accountability actions to improve pupil performance, curriculum, and instruction to address deficiencies that caused a school to be rated Accreditation Denied that may include, but not be limited to, restructuring a school’s governance, instructional program, staff or student population.”

Richmond Alternative School was rated Accreditation Denied for the 2006-2007 school year. Richmond City Public Schools reconstituted Richmond Alternative School and applied to the Board to accept the terms of the reconstitution and change the rating of Accreditation Denied to Conditionally Accredited on October 25, 2006. The request for this rating was granted; however, the Board of Education requested that Richmond City Public Schools submit for approval an alternative accreditation plan for Richmond Alternative School.

The *Regulations Establishing Standards for Accrediting Public Schools in Virginia* effective September 7, 2006, Section 8 VAC 20-131.280.C. of the standards states:

Subject to the provisions of 8 VAC 20-131-330, the governing school board of special purpose schools such as those provided for in §22.1-26 of the Code, Governor’s schools, special education schools, alternative schools, or career and technical schools that serve as the student’s school of principal enrollment may seek approval of an alternative accreditation plan from the Board of Education. Special purpose schools with alternative accreditation plans shall be evaluated on standards appropriate to the programs offered in the school and approved by the Board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a Standard, Advanced Studies, or Modified Standard Diploma must meet the requirements prescribed in 8 VAC 20-131-50.

Section 22.1-253.13:1.D.8 of the *Standards of Quality* requires local school boards to provide educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education. Regulations governing programs such as this are found in the accrediting standards, which permit alternative accreditation plans and allow the Board to grant waivers to certain provisions of the standards.

Summary of Major Elements:

Richmond City Public Schools partners with the Community Education Partners (CEP) to provide services through the Capital City Program (CCP) at Richmond Alternative School. The purpose of the partnership is to support low-performing and disruptive students so that they can return to their home schools prepared to be successful. This program focuses on the most difficult students with learning and behavioral issues as a result of factors beyond the control of public education.

CCP encompasses students in grades three through twelve who are consistently experiencing severe behavioral problems and for whom no other appropriate services have been successful. Students are placed at CCP for a period of 180 days through referral from their current school principal or the hearing officer. Students have failed to respond positively to the traditional schools’ intervention strategies and may face the possibilities of being retained or dropping out of school.

Prior to the assignment to CCP, the parent(s), student, and the principal discuss the components of the program. Parent signatures are required before final referral. Parent and student meetings are also held upon enrollment with the "Welcome Center Coordinator." After final placement decisions have been made, parents and students must participate in an orientation session at the alternative school. Parents are provided an overview of the program and encouraged to participate in the school's parental programs. Home/school communication plans are also reviewed. Additionally, parents participate in the transition program in preparation for the child to return to his home school environment.

Richmond Alternative School offers a challenging curriculum aligned with state and local standards in a safe, supportive, smaller learning community to provide quality-learning opportunities affording students skills and behaviors necessary to become lifelong learners. Students are offered appropriate grade-level courses in English/Reading, science, mathematics, and social science. The students also receive instruction in workplace readiness, basic skill enhancement and personal social development.

Intensive in-home counseling services are provided by Associated Educational Services (AES), a local provider, to meet the social needs of students. Medical data concerning unmet needs or those that require maintenance are coordinated between the nurses of Capitol City Program (CCP) and the district school. Every effort is made to continue services so that students will continue to be successful. Two student service specialists coordinate services from Department of Juvenile Justice, Richmond City Social Services, Richmond Behavior Health Authority, Richmond Division of Public Health, Family Focus, Associated Educational Services, and other service providers.

Once students return to their home school, a student service specialist visits the students weekly and monitors their progress. During these visits, the information on the student's attendance, behavior, grades, and tests score results are reviewed. Specific plans for improvement are developed and monitored.

Teachers assigned to CCP will be highly qualified by July 1, 2007.

Much of the time spent by students in the CCP program focuses on teaching students life skills needed for success. Due to the time required for this focus, foreign language, physical education and fine arts are not offered. For this reason, Richmond City Public Schools is requesting a waiver from 8 VAC 20-131-100 A. of the Standards of Accreditation that require foreign language, physical education and fine arts as stated below:

8 VAC 20-131-100. Instructional program in secondary schools.

- A. The secondary school shall provide each student a program of instruction in the academic areas of English, mathematics, science, and history/social science that enables each student to meet the graduation requirements described in 8 VAC 20-131-50 and shall offer opportunities for students to pursue a program of studies in foreign languages, fine arts, and career and technical areas including:
 - 1. Career and technical education choices that prepare the student as a career and technical education program completer in one of three or more occupational areas and that prepare the student for technical or preprofessional postsecondary programs;

2. Coursework and experiences that prepare the student for college-level studies including access to at least three Advanced Placement (AP) courses, college-level courses for degree credit, International Baccalaureate (IB) courses, Cambridge courses, or any combination thereof;
3. Preparation for college admissions tests; and
4. Opportunities to study and explore the fine arts and foreign languages.

B. Minimum course offerings for each secondary school shall provide opportunities for students to meet the graduation requirements stated in 8 VAC 20-131-50 and must include:

English	4
Mathematics	4
Science (Laboratory)	4
History and Social Sciences	4
Foreign Language	3
Electives	4
Career and Technical Education	11
Fine Arts	2
Health and Physical Education	2
Total Units	38

Beginning with the 2007 school year, Richmond City Public Schools proposes an alternative accreditation index model that will hold Richmond Alternative School accountable for increasing the achievement levels of students enrolled for a full academic year (at least 2 semesters) in reading and mathematics and use science and history and social science and other indicators of school and student performance that are aligned with the mission and goals of the school as value-added components. The goals and performance objectives for the proposed alternative accreditation plan are included in Attachment A.

The alternative accreditation index model will measure student achievement based on students' progress in moving from basic to proficient to advanced levels of performance on Standards of Learning assessments. The index will have a primary focus on reading and mathematics achievement. The index is based on a set of core achievement objectives and measures (SOL test scores and other indicators) as well as "reach" or excellence goals for the student population. An alternative accreditation index score (0 to 100 points) will be calculated primarily based on the total number of students performing at each proficiency level in reading and mathematics.

SOL index points are assigned for student performance on the SOL tests by multiplying the number of student scores at each level by the points awarded, adding the total points earned, and dividing by the total number of student scores. Additional index points may be earned for meeting performance measures in the core "other academic" and optional "reach" objectives categories. The Alternative Accreditation index score for each content area (English and mathematics) is calculated by combining the SOL index score and the additional index points. An Alternative Accreditation index score of at least 70 points must be earned in both English and mathematics to achieve fully accredited status. If the

school fails to achieve fully accredited status, the rating will be in accordance with provisions of the Standards of Accreditation.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept for final review and approval the alternative accreditation plan for Richmond Alternative School.

Impact on Resources: There is no impact on the resources of the Department of Education.

Timetable for Further Review/Action:

None

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF EDUCATION
RICHMOND, VIRGINIA**

REQUEST FOR APPROVAL OF AN ALTERNATIVE ACCREDITATION PLAN

Regulations Establishing Standards for Accrediting Public Schools in Virginia, (8 VAC 20-131-10 et. seq.) set the minimum standards public schools must meet to be accredited by the Board of Education. Accreditation of public schools is required by the Standards of Quality (22.1-253.13:1 et. seq.). The annual accrediting cycle for public schools is July 1 through June 30. This cover sheet, with the supporting documentation, must be submitted to the Department of Education for review and recommendation to the Board at least 90 days prior to August 1 of the school year in which the plan is to be implemented.

8 VAC 20-131-280 of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* states (in part): *Special purpose schools such as regional, special education, alternative, or career and technical schools that serve as the student's school of principal enrollment shall be evaluated on standards appropriate to the programs offered in the school and approved by the Board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a Standard, Advanced Studies, or Modified Standard Diploma must meet the requirements prescribed in 8 VAC 20-131-50.*

The Board of Education, in its *Guidelines Governing the Implementation of Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia*, states:

Schools described in this section are those that serve as a student's school of principal enrollment and where students are reported in fall membership for the school. Fall membership determines whether or not these schools are subject to the provisions of the accrediting standards; therefore, schools reporting fall membership are subject to the provisions of the standards. These schools may or may not administer Standards of Learning (SOL) tests.

In accordance with the provisions of 8 VAC 20-131-330 of the standards, local school boards may seek waivers of provisions of the standards to address the unique needs of these special purpose schools. Such requests may include an alternative accreditation plan. Applications must be submitted to the Board for consideration at least ninety days prior to August 1 of the school year. Requests for consideration must be accompanied by information that documents the need for approval of the request.

We, the undersigned, submit this request for review and approval by the Board of Education and understand that we are expected to appear before the Board to discuss the program and respond to questions raised.

Date Approved
by the Local School Board

Signature
Chairman of the School Board

Submission Date

Signature
Division Superintendent

**A Request for Conditional Accreditation
The Richmond Alternative School
Richmond City Public Schools**

An Alternative Accreditation Plan

Purpose: To ensure that no child is left behind, the Capital City Program (CCP) works in partnership with the Richmond Public Schools and the community to get low performing and disruptive students back on track in their learning and behavior, enabling them to successfully return to their home schools academically and socially prepared. This partnership focuses on the most difficult students with learning and behavioral issues as a result of a variety of factors beyond the control of public education.

Vision/Mission: The Capital City Program provides quality alternative education services to the students of Richmond's middle and high schools by making a positive difference in the lives of the students served and by achieving measurable results in academic and behavioral skills. A rigorous instructional program and a personal/social development program are provided for each child in a safe and secure learning environment. CCP envisions taking students who otherwise would not succeed in public education and turnaround to assist them in becoming successful life long learners.

