

COMMONWEALTH OF VIRGINIA
BOARD OF EDUCATION
RICHMOND, VIRGINIA

MINUTES

January 26, 2017

The Board of Education met at the James Monroe State Office Building, Jefferson Conference Room, 22nd Floor, Richmond, with the following members present:

Dr. Billy K. Cannaday, Jr., President
Mrs. Joan E. Wodiska, Vice President
Mrs. Diane T. Atkinson
Dr. Oktay Baysal

Mr. James H. Dillard
Mr. Daniel A. Gecker
Mrs. Elizabeth V. Lodal
Mr. Sal Romero, Jr.

Dr. Steven R. Staples, Superintendent of
Public Instruction

Dr. Cannaday called the meeting to order at 9:00 a.m.

MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Dr. Cannaday led in the Pledge of Allegiance and asked for a moment of silence.

APPROVAL OF MINUTES

Mrs. Atkinson made a motion to approve the minutes of the November 17, 2016, meeting of the Board. The motion was seconded by Mrs. Wodiska and carried unanimously. Copies of the minutes had been distributed in advance of the meeting.

RESOLUTIONS/RECOGNITIONS

Recognition of 2017 Gear Up Poster Contest Winner, Sarah Deloney, 9th grader at Harrisonburg High School.

Recognition of 2017 Gear Up Distinguished Entry Poster, Caroline McLellan, 9th grader at Charlottesville High School.

Recognition of Virginia's 2017 Regional Teachers of the Year

- Region 1 – Louise Thornton, Government teacher, Prince George High School, Prince George County
- Region 3 – Carolyn Kleinart, Spanish teacher, Freedom Middle School, Spotsylvania County
- Region 4 – Heidi Trude, French teacher, Skyline High School, Warren County

- Region 5 – Crystal DeLong, Social Studies teacher, Liberty High School, Bedford County
- Region 6 – Jason Ince, Agriculture teacher, Chatham High School, Pittsylvania County
- Region 7 – Beth Shell, Agriculture teacher, Lee County Career and Technical Center, Lee County
- Region 8 – Katie McCann, Reading/Language Arts teacher, Appomattox elementary School, Appomattox County

Recognition of Virginia's 2017 Teacher of the Year

Dr. Toney Lee McNair, Jr., Choral teacher at Indian River Middle School, Chesapeake City Public Schools. The Region 2 teacher of the year was selected after being interviewed by a committee of professional educational associates.

A Resolution of Appreciation was presented to Dr. Oktay Baysal, for his outstanding leadership and service to public education as a Board Member from 2012-2017.

A Resolution of Appreciation was presented to Mrs. Joan Wodiska for her outstanding leadership and service to public education as Vice President and Board Member from 2013-2017.

PUBLIC COMMENT

The following persons spoke during public comment:

- Laura Murphy spoke on parental notification as it relates to the use of sexually explicit instructional materials in school divisions.
- Cecily Shea spoke on behalf of the Falls Church Education Foundation, thanked the Board for the donation in Mrs. Wodiska's honor and spoke on her commitment and support throughout the Falls Church community.
- Meg Kilgannon spoke on parental notification as it relates to the use of sexually explicit instructional materials in school divisions.
- Chuck Miller spoke on the use of sexually explicit instructional materials in school divisions.
- Dr. Joleen Neighours spoke on the perception of a censorship mandate of materials used in education and the mandate of an implementation of a middle school career course.
- Dr. Barbara Laws, Virginia Coalition for Fine Arts Education, spoke on the middle school career investigations course.
- John Brewington, Chairman of Virginia Coalition of Fine Arts Education, spoke on the use of sexually explicit instructional materials in school divisions.
- Dr. Lelia Christenbury, VCU, spoke on the regulations related to the use of sexually explicit instructional materials in school divisions.
- Leslie Chambers Mehta, ACLU of Virginia, spoke on the use of sexually explicit instructional materials in school divisions.
- Kimber Tate, Rockingham County Public Schools, spoke on the use of sexually explicit instructional materials in school divisions.
- India Meissel spoke on the model policies regarding Political Candidates and Public Officials and model policy regarding Controversial Issues.