Target Population: CCP encompasses students in grades three through twelve who are consistently experiencing severe behavioral problems and for whom no other appropriate services have been successful. Students are placed at CCP for a period of 180 days through a referral from their current school principal or the hearing officer. Students assigned to our alternative program have failed to respond positively to the traditional schools' intervention strategies and may face the possibilities of being retained and/or of dropping out of school. Prior to the assignment to CCP, the parent(s), student, and the principal discuss the components of the program. Parent signatures are required before final referral. Parent and student meetings are also held upon enrollment with the Welcome Center Coordinator. After final placement decisions have been made, parents and students must participate in an orientation session at the alternative school. Parents are provided an overview of the program and encouraged to participate in the school's parental programs. Home/school communication plans are also reviewed. Additionally, parents participate in the transition program in preparation for the child to return to his home school environment.

Student Selection Criteria:

CCP has a specialized design that offers instructional strategies and a unique organizational structure to meet the needs of challenged students who have been unsuccessful in the traditional comprehensive school setting. Student selection evidence in the following areas is considered for placement:

- Severe behavioral needs that interfere with learning
- Severe social/emotional needs that are barriers to the student's success and/or the learning of others
- Attendance/truancy issues
- A referral from the hearing officer for violation of the RPS *Students' Code of Conduct*

Program of Instruction:

Richmond Alternative School offers a challenging curriculum aligned with state and local standards in safe, supportive, small learning communities to provide quality-learning opportunities affording students skills and behaviors necessary to become lifelong learners. Students are offered appropriate grade-level courses in English/Reading, science, mathematics, and social science. The students also receive instruction in workplace readiness, basic skill enhancement and personal social development.

- Upon enrollment, each student participates in a four-day orientation program that is designed to review the child's record of past performance and to develop a plan for his/her success at CCP. Plans for academic, attendance/truancy, and behavior improvements are developed with students to address their specific needs. These plans will guide students during the 180-day stay at CCP so that they may successfully transition to the next placement at a comprehensive middle or high school.
- The Virginia Standards of Learning (SOL) are taught through grade level courses in the four academic areas: reading, math, science and social studies at the middle school level and the full range of appropriate courses for high school students. Additionally, electives are required in personal/social development, reading and math intensive enrichment offered through a PLATO lab setting, and Employment Seminar (career education) which is offered through the PLATO lab at the high school level.
- Reading and math assessments are completed upon entering the program to assist in the development of the students' plan for academic success. Growth is monitored monthly or more frequently to ensure gains for each student. It is expected that each student will show at least a 1.5 years of growth in both areas by the 120th day of enrollment. As student progress is monitored, appropriate intervention and remediation strategies are deployed as deemed necessary from data analyses.
- Students will be taught by highly qualified teachers as required under federal guidelines. One hundred percent compliance is guaranteed by July 1, 2007.
- Art and conversational Spanish are offered to each student on a scheduled basis.
- Instruction is provided in four small learning communities staffed by a learning community instructional leader and learning community assistant in leadership/supervisory roles: High school boys, high school girls, middle school boys and middle school girls. Four 90-minute blocks comprise the high school day and five 75 minute blocks make up the high school day. Reading and math computer labs are included in all communities.
- Forty hours of school level professional development are required for all instructional staff during the week preceding the beginning of each school year. Thereafter, content meetings held weekly, as well as monthly district instructional meetings for representative lead teachers, provide support for continuous improvement as a high quality instructional program.
- Teachers use all of the instructional resources available from the Richmond Public Schools. These resources were developed based upon the Standards of Learning. Instructional staff

members have been trained in using these resources as well as how to use data to make instructional decisions.

Student Assessment and Evaluation:

- Students at all grade levels will participate in SOL testing in all four content areas. Each year progress will be monitored that will show steady gains toward meeting state and district goals.
- Benchmark nine-week assessment data will be used to monitor student progress toward mastery of the SOL. Data will be analyzed so that appropriate interventions and program improvement will be implemented.
- PLATO diagnostic assessments will be administered to each student upon enrollment and regularly thereafter to monitor student growth in reading and math.
- Progress reports are sent to parents on a weekly basis.
- Weekly teacher-made assessments monitor students' mastery of objectives taught during the week based upon the teaching of an aligned curriculum. Reteaching activities are planned.
- Richmond Public Schools report cards are given to students according to the district's guidelines and calendar.

Accreditation and Adequate Yearly Progress:

The alternative accreditation index model will hold the alternative school accountable for increasing the achievement levels of students enrolled for a full academic year (at least 2 semesters) in reading and mathematics and use science and history and social science and other indicators of school and student performance that are aligned with the mission and goals of the school as value-added components.

Student achievement is a fundamental component in determining the accreditation status of Virginia's public schools. The alternative accreditation index model will measure student achievement based on students' progress in moving from basic to proficient to advanced levels of performance on Standards of Learning assessments. The index will have a primary focus on reading and mathematics achievement. The index is based on a set of core achievement objectives and measures (SOL test scores and other indicators) as well as "reach" or excellence goals for the student population.

An alternative accreditation index score (0 to 100 points) will be calculated primarily based on the total number of students performing at each proficiency level in reading and mathematics.

SOL Index Points are assigned for student performance on the SOL tests by multiplying the number of student scores at each level by the points awarded, adding the total points earned, and dividing by the total number of student scores. Additional Index Points may be earned for meeting performance measures in the core "other academic" and optional "reach" objectives categories.

The Alternative Accreditation Index Score for each content area (English and Mathematics) is calculated by combining the SOL Index Score and the Additional Index Points.

An Alternative Accreditation Index Score of at least 70 points must be earned in both English and mathematics to achieve fully accredited status. If the school fails to achieve fully accredited status, the rating will be in accordance with provisions of the Standards of Accreditation.

Goals and Performance Objectives for Alternative Accreditation Plan

Goal: *All students will improve their academic performance so that they may successfully transition back to their home school environment through intensive focus on the core areas of English and mathematics and through achieving certain behavioral and conduct modifications that are indicative of being a responsible and productive student in an academic environment.*

<i>Performance Objective</i>	<i>Performance Measure</i>
<i>Core Achievement Objectives:</i>	
<i>1. Increase the percentage of students in grades 3-5 reading on grade level</i>	<i>Weighted index of SOL test scores of students enrolled for a full academic year (2 semesters) achieving at the basic, proficient, and advanced levels on the reading SOL tests in grades 3-5</i>
<i>2. Increase the percentage of students in grades 6-12 passing SOL English reading and writing tests</i>	<i>Weighted index of students enrolled for a full academic year (at least 2 semesters) achieving at the basic, proficient, and advanced levels on the SOL English reading and writing tests in grades 6-8 and high school</i>
<i>3. Increase the percentage of students in grades 3-8 passing SOL mathematics tests</i>	<i>Weighted index of students enrolled for a full academic year (at least 2 semesters) achieving at the basic, proficient, and advanced levels on the SOL mathematics tests in grades 3-8</i>
<i>4. Increase the percentage of students in grades 9-12 passing Algebra I, Geometry, or Algebra II SOL exams</i>	<i>Weighted index of students enrolled for a full academic year (at least 2 semesters) achieving at the proficient and advanced levels on the SOL end-of-course exams in Algebra I, Geometry, and Algebra II</i>
<i>Core "Other Academic" Indicators</i>	
<i>5. Increase the percentage of students in grades 3-8 and high school passing science and history and social science SOL tests</i>	<i>Weighted index of students enrolled for a full academic year (at least 2 semesters) achieving at the proficient and advanced levels on the SOL assessments in science and history and social science</i>

<i>Performance Objective</i>	<i>Performance Measure</i>
<i>6. Increase the percentage of high school graduates and completers</i>	<i>Percentage of students enrolled for at least 2 consecutive semesters who complete high school with a diploma or GED certificate</i>
<i>Core “Other Indicator” Objectives:</i>	
<i>Decrease number of students identified as truants by 10%</i>	<i>Truancy rates for students in program</i>
<i>Average daily attendance meets or exceeds 80 percent</i>	<i>Average Daily Attendance rates for students</i>
<i>Increase number of students successfully transitioned into regular school setting</i>	<i>Successful transition shall be measured by a student completing the program who passes three or more subjects in the transition school during the first semester at the transition school</i>
<i>Decrease number of serious incidents while at CCP.</i>	<i>Serious incident data for CCP students</i>
<i>Optional “Reach” Objectives:</i>	
<i>Increase the percentage or number of middle school students taking Algebra I</i>	<i>Percentage or number of students in grades 6-8 taking Algebra I increases annually</i>
<i>Increase the number of high school students earning a career and technical credential</i>	<i>Number of high school students earning a career and technical industry certification or a national occupational assessment credential increases annually</i>
<i>Increase the percentage or number of high school students taking dual-enrollment, Advanced Placement, or other college-level courses</i>	<i>Percentage or number of high school students taking at least one dual-enrollment, Advanced Placement, or other college-level courses</i>

Alternative Accreditation Index Point System:

<i>SOL Scaled Score</i>	<i>SOL Proficiency Level</i>	<i>Points Awarded Each SOL Score</i>
500-600	Advanced	100
400-499	Proficient	90
Up to 399 (varies by test)	Basic (Reading and Math 3-8)	70
Below 400 (except Basic)	Fail	0
<i>Core Other Academic Objectives (points maximum)</i>		
<i>Weighted index of students enrolled for a full academic year (at least 2 semesters) achieving at the proficient and advanced levels on the SOL assessments in science and history and social science</i>	Index scores and Points Earned: 70 and above.....3points 60 – 69.....1 point	
<i>Increased percentage of students enrolled for at least 2 consecutive semesters who complete high school with a diploma or GED certificate</i>	2 points	
<i>Optional Reach Objectives (3 points maximum)</i>		
<i>Increased percentage or number of students in grades 6-8 taking Algebra I</i>	1 point	
<i>Increased number of high school students earning a career and technical industry certification or a national occupational assessment credential</i>	1 point	
<i>Increased percentage or number of high school students taking at least one dual-enrollment, Advanced Placement, or other college-level courses</i>	1 point	
<i>Core Other Indicator Objectives (8 points maximum)</i>		
<i>Decrease number of students identified as truants by 10%</i>	2 points	
<i>Average daily attendance meets or exceeds 80 percent</i>	2 points	
<i>Increased number of students successfully transitioned into regular school setting</i>	2 points	
<i>Decrease number the number of serious incidents while at CCP.</i>	2 points	

Alternative Accreditation Index Score Calculations Illustrated:

Example: English/Reading Index Score

<i>No. of Student Scores</i>	<i>SOL Proficiency Level</i>	<i>Points Awarded Each SOL Score</i>	<i>Points Awarded</i>
15	Advanced	100	1,500
45	Proficient	90	4,050
25	Basic	70	1,750
15	Fail	0	0
(a) SOL Score Points Awarded			7,300
(b) Total No. of Student Scores			100
(c) SOL Index Points = Total Score Points (a) divided by Total No. Scores (b)			73
(d) Additional Index Points (up to 15 points maximum from other objective measures) [Example: 5 pts. earned]			5
(e) Alternative Accreditation Index Score = SOL Index Score (c) + Additional Index Points (d)			78
Met content area alternative accreditation requirements: YES/NO Yes = Index Score of 70 or above			Yes

Example: Mathematics Index Score

<i>No. of Student Scores</i>	<i>Proficiency Level</i>	<i>Points Awarded Each SOL Score</i>	<i>Points Awarded</i>
5	Advanced	100	500
60	Proficient	90	5,400
25	Basic	70	1,750
10	Fail	0	0
(a) SOL Score Points Awarded			7,650
(b) Total No. of Student Scores			100
(c) SOL Index Points = Total Score Points (a) divided by Total No. Scores (b)			76.5
(d) Additional Index Points (up to 15 points maximum from other objective measures) [Example: 5 pts. earned]			5
(e) Alternative Accreditation Index Score = SOL Index Score (c) + Additional Index Points (d)			81.5
Met content area alternative accreditation requirements: YES/NO Yes = Index Score of 70 or above			Yes

Example: Determination of School Alternative Accreditation Rating

Content Area	Index Score	Met Alternative Accreditation Requirement
English	78	Yes
Mathematics	81.5	Yes
School Accreditation Rating:		Fully Accredited
Fully Accredited		
Accredited with Warning		
Denied Accreditation		

No Child Left Behind:

The Capital City Program is in compliance with all testing requirements under NCLB. Progress will be continuously assessed toward meeting all required goals. CCP students will be taught by highly qualified teachers who are licensed and endorsed in their content areas.

Monitoring Student Progress for Transition:

- Upon enrollment at CCP in the four-day orientation program, students will develop individualized success plans for transition.
- Plans will be reviewed by Student Service Specialists, the Educational Specialist (guidance counselor) and the Learning Community Leader who is responsible for filing the plans.
- Quarterly conferences conducted by Learning Community Leaders will be held with each student to review progress toward established goals and transition.
- Based upon progress on the transition criteria, the transition curriculum is put in place during the last nine weeks of the student’s stay at CCP to prepare him/her for return to his zoned school.
- For a period of 180 days after transitioning, a structured support system is provided by CCP to ensure each student’s success

The Student Transition Process:

- During the first and second semesters, the principal and learning community leader identify students who are within nine weeks of meeting the attendance goal of 180 days.
- The learning community leader reviews the student’s record pertaining to be here, behave, and be learning to determine which students have met these indicators in a satisfactory manner. A list is prepared. Recommendations of learning community leaders and teachers are requested and considered.

- The assistant principal of curriculum reviews the list and prepares the Community Education Partners curriculum to begin to prepare students for reentry to their schools.
- The educational specialist makes contact with the designated counselor of each school preparing the students to return by developing schedules and a plan to return the students' records, making contact with parents, and setting up visitations by counselors to visit CCP to meet with students.
- Letters are officially written to parents and students by the principal congratulating students on their success and informing them of how CCP will support them during the 180 days after their return. These supports include a hotline number, an assigned Student Service Specialist who will visit them weekly, and a review of grades, attendance, and behavior records with letters of progress to be sent to them each quarter.

Wraparound Services to Address Social/Emotional Needs:

Intensive in-home counseling services are provided by Associated Educational Services (AES), a local provider, to meet the social needs of students. Medical data concerning unmet needs or those that require maintenance are coordinated between the nurses of Capitol City Program (CCP) and the district school. Every effort is made to continue services so that students will continue to be successful. Two student service specialists coordinate services from Department of Juvenile Justice, Richmond City Social Services, Richmond Behavior Health Authority, Richmond Division of Public Health, Family Focus, Associated Educational Services, and other service providers.

Once students return to their home school, a student service specialist who visits the students weekly follows them. During these visits, the information on the student's attendance, behavior, grades, and tests score results are reviewed. Specific plans for improvement are developed and monitored.

A hotline number is given so that students may call to request assistance whenever assistance is needed. Referring principals and counselors are also encouraged to call when for CCP's help.

Learning community leaders will send letters of congratulations at the end of each marking period to former students who make grades of C or better. Students of Ds and Fs will also be sent a note encouraging them to keep trying and offering assistance through the hotline. Letters from principals to transitioned students are mailed at the end of each year wishing them well on their future studies and job selections.

Waiver Requested:

Much of the time spent by students in the CCP program focuses on teaching students life skills needed for success. Due to the time required for this focus, foreign language, physical education and fine arts are not offered. For this reason, the Capital City Program is requesting waivers from 8 VAC 20-131-100 A. and 8 VAC 20-131 B. of the Standards of Accreditation that require foreign language, physical education and fine arts

**Virginia Department of Education
Evaluation Criteria
Richmond Alternative School, Richmond City Public Schools
Alternative Accreditation Plans for Special Purpose Schools**

Criteria	Yes	No	Limited
School characteristics and instructional program:			
1. The mission, purpose, and target population of the school justify its categorization as a “special purpose” school and, therefore, eligible to request an alternative accreditation plan.	√		
2. The characteristics and special needs of the student population are clearly defined, and the criteria for student placement require parental consultation and agreement.	√		
3. The program of instruction provides all students with opportunities to study a comprehensive curriculum that is customized to support the mission of the school. <i>The plan requests a waiver of 8 VAC 20-131-100 A-B.</i>			√
4. The school provides transition planning to help students be successful when they return to a regular school setting.	√		
5. Strategies used to evaluate student progress are aligned to the mission/purpose of the school and include academic achievement measures.	√		
6. Convincing evidence has been provided that students enrolled in the school have not been successful in other schools subject to all the accrediting standards.	√		
7. Students will be taught with highly qualified teachers who meet the Board of Education’s licensure requirements for instructional personnel. <i>The plan states that all teachers will be highly qualified by July 2007.</i>			√

Alternative Accreditation Accountability Criteria:			
1. Rationale and documentation provide convincing evidence that the “special purpose” nature of the school precludes its being able to reach and maintain full accreditation status as defined in the <i>Regulations Establishing Standards for Accrediting Public Schools in Virginia</i> (SOA).	√		
2. Alternative accreditation criteria described in the plan include academic achievement measures that are objective, measurable, and directly related to the mission and purpose of the school.	√		
3. The plan includes use of statewide assessment student achievement results of English and mathematics.	√		
4. The plan meets the testing requirements of the SOA.	√		
5. The plan meets the testing requirements of NCLB and describes how the school plans to meet “adequate yearly progress” requirements of the federal law.	√		
6. The plan provides convincing evidence that all pre-accreditation eligibility criteria are met for standards in which waivers have not been requested.	√		
7. Waivers have been requested for accrediting standards that are not being met, and the rationale for the waivers are clear and appropriate for the mission/purpose of the school.	√		

Board of Education Agenda Item

Item: _____ G. _____

Date: _____ May 30, 2007 _____

Topic: Final Review of Approval of Local School Division Remedial Plans

Presenter: Mrs. Kathleen M. Smith, Director of the Office of School Improvement

Telephone Number: (804) 786-5819 **E-Mail Address:** Kathleen.Smith@doe.virginia.gov

Origin:

____ Topic presented for information only (no board action required)

____ Board review required by

____ State or federal law or regulation

X Board of Education regulation

____ Other: _____

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

Previous Review/Action:

____ No previous board review/action

X Previous review/action

date April 27, 2007

action Received report for first review

Background Information:

As required by 8 VAC 20-630-20, school divisions are required to develop a remediation plan designed to strengthen and improve the academic achievement of eligible students. Local school divisions have submitted remedial plans for summer 2007 to the department for approval by the Board of Education. Data regarding the summer program for 2006 will be submitted to the department by school divisions as required by the *Code of Virginia* in September 2007. This data cannot be collected until after administration of the Standards of Learning assessments in spring 2007.

Summary of Major Elements

Department staff members have reviewed remediation plans from 130 school divisions and determined that all of the plans meet the requirements of 8 VAC 20-630-20. Two divisions, Loudoun County and Frederick County, have indicated that they will not offer a remedial summer program. A summary of the quality indicators proposed in the remedial plans from the 130 school divisions that reported as required is attached.

8 VAC 20-630-50 requires school divisions to report to the department the pass rate on the Standards of

Learning assessments for students who attend the 2007 summer remedial programs or, in the case of year-round schools, 2007-2008 intersession programs. Divisions will submit SOL data pertaining to the 2007 summer remedial program, or in the case of year-round schools, 2007-2008 intersession programs in September 2008.

Senate Bill 795, passed by the 2007 General Assembly requires programs of prevention, intervention, and remediation to be research-based. The department has provided divisions with a template for planning for remediation programs that indicate research-based strategies. These strategies include clear standards for quality that put priority on student mastery of reading and mathematics skills, program length, and scheduling of classes; pre- and post-tests used to determine student gains; and low adult/child ratio.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept for final review and approval the report on local school division remedial plans.

Impact on Resources:

There is no impact on the resources of the Department of Education.