- Mike Wildasin spoke on the model policies regarding Political Candidates and Public Officials and model policy regarding Controversial Issues.
- Laurie McCullough, VASCD, spoke on school accountability and school quality.
- Dr. James Fedderman, Accomack County Public Schools and Vice President of Virginia Education Association, spoke on allowing teachers to teach their students in a manner in which all students will learn.
- Steve Cunningham, Matoaca High School, Chesterfield County, spoke on parental notification as it relates to the use of sexually explicit instruction materials in school divisions.
- Sarah Crain, parent and educator, asked that the Board reconsider the proposed language in requiring teachers to notify parents of any sexually explicit materials that may be included in any course.
- John Gostruck, parent, spoke on parental notification as it relates to the use of sexually explicit instruction materials in school divisions.

CONSENT AGENDA

Mrs. Atkinson made a motion to approve the consent agenda. The motion was seconded by Mr. Dillard and carried unanimously.

A. Final Review of Financial Report on Literary Fund

With the Board's approval of the consent agenda, the Board approved the final review of the Financial Report on Literary Fund.

ACTION/DISCUSSION ITEMS

B. Final Review of Proposed Revised 2017 English Standards of Learning

Ms. Tracy Fair Robertson, English coordinator, presented this item for final review. The presentation included the revisions for the English Standards of Learning for Virginia Public Schools. The standards for English may be viewed online at http://www.doe.virginia.gov/testing/sol/standards_docs/english/index.shtml.

The Proposed *English Standards of Learning* are the first standards to be revised using the guidelines of the Profile of a Virginia Graduate. The Profile, developed by the Board of Education, describes knowledge, skills, competencies, and experiences students should attain during their K-12 education to make them "life-ready." The Profile is comprised of four overlapping areas considered to be essential for success beyond high school: content knowledge; workplace skills; community engagement and civic responsibility; and career exploration. The goals of the *English Standards of Learning*, teaching students to read, write, research and communicate, align with the four components of the Profile of a Virginia Graduate and include the foundational skills of critical thinking, creative thinking, collaboration, communication, and citizenship. Students should be prepared to participate in society as literate citizens, equipped with the ability to think analytically, solve problems, communicate effectively, and collaborate with

diverse groups in their communities, in the workplace, and in postsecondary education. Although the strands are developed separately, they are expected to be seamlessly integrated in the classroom. Without a required reading list for English, school divisions have always had the flexibility to design their local curricula to best meet the needs of their students including the exploration of career paths and using technical texts. Through the rigorous application of the English Standards of Learning, students become critical thinkers, effective contributors, and global citizens.

The major elements of the proposed revised *English Standards of Learning* include:

- Alignment and inclusion of the 5Cs: Critical Thinking, Creative Thinking, Communication, Collaboration, and Citizenship;
- Alignment to the applicable skills within the Virginia Workplace Readiness Skills;
- Reorganization of the K-3 Standards to fully align with the 4-12 Standards and reflect a seamless alignment of the *English Standards of Learning* from kindergarten through Grade 12;
- Reorganization of the early literacy skills formerly under an Oral Language strand to the Reading strand ensuring that students receive the strong foundation of phonological and phonemic awareness to become fluent readers;
- Creation of a Communication strand in K-3, which will focus on the necessary skills to express needs, ask questions, work collaboratively, and present information;
- Creation of a Research strand in K-3, which previously began in Grade 4. At the primary level, students will begin to conduct research and use available resources to answer questions, solve problems, and organize information;
- Renaming the Communication: Speaking, Listening, and Media Literacy strand to Communication and Multimodal Literacies to reflect the integration of multiple forms of communication and expression, digital citizenship, and current best practices;
- Expansion of cursive writing standards in grades 2 and 3;
- Expansion of technical reading and writing in grades 9-12;
- Introduction of reflective writing in grades 6-12;
- Expansion of skills for collaboration, consensus-building, team-building, and working toward common goals;
- Creation of standards in reading requiring comparing/contrasting details in literary and informational nonfiction texts;
- Expansion of requirements for nonfiction/informational/technical reading in grades 4-12;
- Emphasis on ethical use of the Internet when gathering and using information;
- Introduction of a focus on a mode or modes of writing at each grade level, increasing in complexity and rigor as students progress through K-12; and
- Edits to enhance clarity, specificity, rigor, alignment of skills and content, and a reflection of the current academic research and practice.