Timetable for Further Review/Action:

None

Data Submitted on the 2007-2008 School Division Remediation Plans

A. Program Offering

Type of Program to be Offered in Summer 2007	Percentage of 130 Localities* K-8	Percentage of 130 Localities* Secondary
Remedial summer school*	98%	80%
Interession program for year-round school	7%	2%
*Loudoun County and Frederick County will not offer a remedial summer program in 2007.		

B. Quality Indicators

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
In-service and training will be provided for staff not trained in remediation techniques that are assigned to the program. (In some localities, all staff are already trained.)	64%	1-4 hours of training will be provided.
	21%	5-9 hours of training will be provided.
	12%	10 or more hours of training will be provided.
Data regarding student content weaknesses will be to design the remediation program (e.g., SOL assessments, diagnostic tests, classroom assessments).	85%	Content is developed for a program that will meet the needs of the greatest number of students who may require remediation.
	65%	Content will be developed for the individual needs of each student.

<p align="center">Quality Indicator (Proposed)</p>	<p align="center">Percentage of 130 of the Localities</p>	<p align="center">Proposed Qualifier Indicated by School Division on the Remedial Plan</p>
<p>Communication between the remedial teacher and the classroom teacher regarding the students' needs and progress will be maintained.</p>	<p align="center">55%</p>	<p>Regular classroom teachers will meet with remedial teachers to discuss individual student's needs.</p>
	<p align="center">82%</p>	<p>A written record will be completed by the regular classroom teacher regarding each student and reviewed by the remediation teacher prior to the beginning of the remediation program.</p>
	<p align="center">32%</p>	<p>The regular classroom teacher will determine the expected remediation goal(s) for students.</p>
	<p align="center">45%</p>	<p>The remediation teacher will determine the expected remediation goal(s) for students.</p>
	<p align="center">55%</p>	<p>The remediation teacher and the regular classroom teacher collaboratively will determine the expected remediation goal(s) for students.</p>

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
Communication between the remedial teacher and the classroom teacher regarding the students' needs and progress will be maintained. (Cont.)	29%	Regular classroom teachers will meet with remedial teachers to discuss the individual student's progress in meeting expected remediation goal(s) for students.
	72%	A written record regarding the individual student's progress in meeting remediation goals will be completed by the remediation teacher and reviewed by the regular classroom teacher.
When students have exceptionally low performance, they will be screened for reading deficits before being remediated in a content area.	62%	Remediation will continue in the content area(s) with adjustments made by the remediation teacher for the reading level.
	75%	Remediation will continue in the content area(s) with adjustments made by the remediation teacher and the student will be given additional specific support for reading instruction.

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
When students have exceptionally low performance, they will be screened for reading deficits before being remediated in a content area. (Cont.)	18%	Remediation will not continue in the content area(s). As an alternative, the student will be given specific intensive support for reading instruction.
For remedial summer school, more than the 40 minimum hours of instruction will be provided in a K-5 integrated program of two or more subjects.	45%	40-59 hours of instruction will be provided.
	30%	60-79 hours of instruction will be provided.
	12%	80-99 hours of instruction will be provided.
	5%	100+ hours of instruction will be provided.
For remedial summer school, K-12, more than the 20 minimum hours of instruction will be provided for each core subject.	33%	20-39 hours of instruction will be provided.
	25%	40-59 hours of instruction will be provided.
	26%	60-79 hours of instruction will be provided.
	8%	80-99 hours of instruction will be provided.
	6%	100+ hours of instruction will be provided.
For remedial summer school, in K-5 programs, the required pupil-to-teacher ratio will be less than 18:1.	2%	1 remediation teacher to no more than 5 students.

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
	18%	1 remediation teacher to no more than 10 students.
	38%	1 remediation teacher to no more than 12 students.
	40%	1 remediation teacher to no more than 18 students
For remedial summer school, in 6-12 programs, the required pupil-to-teacher ratio will be less than 18:1.	1%	1 remediation teacher to no more than 5 students.
	15%	1 remediation teacher to no more than 10 students.
	28%	1 remediation teacher to no more than 12 students.
	52%	1 remediation teacher to no more than 18 students
K-8 The regulation required the remediation goal for the student to include an expected target score on a locally-designed or selected test that measures the SOL content being remediated. Divisions reported the type of assessment used for this purpose as follows: S = SOL test, including retake of the SOL in 2007-2008 LS = Locally-selected (i.e., Algebra Readiness Diagnostic Test, PALS, or commercial test) LD = Locally-developed test (e.g., common tests developed by division staff) to measure student performance on SOL A = Alternate assessment as indicated on the IEP	72%	English/Writing S
	78%	LS
	64%	LD
	42%	A
	72%	Mathematics S
	66%	LS
	65%	LD
	41%	A
	50%	Social Studies S
32%	LS	

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
	42%	LD
	25%	A
	50%	Science S
	32%	LS
	42%	LD
	25%	A
<p>Secondary</p> <p>The regulation required the expected remediation goal for the student to include an expected target score on a locally-designed or selected test that measures the SOL content being remediated. Divisions reported the type of assessment used for this purpose as follows:</p> <p>S = SOL test, including retake of the SOL in 2007-2008</p> <p>LS = Locally-selected (i.e., Algebra Readiness Diagnostic Test, PALS, or commercial test)</p> <p>LD = Locally-developed test (e.g., common tests developed by division staff) to measure student performance on SOL</p> <p>A = Alternate assessment as indicated on the IEP</p>	78%	English/Writing S
	28%	LS
	39%	LD
	34%	A
	78%	Mathematics S
	35%	LS
	39%	LD
	34%	A
	71%	Social Studies S
	22%	LS
	37%	LD
	30%	A
	69%	Science S
22%	LS	

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
	38%	LD
	29%	A
Eligibility for the remedial summer program is based on specific indicators.	88%	Indicator #1: The student failed all SOL tests in grades 3 through 8.
	74%	Indicator #2: Failed a high school end-of-course test.
	46%	Indicator #3: Local criteria have been established to determine eligibility.
Parental involvement indicators are provided.	98%	Indicator #1: Parents will be provided with information regarding the criteria used to determine eligibility.
	84%	Indicator #2: Parents will be provided with information regarding the content of the remediation program prior to beginning the program.
	53%	Indicator #3: Parents will be provided with a copy of the individual student record, or information contained in the student record, prior to the beginning of the program.

Quality Indicator (Proposed)	Percentage of 130 of the Localities	Proposed Qualifier Indicated by School Division on the Remedial Plan
	82%	Indicator #4: Parents will be notified of progress made in the remediation program at specific intervals throughout the year.

C. Projected Budget Reported for 2007 Remedial Summer School

Total projected expenditures for the remedial summer program reported by school divisions in categories:	47,878,705.00
Employee Salaries and Benefits	7,138,089.41
Transportation	3,049,022.57
Instructional Materials and Supplies	2,300,258.40
All Other Categories	
Total Expenditures	60,366,075.38
Total projected revenues for the remedial summer program reported by school divisions:	
Non-state Revenue	35,554,080.77
State Revenue	24,811,994.61
Total Revenue	60,366,075.38

The Board of Education will accept content-based high school end-of-course tests administered as a part of another state's accountability system for the purpose of awarding verified credit to students who transfer to Virginia public schools. When students transfer to a Virginia public school from a state that requires such high school end-of-course tests, the local school division may automatically accept the student's passing score on the test and the corresponding course for the purposes of awarding verified credit.

When students transfer to a Virginia public school from a state that requires a comprehensive subject area examination as a prerequisite for graduation from high school, the Department of Education, at the request of the division superintendent, will review the examination to determine its suitability for use to award verified credit in the same manner as other substitute tests have been reviewed and recommended for approval. In order for a test to be deemed suitable for use, the test must be approved as part of another state's accountability system and approved through the federal standards and assessment peer review process. Such requests shall be submitted by the division superintendent within 30 days of receipt of the student's record.

The Board of Education may delegate the authority for final approval of these tests to the Superintendent of Public Instruction.

Summary of Major Elements: The resolution presented in this Board item would delegate the final approval of additional tests for the purpose of awarding verified credit to the Superintendent of Public Instruction, under the following specific conditions:

- 1) That the Superintendent report annually to the Board on his exercise of the authority;
- 2) That the Board reserve the right to require the Superintendent to report on the exercise of his authority;
- 3) That the Superintendent conform all actions to Board regulations and laws governing educational programs and policy;
- 4) That the review of the test to determine its suitability for use to award verified credit be conducted in the same manner as other substitute tests have been reviewed and recommended for approval, as set forth in the *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia*. In addition, in order for a test to be deemed suitable for use, the test must be approved as part of another state's accountability system and approved through the federal standards and assessment peer review process;
- 5) That school divisions shall be notified of any such tests that are approved; and
- 6) That the recognition that this delegation is not an abnegation of the Board's power and responsibility.

This delegation of authority shall remain in effect until 8 VAC 20-131-110 is amended by the Board of Education, or until this resolution is amended or rescinded by the Board of Education.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education adopt the resolution to delegate its authority to approve other states' comprehensive tests as substitute tests, subject to the conditions listed above.

Impact on Resources: The impact on resources is expected to be minimal.

Timetable for Further Review/Action: Upon adoption of the resolution, the Department of Education will notify all local school divisions.

Virginia Board of Education Resolution

Delegating Certain Duties to the Superintendent of Public Instruction

Resolution Number 2007-2

May 30, 2007

That the following Board responsibilities, set forth in the cited sections of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131-10 et seq.), be delegated to the Superintendent of Public Instruction.

Under 8 VAC 20-131-110, Standard and Verified Units of Credit, the “Board of Education may from time to time approve additional tests for the purpose of awarding verified credit.” The *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia*, approved by the Board of Education in 2006, further states that the Board “may delegate the authority for final approval of these tests to the Superintendent of Public Instruction.”

This delegation of authority shall apply only to those comprehensive subject area examinations approved as part of another state’s accountability system and approved through the federal standards and assessment peer review process.

Such delegation shall also be subject to the following conditions:

- a) That the Superintendent reports annually to the Board on his exercise of the authority and responsibility delegated to him;
- b) That the Board reserves the right to require of the Superintendent a report concerning the exercise of any authority herein delegated;
- c) 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;
- d) That the review of the test to determine its suitability for use to award verified credit be conducted in the same manner as other substitute tests have been reviewed and recommended for approval, as set forth in the *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia*. In addition, in order for a test to be deemed suitable for use, the test must be approved as part of another state’s accountability system and approved through the federal standards and assessment peer review process;
- e) That school divisions shall be notified of any such tests that are approved; and

- f) That this delegation is not an abnegation of the Board's power and responsibility in the areas delegated.

This delegation of authority shall remain in effect until 8 VAC 20-131-110 is amended by the Board of Education, or until this resolution is amended or rescinded by the Board of Education.

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

Telephone Number: (804) 225-2870

E-Mail Address: Roberta.Schlicher@doe.virginia.gov

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.

Board of Education Agenda Item

Item: J.

Date: May 30, 2007

Topic: First Review of an Appeals Process for Supplemental Educational Services Providers Under the *No Child Left Behind Act of 2001*

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

Telephone Number: 804-225-2870

E-Mail Address: Roberta.Schlicher@doe.virginia.gov

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: 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 in subjects relevant to meeting the 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.

Potential SES providers submit applications to the Department of Education for review of their programs. The applications are evaluated by Department staff using Board-approved criteria in ten key areas. The key areas include: 1) evidence of effectiveness; 2) evidence of link between research and program design; 3) connection to state academic standards and division's instructional program; 4) monitoring student progress; 5) communication with schools and school divisions; 6) communication with parents and families; 7) qualifications of instructional staff; 8) financial and organizational capacity; 9) compliance with federal, state, and local health and safety standards; and 10) compliance with federal, state, and local civil rights protections. After a review by the Department of Education, the Board of Education approves providers that meet the criteria to be added to the list of providers eligible to serve Virginia students.

Summary of Major Elements: This item proposes a process for potential supplemental educational services (SES) providers to appeal to the Board of Education if their application has been denied by the Superintendent of Public Instruction, acting with authority delegated by the Board of Education. The proposed process outlines the steps the applicants should take if they do not agree with the decision of the Superintendent of Public Instruction to disapprove the application. The process describes: 1) the time frame for the individual submitting the appeal; 2) the procedure for considering the appeal; and 3) the time frame for consideration of the appeal.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed appeals process for supplemental educational services providers under the *No Child Left Behind Act of 2001*.

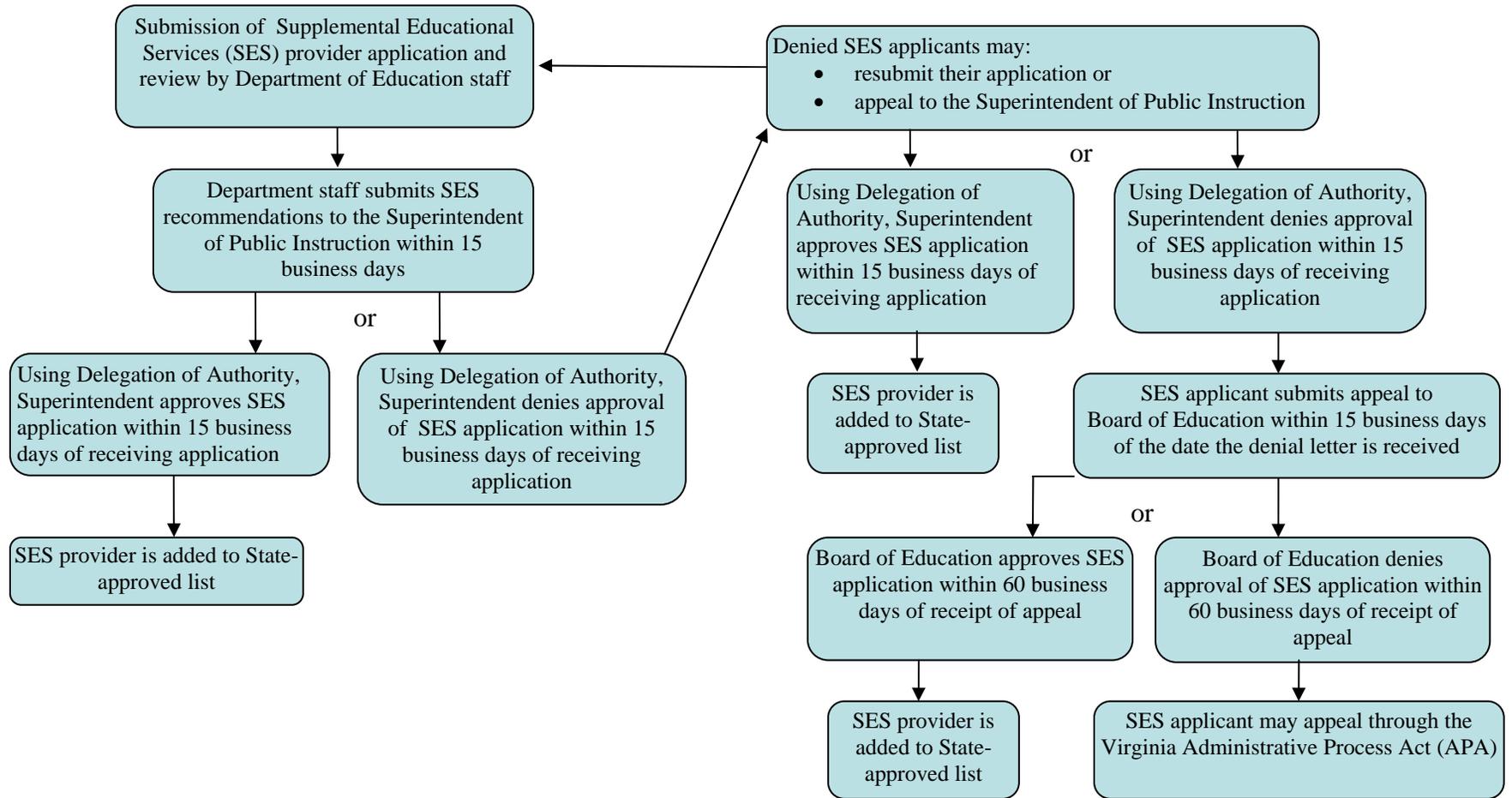
Impact on Resources: The responsibility can be absorbed by the agency's existing resources at this time.

Timetable for Further Review/Action: Following final review and approval, the appeal process will be posted to the section of the Department of Education's Web site related to SES providers.

**Appeals Process for Supplemental Educational Services Providers Under
the No Child Left Behind Act of 2001**

Submission of Application	Potential Supplemental Educational Services (SES) provider submits application to Virginia Department of Education (VDOE) on a schedule determined by the Department.
Review of Application	<p>VDOE Review The Supplemental Educational Services provider application is reviewed by a VDOE team within 15 business days of submission deadline. The VDOE review team forwards the application with recommendations to the Superintendent of Public Instruction.</p> <p>Superintendent of Public Instruction Review The Superintendent of Public Instruction reviews the recommendation from the VDOE review team within 15 business days of receiving the application from the review team. The Superintendent, acting on behalf of the Virginia Board of Education (BOE) through the Delegation of Authority, will:</p> <ul style="list-style-type: none"> • approve the SES application; or • deny the SES application. <p>SES Application Resubmission If a SES application has been denied by the Superintendent of Public Instruction, the applicant may submit a revised application in accordance with submission deadlines.</p>
Appeals Process	<p>Denied Applicant Appeals to the Superintendent of Public Instruction If a SES application has been denied approval by the Superintendent of Public Instruction, the applicant may appeal, in writing to the Superintendent of Public Instruction within 15 business days of the date the denial letter is mailed. The Superintendent of Public Instruction will convene a review team consisting of one representative for the VDOE, one representative for the SES applicant, and one independent third party. The review team will review the appeal within 60 business days of the date the appeal is received. The decision of the review team will be sent by letter to the individual submitting the appeal within 15 calendar days of the review team’s decision.</p> <p>Denied Applicant Appeals to the BOE If a SES appeal has been denied approval by the Superintendent of Public Instruction, the applicant may appeal, in writing, to the BOE within 15 business days of the date the denial letter is received. The BOE will review the appeal within 60 business days of the date an appeal is received. The final decision of the BOE will be sent by letter to the individual submitting the appeal within 15 calendar days of the BOE’s decision.</p> <p>Denied Applicant Appeals Through Virginia Administrative Process Act This decision of the BOE is intended to be a final “case decision” within the meaning of the Virginia Administrative Process Act (APA) §§2.2-4000 et seq. of the <i>Code of Virginia</i>, and subject to further review in accordance with the APA and Part 2A of the Rules of the Supreme Court of Virginia.</p>

Appeals Process for Supplemental Education Services Providers Under the *No Child Left Behind Act of 2001*



the Superintendent of Public Instruction to disapprove the application. The process describes: 1) the time frame for the individual submitting the appeal; 2) the procedure for considering the appeal; and 3) the time frame for consideration of the appeal.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed appeals process for instructional interventions to satisfy provisions in *Regulations Establishing Standards for Accrediting Public Schools in Virginia*.