Mrs. Wodiska made a motion to approve the proposed revised 2017 English Standards of Learning. The motion was seconded by Mrs. Lodal and passed unanimously.

C. Final Review of Proposed Amendments to the Regulations Establishing Standards for Accrediting Public Schools in Virginia, Parts I-VII (Proposed Stage)

Dr. Cynthia Cave, assistant superintendent for policy and communications, presented this item for final review. The presentation included an overview of the proposed amendments to the *Regulations Establishing Standards of Accrediting Public Schools in Virginia*, Parts I-VII.

In October, 2014, the Board held a work session to focus on an in-depth comprehensive examination of the SOA in its entirety. The following month, the Board withdrew pending amendments to the SOA, approved in 2013 and proceeding through the regulatory process, in favor of conducting a more extensive review and consideration of revisions. From that time, the Board has conducted a section-by-section evaluation of the regulations, including extensive public outreach and participation through public comment, roundtables, and public hearings. Discussions of issues and proposals have taken place, including the topics of the School Performance Report Card (renamed the School Quality Profile), graduation requirements and the expected knowledge, skills, and competencies of a Virginia graduate, assessments, and accreditation. These proposed revisions to Parts I through VII are based on decisions the Board has made throughout the comprehensive review. They were first reviewed by the Board at its September 20, 2016 meeting. A second review took place at the Board's November 17, 2016 meeting. Proposed revisions to Part VIII are anticipated to be brought before the Board later this year.

Formal actions the Board has taken to amend the SOA prior to this proposal include the following: (1) Notice of Intended Regulatory Action (NOIRA) on June 27, 2013; (2) amendments to the regulations (Proposed Stage) addressing legislation from the 2012 and 2013 General Assembly on October 24, 2013; and (3) amendments to the regulations to comport with legislation passed by the General Assembly under the Fast Track provisions of the Administrative Process Act. The separate fast track regulatory action was taken for the sole purpose of addressing legislation that was approved by the General Assembly during the 1999, 2012, 2013, 2014, and 2015 sessions.

During the 2016 legislative session, the Governor and the General Assembly supported the development of a *Profile of a Virginia Graduate* through the introduction and adoption of legislation which directed the Board to redefine the expectations of high school graduates in the Commonwealth. HB 895 (Greason) amended [§ 22.1-253.13:4.D](#) of the *Code* to require the Board to develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a *Profile of a Virginia Graduate* that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship (known as the 5 Cs).

The proposed amendments to the SOA provide for implementation of the *Profile*, as well as further policy changes identified by the Board as part of its comprehensive review. Proposed changes identified by the Board include the following:

1. Expand the use of performance assessments and reduce the number of credits verified by Standards of Learning tests—pages 18, 19, 21, 23, 25
2. Increase internships and work-based learning experiences—pages 5, 6, 18, 22, 23, 26, 34,

- 38, and 44
3. Increase career exposure, exploration, and planning—pages 5, 34, 36, 42, and 44
 4. Emphasize the 5Cs (critical thinking, creative thinking, collaboration, communication, and citizenship)—pages 6, 18, 22, 26, 34, and 38
 5. Instructional Leadership—pages 50-53
 6. School Quality Profile—page 58 - 59

The Board of Education accepted the proposed changes to regulations for first review at its September 2016 meeting and for second review at its November 2016 meeting.