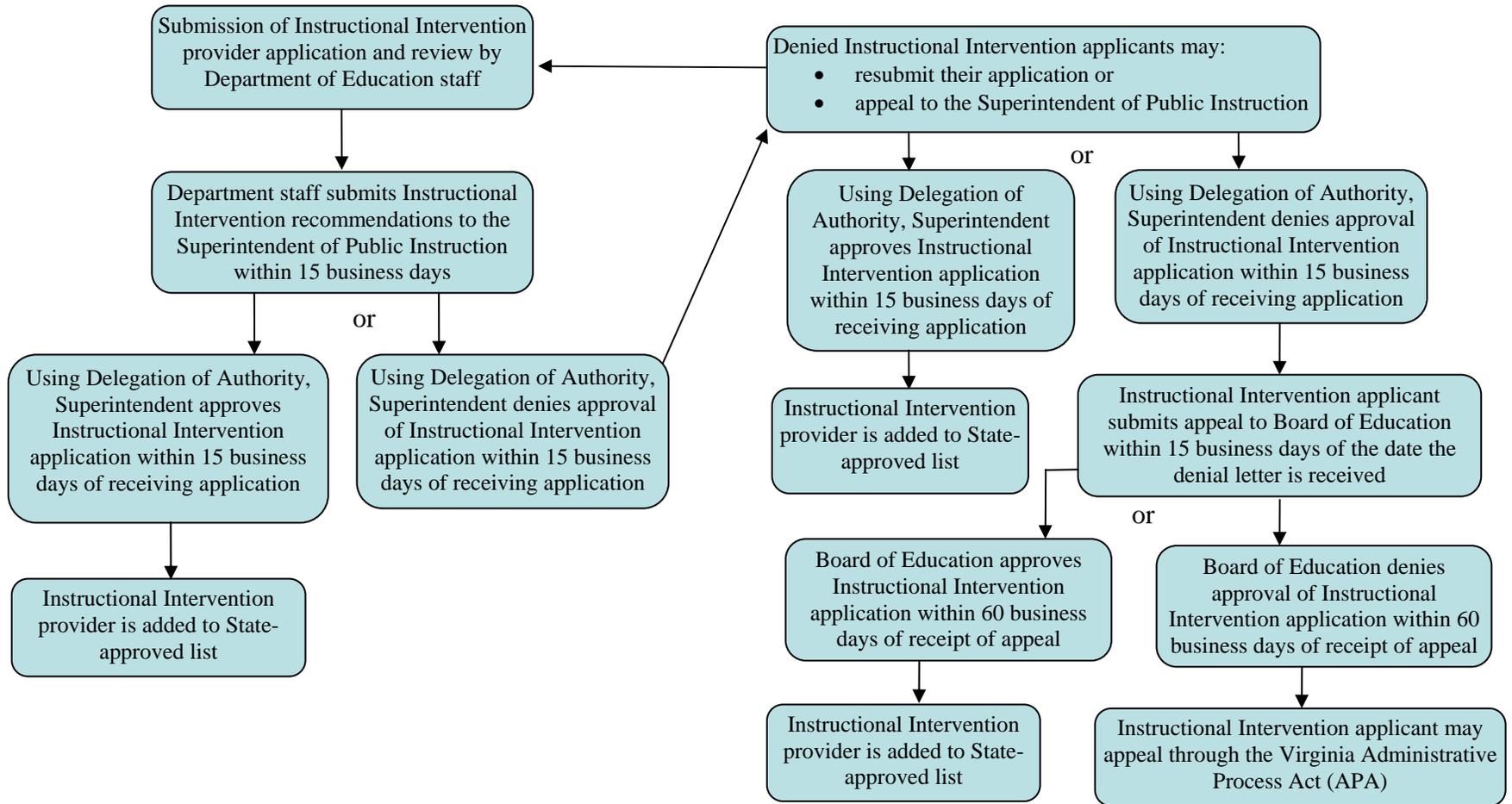
Impact on Resources: The responsibility can be absorbed by the agency's existing resources at this time.

Timetable for Further Review/Action: Following final review and approval, the appeal process will be posted to the section of the DOE's Web site related to instructional interventions.

**Appeals Process for Instructional Interventions
Under the *Regulations Establishing Standards
for Accrediting Public Schools in Virginia***

Submission of Application	Potential Instructional Intervention provider submits application to Virginia Department of Education (VDOE) on a schedule determined by the Department.
Review of Application	<p>VDOE Review The Instructional Intervention provider application is reviewed by a VDOE team within 15 business days of submission deadline. The VDOE review team forwards the application with recommendations to the Superintendent of Public Instruction.</p> <p>Superintendent of Public Instruction Review The Superintendent of Public Instruction reviews the recommendation from the VDOE review team within 15 business days of receiving the application from the review team. The Superintendent, acting on behalf of the Virginia Board of Education (BOE) through the Delegation of Authority, will:</p> <ul style="list-style-type: none"> • approve the Instructional Intervention application; or • deny the Instructional Intervention application. <p>Instructional Intervention Application Resubmission If an Instructional Intervention application has been denied by the Superintendent of Public Instruction, the applicant may submit a revised application in accordance with submission deadlines.</p>
Appeals Process	<p>Denied Applicant Appeals to the Superintendent of Public Instruction If an Instructional Intervention application has been denied approval by the Superintendent of Public Instruction, the applicant may appeal, in writing to the Superintendent of Public Instruction within 15 business days of the date the denial letter is mailed. The Superintendent of Public Instruction will convene a review team consisting of one representative for the VDOE, one representative for the instruction intervention applicant, and one independent third party. The review team will review the appeal within 60 business days of the date the appeal is received. The decision of the review team will be sent by letter to the individual submitting the appeal within 15 calendar days of the review team’s decision.</p> <p>Denied Applicant Appeals to the BOE If an instructional intervention appeal has been denied approval by the Superintendent of Public Instruction, the applicant may appeal, in writing, to the BOE within 15 business days of the date the denial letter is received. The BOE will review the appeal within 60 business days of the date an appeal is received. The final decision of the BOE will be sent by letter to the individual submitting the appeal within 15 calendar days of the BOE’s decision.</p> <p>Denied Applicant Appeals Through Virginia Administrative Process Act This decision of the BOE is intended to be a final “case decision” within the meaning of the Virginia Administrative Process Act (APA) §§2.2-4000 et seq. of the <i>Code of Virginia</i>, and subject to further review in accordance with the APA and Part 2A of the Rules of the Supreme Court of Virginia.</p>

**Appeals Process for Instructional Intervention Providers to Satisfy Provisions
in Regulations Establishing Standards for Accrediting Public Schools in Virginia**



Board of Education Agenda Item

Item: _____ L. _____

Date: _____ May 30, 2007 _____

Topic: First Review of a Recommendation of the Advisory Board on Teacher Education and Licensure (ABTEL) to Grant Continuing Accreditation to the Teacher Education Program at Lynchburg College

Presenter: Mrs. Patty S. Pitts, Assistant Superintendent, Division of Teacher Education and Licensure

Telephone Number: (804) 371-2522

E-Mail Address: Patty.Pitts@doe.virginia.gov

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 _____

Action _____

Background Information:

The Regulations Governing Approved Programs for Virginia Institutions of Higher Education require colleges and universities that offer programs for the preparation of professional educators to obtain continuing 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.

The regulations define the standards that must be met and the review options available for the accreditation of teacher education programs. The regulations provide three options for accreditation and program approval:

1. a state review process for which the teacher education program must meet the standards established by Board of Education regulations;

2. the National Council for the Accreditation of Teacher Education (NCATE) process for which the teacher education program must meet the board's teaching area requirements and the NCATE standards; or
3. the Teacher Education Accreditation Council (TEAC) process for which the teacher education program must meet the board's teaching area requirements and the TEAC standards.

In all three options, the institution hosts an on-site visit by a team of trained reviewers who develop a report of findings that is submitted to the Department of Education for review by the Advisory Board on Teacher Education and Licensure (ABTEL). After a review of the report of findings, the Advisory Board makes a recommendation to the Board of Education for final action.

Summary of Major Elements:

In fall 2006, Lynchburg College was reviewed under the Board of Education process. The regulations set forth 20 standards in the following four categories:

- I. Program Design;
- II. Faculty;
- III. Candidates; and
- IV. Program Operation/Accountability.

The review team makes a recommendation of "met" or "not met" for each of the 20 standards. In addition, the team makes a recommendation of "approval," "approval with stipulations," or "denial" for the teacher preparation program as a unit; and one of these three recommendations is made for each endorsement program offered by the institution.

The following is a summary of results of the on-site review for Lynchburg College:

Lynchburg College

The review of the Lynchburg College undergraduate and graduate programs for teacher preparation and support personnel was conducted October 22-25, 2006, in accordance with the standards and procedures outlined in the *Regulations Governing Approved Programs for Virginia Institutions of Higher Education*. This was the first review conducted under these regulations.

The team recommended "approval" for the Lynchburg College's preparation programs. As defined in the approved program regulations, a recommendation of "approval" is made when the professional education program and the endorsement areas are considered satisfactory. The review team cited 20 of 20 standards as being met. No weaknesses were cited.

Lynchburg College offers programs in Elementary Education PreK-6, Foreign Language (French and Spanish), Art PreK-12, Health and Physical Education PreK-12, Music PreK-12 (Instrumental and Vocal), English, History and Social Science, Mathematics, Sciences, Special Education (Early Childhood Special Education, Emotional Disturbance K-12, Learning Disabilities K-12, Mental Retardation K-12), Algebra I (add-on), Administration and Supervision PreK-12, and School Counselor PreK-12. The total number of program completers for 2004-2005 was 24, and the total number of program completers for 2005-2006 was 40.

At its April 23, 2007, meeting, the Advisory Board on Teacher Education and Licensure recommended “approval” of the teacher education unit at Lynchburg College and “approval” of all endorsement programs with the exception of “approval with stipulations” for the endorsement areas of mathematics and music education. The endorsement areas of mathematics and music education were recommended as approved with stipulations. The regulations require that the endorsement programs must have at least 70 percent of candidates admitted within a two-year period pass Praxis II (subject area assessments). For each of these programs (mathematics and music education), the college had two candidates, and the passing rate in these programs was 50 percent.

Superintendent’s Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve ABTEL’s recommendation to grant continuing accreditation to the teacher education program at Lynchburg College and that the endorsement areas of mathematics and music education be approved with stipulations.

Impact on Resources:

Expenses incurred during on-site review of teacher education programs are funded by the host institution.

Timetable for Further Review/Action:

Reviews of teacher preparation programs in Virginia are conducted on a seven-year cycle. Programs that do not meet standards for continuing accreditation are reviewed as needed. Programs that meet standards for accreditation will be reviewed again on the established cycle.

Board of Education Agenda Item

Item: _____ M. _____

Date: _____ May 30, 2007 _____

Topic: First Review by the Virginia Board of Education to Ratify and Appoint the School Division Superintendent in Newport News City Schools Pursuant to Sections 22.1- 60 and 22.1-61 of the Code of Virginia

Presenter: Dr. Mark E. Emblidge, President of the Board of Education

Telephone Number: _____ **E-Mail Address:** _____

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 _____
 action _____

Background Information:

The *Code of Virginia* provides the following requirements in the appointment of a division superintendent by the Virginia Board of Education in the event a school board fails to appoint within the time prescribed.

§ 22.1-60. Appointment and term of superintendent; certain contractual matters.

- A. The division superintendent of schools shall be appointed by the school board of the division from the entire list of eligibles certified by the State Board. All contract terms for superintendents shall expire on June 30. The division superintendent shall serve for an initial term of not less than two years nor more than four years. At the expiration of the initial term, the division superintendent shall be eligible to hold office for the term specified by the employing school board, not to exceed four years.

§ 22.1-60. Appointment and term of superintendent; certain contractual matters (continued)

The division superintendent shall be appointed by the school board within 180 days after a vacancy occurs. In the event a school board appoints a division superintendent in accordance with the provisions of this section and the appointee seeks and is granted release from such appointment prior to assuming office, the school board shall be granted a 60-day period from the time of release within which to make another appointment.

A school board that has not appointed a superintendent within 120 days of a vacancy shall submit a written report to the Superintendent of Public Instruction demonstrating its timely efforts to make an appointment.

- B. No school board shall renegotiate a superintendent's contract during the period following the election or appointment of new members and the date such members are qualified and assume office.
- C. Whenever a superintendent's contract is being renegotiated, all members of the school board shall be notified at least 30 days in advance of any meeting at which a vote is planned on the renegotiated contract unless the members agree unanimously to take the vote without the 30 days notice. Each member's vote on the renegotiated contract shall be recorded in the minutes of the meeting.

(Code 1950, §§ 22-32, 22-33; 1954, c. 638; 1958, c. 44; 1970, c. 155; 1971, Ex. Sess., c. 225; 1972, c. 434; 1980, c. 559; 1983, c. 145; 1989, c. 550; 1992, c. 164; 1996, c. 759; 2002, cc. 165, 374; 2003, c. 866.)

§ 22.1-61. When Board to appoint superintendent.

In the event that a school board fails to appoint a division superintendent within the time prescribed by § [22.1-60](#), the State Board shall appoint such division superintendent.

(Code 1950, § 22-33; 1954, c. 638; 1972, c. 434; 1980, c. 559.)

Attached is the procedure for appointment of a school division superintendent by the Virginia Board of Education.

Summary of Major Elements:

The Newport News City School superintendent position became vacant on October 1, 2006. The Board of Education is requested to ratify and appoint the school board's recommendation for division superintendent.

Superintendent's Recommendation: N/A

Impact on Resources: N/A

Timetable for Further Review/Action: N/A

**Virginia Board of Education
Commonwealth of Virginia
P. O. Box 2120
Richmond, Virginia 23218-2120**

**Procedure for Appointment of a
School Division Superintendent by the Virginia Board of Education**

Approved by the Virginia Board of Education on March 22, 2006

In the event that a school board fails to appoint a division superintendent within the time prescribed by Sections 22.1-60 and 22-1-61 of the *Code of Virginia*, the Virginia Board of Education shall appoint the division superintendent. The procedures for the appointment of such division superintendent by the Virginia Board of Education shall be as follows:

1. An individual appointed as a division superintendent must hold a valid division superintendent license issued by the Virginia Board of Education prior to the appointment.
2. The Virginia Board of Education shall appoint the division superintendent if the school board has not appointed the division superintendent within 180 (calendar) days after a vacancy occurs. However, in the event a school board appoints a division superintendent in accordance with the provisions of Section 22.1-60 of the *Code of Virginia* and the appointee seeks and is granted release from such appointment prior to assuming office, the school board shall be granted a 60-day period (calendar days) from the time of release within which to make another appointment.
3. A school board that has not appointed a superintendent within 120 (calendar) days of a vacancy shall submit a written report, containing at least a status report with a timeline for making the appointment prior to 180 (calendar) days, to the Superintendent of Public Instruction demonstrating its timely efforts to make an appointment.
4. The school board immediately shall notify the Virginia Board of Education, in writing, of its failure to appoint a division superintendent within the time prescribed by Section 22.1-60 of the *Code of Virginia*. Within 30 calendar days after the time prescribed by Section 22.1-60 of the *Code of Virginia* for the local school board to appoint the division superintendent, the school board must submit in writing its preferred candidate(s), not to exceed three, for the division superintendent position. The Virginia Board of Education may consider these candidates and other eligible individuals. The Virginia Board of Education may authorize the State Superintendent of Public Instruction to conduct the search for a division superintendent.
5. The Virginia Board of Education shall appoint a division superintendent, and the contract for the superintendent shall be negotiated by the school board.

Board of Education Agenda Item

Item: _____ N. _____

Date: May 30, 2007

Topic: First Review: Guidelines for *Schools for Students with Disabilities Fund*

Presenter: H. Douglas Cox, assistant superintendent, Division of Special Education & Student Services

Telephone Number: (804) 225-3252

E-Mail Address: doug.cox@doe.virginia.gov

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: June, 2007

Previous Review/Action:

No previous board review/action

Previous review/action

date _____

action _____

Background Information:

The 2006 Appropriation Act established a provision, known as the *Schools for Students with Disabilities Fund*, whereby individuals or businesses may receive tax credits for contributions made to private schools for students with disabilities when the donations are for the purpose of providing tuition assistance for students to attend the school. The Appropriation Act language specified that the Board of Education is to issue guidelines for the administration of this program which is effective on July 1, 2007.

Summary of Major Elements

The guidelines contain the following elements:

- Grant Administration: Provisions for receiving donations and disbursing the monies to private schools
- Tax Credit Administration: Provisions for awarding tax credits to donors
- Oversight and Recovery of Funds: Provisions for monitoring private schools' use of donated funds and for recovery of funds under applicable conditions

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept the Guidelines for the *Schools for Students with Disabilities Fund* for first review.

Impact on Resources:

Considerable resources will be required to administer the program and to conduct the associated oversight activities. The 2006 Appropriation Act provides two full-time positions, effective July 1, 2007, to administer this program.

Timetable for Further Review/Action:

Conduct final review at the June 2007 Board of Education meeting.

**Guidelines:
Schools for Students with Disabilities
Fund**

PREAMBLE

The 2006 Virginia General Assembly, through the Appropriation Act (Item 5.06, Chapter 3, 2006 Special Session I), established the *Schools for Students with Disabilities Fund*. The purpose of this program is to establish a mechanism whereby individuals and businesses may donate monies to help offset the cost of tuition for students with disabilities to attend state approved private schools for students with disabilities and to receive a tax credit for such donations.

The act specifies that the Virginia Department of Education will administer the fund and that the Board of Education will establish guidelines for the program. The following guidelines address eligibility requirements for private schools to participate in the program; monetary awards to participating private schools under the program; and tax credit administration.

Eligible Schools

All schools licensed by the Board of Education as private day schools for children with disabilities or through the interagency licensure process as private residential schools for students with disabilities will be eligible to receive awards through this program, subject to the submission to the Virginia Department of Education (VDOE) of applicable assurances regarding the use of the award monies and the maintenance of documentation (see Appendix I). Schools not licensed as described herein will not be eligible to participate in the program.

Grant Administration

Individuals or businesses wishing to donate to the *Schools for Students with Disabilities Fund* will submit a completed application to the VDOE using a process and forms established by the Department.

An account will be established within the Department of Education to receive donations to the Fund and disburse awards to eligible private schools. The account will be administered according to state accounting practices and the Appropriation Act provisions governing this program.

All monies in the fund will be distributed equitably to participating private schools for students with disabilities through a method developed by the VDOE. Awarded funds will be disbursed to eligible private schools one time per year on a date to be determined by the Department.

All monies received by private schools under this program must be used for tuition assistance/scholarships for eligible students with disabilities to attend the school. The private schools must maintain documentation that the grant was used accordingly.

The VDOE will develop procedures to oversee and monitor the appropriate use of awards by the private schools as follows:

- Each school that received an award during the fiscal year will submit to the VDOE a report at the end of the fiscal year detailing the number of students who received assistance under the fund, the amount received by each student, and, if applicable, the balance.
- During the conduct of routine or unannounced on-site visits to private schools, VDOE staff will review financial records associated with the fund.

The VDOE will reserve the right to recover funds not expended in accordance with the provisions of the program.

Tax Credit Administration

In any given state fiscal year, the total tax credits issued by the VDOE shall not exceed \$3 million based on \$7.5 million in donations per fiscal year.

Only monetary donations will be accepted for the purpose of awarding tax credits.

For every qualified donation received, the donating individual/entity will receive a tax credit, issued by the VDOE, equal to 40 cents for every dollar donated with the following restrictions:

- For businesses, the minimum required donation is \$1,000 for the minimum \$400 tax credit; the maximum annual donation is \$437,500 for the maximum tax credit of \$175,000.
- For individuals, the minimum required donation amount is \$500, resulting in a minimum \$200 tax credit.

When tax credit certificates are issued, VDOE will notify appropriate units in the Virginia Department of Social Services and the Virginia Department of Taxation. The credit will be applied to the calendar year in which the donation is made.

Tax credits will be awarded to donors on a first-come, first-served basis, based on the order of receipt of donations.

The VDOE will maintain a cumulative total of tax credits issued each fiscal year. When the \$3 million annual tax credit cap has been reached, no further applications for monetary donations will be accepted until the next fiscal year.