The proposed changes to Parts I-VII of the SOA since the November 2016 Board meeting are outlined below.

Part I: Definitions and Purpose

8VAC20-131-5 Definition

Definition of the term planning period revised to mean a segment of time in middle and secondary schools during the instructional day that is unencumbered of any teaching or supervisory duties is not less than 45 minutes or the equivalent of a class period, whichever is greater, and which includes passing time for class changes.

8VAC20-131-10 Purpose

Language struck which referenced a high quality education and revised to indicate that the SOA will provide the foundation for the provision of a quality public education.

Part II: Philosophy, Goals, and Objectives

8VAC20-131-20

Language added to show that the philosophy, goals, and objectives of individual schools should reflect and encompass the means by which both the Standards of Learning and Standards of Accreditation are to be achieved.

Part III: Student Achievement

8VAC20-131-50

Requirements for graduation (effective until the 2018-2019 school year)

Provides language which shows, per the Standards of Quality (§ 22.1-253.13:4), a computer science course credit earned by students may be considered a science, mathematics, or a career and technical education course credit for a Standard or Advanced Studies Diploma.

Provides language which shows, per the Standards of Quality (§ 22.1-253.13:4), a computer science course credit earned by students may be considered a science, mathematics, or a career and technical education course credit for a Standard or Advanced Studies Diploma

8VAC20-131-60 Transfer students

For a Standard Diploma, language amended to state that transfer students entering a Virginia high school for the first time during the eleventh grade or at the beginning of the twelfth grade must earn two verified

credits instead of four: one each in English, one of the student's own choosing, or one earned through required participation in mathematics testing as determined by federal law

Part IV: School Instructional Program

8VAC20-131-90

Instructional program in middle schools

Revised language to show that each middle school shall provide instruction in career investigation in accordance with 8VAC20-131-140 and deleted "for seventh grade students" (only)

8VAC20-131-110 Standard and verified units of credits

Revised language to show the criteria for additional tests approved by the Board must be "administered on a statewide, multistate or international basis, or administered as part of another state's accountability assessment program"

To address concerns regarding the middle school career investigations course, the following language was suggested as an addition: School divisions may seek alternate means of delivering the Career Investigation course provided it is equivalent in content and academic rigor. In such cases, the school division shall provide the Virginia Department of Education with evidence, based on the state-approved competencies, that the students have attained the knowledge and skills included in the course. In addition, the local superintendent shall develop and written policy which shall be approved by the school board.

Mr. Joseph Wharff, School Counseling Specialist, provided more information on the course. He stated that the course could be a stand-alone course and interested students can take inventory to determine their academic and career plan.

Board Discussion:

The Board discussed various scenarios, recommended revising the language and seeking more information. It was concluded that Part IV: School Instructional Program; instructional program in middle schools pertaining to career investigation course will be revisited with recommended changes at a later date.

The Superintendent recommended that the Board receive the Proposed Revisions to the *Regulations Establishing the Standards for Accrediting Public Schools in Virginia*, Parts I-VII for final review and for further action as governed by the requirements of the Administrative Process Act.

Mrs. Atkinson made a motion to amend the regulations as currently drafted to include:

8VAC20-131-51 Requirements for graduation; Section B

Students who do not pass test in English, mathematics, laboratory science or history and social science may receive one locally awarded verified credit from the local school board in accordance with criteria established in guidelines adopted by the Board of Education.

Students may receive ~~locally awarded~~ verified credit in history and social science in demonstrating mastery of the content on ~~locally developed~~ authentic performance assessments as approved by Department of Education. Such students shall not also be required to take the SOL test in history and

social science.

Requirements for Advance Diploma; Section C

Students who do not pass test in English, mathematics, laboratory science or history and social science may receive one locally awarded verified credit from the local school board in accordance with criteria established in guidelines adopted by the Board of Education.

Students may receive ~~locally awarded~~ verified credit in history and social science in demonstrating mastery of the content on ~~locally developed~~ authentic performance assessments as approved by Department of Education. Such students shall not also be required to take the SOL test in history and social science.

VDOE staff proposed revised language to the Board as a result of public comment received from stakeholders. Mrs. Atkinson made a motion to amend the proposed language prepared by VDOE staff. Her amendment refined the language to the following section as outlined below to provide additional flexibility to school divisions:

8VAC20-131-90

Each middle school shall provide a course in career investigations in accordance with the provisions of 8VAC20-131-140. School divisions may seek alternate means of delivering the Career Investigation course provided it is equivalent in content and academic rigor.

Mrs. Wodiska seconded the motion and carried unanimously.

D. Final Review of Proposed Amendments to the Regulations Governing Local School Boards and School Divisions (8VAC 20-720) Regarding Use of Sexually Explicit Instructional Materials (Proposed Stage)

Dr. Cynthia Cave, assistant superintendent for policy and communications, presented this item for final review. The presentation included the following information:

In February 2013, the Board amended the *Regulations Governing Local School Boards and School Divisions* to address local school divisions' approvals of textbooks not included in the Board's list of approved textbooks. During and following this action, the Board received public comments expressing concern about content and language used in some instructional materials. The Board then discussed whether or not the section of the same regulations that addresses local school board selection and approval of instructional materials should be amended to require parental notification, alternative materials, and/or opt-out provisions for certain materials. The following language included in the regulation (8VAC20-720-160) at that time (and currently included in the regulation) did not explicitly include such options as available to parents or legal guardians.

8VAC20-720-160. Instructional Materials.

A. Local school boards shall be responsible for the selection and utilization of instructional materials.

B. Local school boards shall adopt policies and criteria for the selection of instructional materials that shall include, at a minimum:

1. The rights of parents to inspect, upon request, any instructional materials used as part of the educational curriculum for students, and the procedure for granting a request by a parent for such access, in accordance with the Protection of Pupil Rights Amendment, 20 USC § 1232H, and its implementing regulation, 34 CFR Part 9;
2. The basis upon which a person may seek reconsideration of the local school board's selection of instructional materials, including but not limited to materials that might be considered sensitive or controversial, and the procedures for doing so; and
3. Pursuant to § [22.1-253.13:7](#) of the *Code of Virginia*, clear procedures for handling challenged controversial materials.

In 2013, as parents began to raise concerns about parental notification of and approval of sexually explicit materials found in textbooks used in some Virginia classrooms, the Board and department staff began to review this issue. The Board was asked to clarify current language to ensure that parents would be provided advance notification of sensitive materials, alternative selections, and opt-out options. Board members requested information about parental notification at the February 2013 Board meeting and asked the Virginia Department of Education to collect information from school divisions regarding their policies on selecting and utilizing instructional materials. In turn, a survey was circulated to all school divisions and five organizations. One hundred eight school divisions and all five professional organizations responded to the survey. A [Report on Surveys Regarding Parental Notification Related to Controversial or Sensitive Materials](#) was presented to the Board on June 27, 2013. The Board accepted that report and asked the Superintendent of Public Instruction to provide a report on options regarding parental notification related to controversial or sensitive materials for the Board's consideration at the July 2013 Board meeting.

At the Board's July 2013 meeting, the [July 2013 report was presented](#). At its July 2013 meeting, [the Board requested that a Notice of Intended Regulatory Action \(NOIRA\) be issued to add language to the Regulations Governing Local School Boards and School Divisions regarding procedures school divisions must have in place to address the use of sensitive or controversial instructional materials in the classroom.](#)

The agenda item, [First Review of Notice of Intended Regulatory Action \(NOIRA\) for Amendments to the Regulations Governing Local School Boards and School Divisions \(8 VAC 20-720\) Regarding Use of Controversial or Sensitive Instructional Materials](#), was presented at the September 2013 Board meeting. The Board approved for first review the NOIRA for these regulations.