Private School Assurances

Any private school licensed by the Virginia Department of Education (VDOE) as a private day school for children with disabilities or licensed through the interagency licensure process as a private residential school for students with disabilities that wishes to establish eligibility to receive monetary awards under the *Schools for Students with Disabilities Fund* (fund) must provide assurances as follows:

- All monies received under the fund must be maintained in a separate account to be used only for the purpose of reducing tuition costs for eligible students with disabilities to enroll.
- The school will maintain an audit trail, subject to review by VDOE personnel, that demonstrates that all monies received through the fund were used only for student tuition assistance. The audit trail must include the names of each student recipient and the respective amount of assistance awarded.
- The school must document an equitable methodology for awarding tuition assistance to students.

§ 3-5.06 NEIGHBORHOOD ASSISTANCE PROGRAM AND SCHOOLS FOR CHILDREN WITH DISABILITIES FUND TAX CREDIT

A. Notwithstanding any other provisions of law and effective July 1, 2007, (1) the annual fiscal year cap for tax credits allowed under the Neighborhood Assistance Act shall be increased from \$8 million to \$12 million, (2) \$1 million of the increase shall be allocated for education programs and \$3 million for providing grants to private schools for students with disabilities, (3) the tax credit percentage for donations made by corporations and individuals is reduced from 45 percent to 40 percent, and (4) the restriction placed upon individuals from claiming a tax credit for the donation if a charitable contribution deduction credit is also taken is removed.

The Department of Education shall administer the Schools for Students with Disabilities Fund from which grants will be made to private schools for students with disabilities for the purpose of reducing the tuition costs to attend such Schools. The Fund would be funded from monetary donations for which the Department would allocate the annual \$3 million in tax credits. The Board of Education shall establish guidelines for the grants program, including guidelines for procedures to allocate the \$3 million in tax credits in fiscal years in which more than \$3 million in monetary donations were made to the Fund.

In addition, the \$50,000 taxable year limitation on individual tax credits under the Neighborhood Assistance Act pursuant to § 63.2-2006 of the Code of Virginia shall not apply in any taxable year beginning in the relevant fiscal year of the Commonwealth if, after an equitable allocation of tax credits under the Act of such relevant fiscal year, the total amount of tax credits granted for all programs approved under the Act (including tax credits for monetary donations to the Schools for Students with Disabilities fund) for such fiscal year was less than \$12 million.

B. Notwithstanding the provisions of paragraph A, any business firm that has pledged in writing on or before January 1, 2006, to a neighborhood organization to make a donation to such organization shall be eligible to receive a tax credit equal to 45% of the value of any qualifying donation that is covered under such writing, provided that the donation is made on or before January 1, 2013 and does not exceed the annual caps established in paragraph A. Nothing in this paragraph shall be interpreted or construed as affecting any other provision of the Neighborhood Assistance Act (§ 63.2-2000 et seq. of the Code of Virginia). For purposes of this paragraph, the terms "business firm" and "neighborhood organization" shall mean the same as those terms are defined in § 63.2-2000 of the Code of Virginia.

C. For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 63.2-2000.

Board of Education Agenda Item

Item: _____ O. _____

Date: May 30, 2007

Topic: Action Required to Continue the Process of Consolidating the Two Virginia Schools for the Deaf and the Blind

Presenter: Mr. H. Douglas Cox, Assistant Superintendent for Special Education and Student Services

Telephone Number: (804) 225-2715 **E-Mail Address:** Doug.Cox@doe.virginia.gov

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: Appropriation Act, Chapter 847, 2007 Acts of Assembly

Action requested at this meeting Action requested at future meeting:

Previous Review/Action:

No previous board review/action

Previous review/action

Date: July 27, 2005

Action: Reviewed proposals submitted under the Public-Private Education Facilities and Infrastructure Act (PPEA) for the consolidation of the two Virginia schools for the deaf and the blind; selected proposal submitted by Trammell Crow

Date: September 21, 2005

Reviewed options prepared by Trammel Crow under the PPEA; requested further instruction from the General Assembly

Background Information:

Beginning with the 2003 General Assembly, several tasks have been assigned to either the Department of Education, the Board of Education or the Department of General Services (DGS) to plan needed activities for the consolidation of the two state schools for the deaf and the blind into a single school program. A brief summary of those directives is provided below.

2003 General Assembly

The Board of Education was charged with responsibility for forming and conducting a task force to develop a conceptual framework for the new program. It is reported in the subsequent document submitted entitled *Plan for Consolidating Services for the Deaf and/or Blind and Multi-Disabled Students Served by Virginia's Two Schools at Staunton and Hampton*.

2004 General Assembly

The Secretaries of Education, Health and Human Resources, Administration, and Finance, together with the Sate Board of Education, the Department of Education, the two schools for the deaf, blind, and multi-disabled, the Woodrow Wilson Rehabilitation Center, the Department of General Services, and the Department of Planning and Budget were directed to conduct capital needs assessment and feasibility study for consolidating the State's two existing schools for the deaf, blind, and multi-disabled. The feasibility study report was transmitted by the Secretary of Education to the Governor and the General Assembly.

2005 General Assembly

The Board of Education was directed to continue the process for consolidating the schools, including the development of projected building costs and the selection of a site for the new school. The General Assembly authorized \$61.5 million for construction of a new school if the Board of Education selected a Public-Private Education Act (PPEA) proposal.

At its meeting on July 27, 2005, the Board selected a PPEA proposal submitted by Trammell Crow and authorized the Department and DGS to move forward with Trammell Crow to examine options for the following

1. Renovation and/or construction of a new facility at Staunton
2. Renovation and/or construction of a new facility at Hampton
3. Construction of a new facility at alternate locations as in accordance with the guidelines for the new facility in the Department of Education Feasibility Study

At its meeting on September 21, 2005, the Board reviewed cost estimates prepared by Trammell Crow for the options described above. Because the cost estimates exceeded the \$61.5 million authorization (between 37 and 54 percent), the Board voted to present findings of cost estimates from Trammell Crow along with comments from the Board to the Appropriations and Finance Committees and ask for further instruction from the General Assembly.

2006 General Assembly

The Board of Education was directed, assisted by DGS, to plan and design the consolidation of the two schools into a single campus at Staunton by beginning the process of developing architectural and engineering drawings for the consolidated school. Funding appropriated for this purpose was \$2.5 million dollars. The DGS services included the development of a proposed schematic for the Staunton site with the intent to continue with development of preliminary drawings, working drawings and the final

construction document after the project is funded. The amendment further authorized the transfer of the current Hampton campus to a regional day program in Hampton Roads.

2007 General Assembly

The Board of Education was directed to enter into either 1) a conventional design contract and construction manager at risk contract or 2) an interim agreement under the PPEA to plan and design the consolidation of the two schools and to transfer the students, programs and services from the Hampton program to a single campus at Staunton. Funding appropriated for this purpose is \$3.5 million dollars. A copy of the Appropriation Act language is attached.

The Department of Education is directed to assist with the coordination with appropriate local entities for the transition of services to a regional day program in the Hampton Roads area by no later than June 30, 2008. The Department of General Services, in conjunction with the Board of Education may, with the Governor's approval, convey property from either campus specific to the purposes outlined.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education enter into a conventional design contract and a construction manager at risk contract with assistance from the Department of General Services.

Impact on Resources:

The impact on resources will depend upon the action chosen by the Board of Education. The General Assembly has authorized \$3.5 million for this phase of the project.

Timetable for Further Review/Action:

The timetable for further action is dependent of the timelines required for inclusion of the project funding for the 2008 General Assembly session. The Department of Education must provide cost information to the Department of Planning and Budget by July 30, 2007. The information must subsequently be provided to the 2008 General Assembly.

Virginia School for the Deaf and the Blind at Staunton (218)

17.50.	New Construction: Consolidation of the Schools for the Deaf, Blind and Multi-disabled (17435)	2,500,000	0
			3,500,000

Fund	General		
Sources:		2,500,000	0
			3,500,000

1. Notwithstanding other provisions of the Code of Virginia, the State Board of Education, assisted by the Department of General Services, shall ~~use a Public-Private Education Act (PPEA) proposal~~ enter into either 1) a conventional design contract and a construction manager at risk contract, or 2) an interim agreement under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq., Code of Virginia) to plan and design the consolidation of the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-disabled at Hampton into a single campus and transfer the students, programs and services to a single campus at Staunton. Funding in this item is provided to plan for the necessary renovations, additions and new facility construction at the Staunton campus. The Department of General Services shall develop a plan for disposing of buildings and property no longer necessary for special education purposes. The Department of General Services shall work with the City of Staunton and the Department of Historic Resources when considering proposals that may transfer ownership to or establish long-term leases with private entities. The properties shall be conveyed with appropriate historic easements at fair market value with the proceeds reverting to the general fund to offset the cost of construction of the new facility.

2. The Department of Education shall assist with the coordination with appropriate local entities for the transition of services to a regional day program in the Hampton Roads area by no later than June 30, 2008. The Department of General Services, in conjunction with the Board of Education may, with the Governor's approval, convey the current Hampton campus to an existing nonprofit or public entity in Hampton Roads to facilitate these services. In addition, the Department of Education shall provide appropriate technical assistance to regional special education programs and school divisions statewide. The Department of General Services shall develop a plan for disposing of buildings and property no longer necessary for special education purposes in the City of Hampton. The Department of General Services shall work with the City of Hampton and the Department of Historic Resources when considering proposals that may transfer ownership to or establish long-term leases with private entities. The properties shall be conveyed with appropriate historic easements at fair market value.

3. Out of this appropriation, \$3,500,000 the second year from the general fund is available to continue the process for achieving consolidation of the two schools at the Staunton Campus. Such funds may be used for, but are not limited to, expenditures to

continue planning for consolidation at the Staunton campus and expenditures to facilitate the future use of the Hampton campus.