The [Final Review of Notice of Intended Regulatory Action \(NOIRA\) for Amendments to the Regulations Governing Local School Boards and School Divisions \(8 VAC 20-720\) Regarding Use of Controversial or Sensitive Instructional Materials](#) was discussed at the October 2013 Board meeting. The Board requested that a NOIRA be issued to add language to these regulations regarding procedures school divisions must have in place to address the use of sensitive or controversial instructional materials in the classroom. This agenda item was included on the consent agenda and approved by the Board unanimously.

The NOIRA was submitted, and public comment received. The Board received 1,241 public comments, including the 1,209 public comments received through the Virginia Regulatory Town Hall (Town Hall).

The Final Review of Amendments to the Regulations Establishing Standards for Accrediting Public Schools in Virginia (8 VAC 20-131) (Standards of Accreditation - Proposed Stage) was also discussed at the October 2013 Board meeting. During Board discussion, proposed language was added which would require notification of parents about sensitive or sexually explicit materials, and this language was approved unanimously by the Board. However, this promulgation process was delayed after the Board decided to conduct a comprehensive review of those regulations in 2014.

During the 2016 General Assembly Session, [HB 516](#) was proposed to amend the *Code of Virginia* by adding a section numbered 22.1-16.6, relating to the Board policy on sexually explicit instructional material. This bill passed the House and the Senate and would have required the Board to establish a policy to require each public elementary or secondary school to:

- Notify the parent of any student whose teacher reasonably expects to provide instructional material that includes sexually explicit content, as defined by the Board
- Permit the parent of any student to review instructional material that includes sexually explicit content upon request
- Provide non-explicit instructional material and related academic activities to any student whose parent so requests, as an alternative to instructional material and related academic activities that include sexually explicit content

The Governor vetoed this bill because he determined that the Board had been examining this issue and had engaged in lengthy and substantive conversations with school boards, teachers, parents, and students about existing local policies and potential state policies to address these concerns. He indicated in his veto statement that he believed that school boards are best positioned to ensure that students are exposed to those appropriate literary and artistic works that will expand students' horizons and enrich their learning experiences.

At its October 26, 2016 Committee on School and Division Accountability meeting, after discussion, the Board decided to include language referencing notification of parents and legal guardians and student and parent options regarding sexually explicit materials in the *Regulations Governing Local School Boards and School Divisions*, rather than in the Standards of Accreditation.

For First Review in November, 2016, the following amendments to the regulations were presented for consideration:

8VAC20-720-160. Instructional Materials.

A. Local school boards shall be responsible for the selection and utilization of instructional materials.

B. Local school boards shall adopt policies and criteria for the selection of instructional materials that shall include, at a minimum:

1. The rights of parents or legal guardians to inspect review, upon request, any instructional materials used as part of the educational curriculum for students, and the procedure for granting a request by a parent or legal guardian for such access, in accordance with the Protection of Pupil Rights Amendment, 20 USC § 1232H, and its implementing regulation, 34 CFR Part 9;
2. The basis upon which a person may seek reconsideration of the local school board's selection of instructional materials, including but not limited to materials that might be considered sensitive, ~~or~~ controversial, or sexually explicit, and the procedures for doing so; ~~and~~
3. Pursuant to § 22.1-253.13:7 of the Code of Virginia, clear procedures for handling challenged controversial materials, including procedures that would provide non-explicit instructional material and related academic activities to any student whose parent or legal guardian so requests, as an alternative to instructional material and related academic activities that include sexually explicit content; and.
4. A requirement that each school shall provide an annual notice to the parent or legal guardian at the beginning of the school year, identifying any sexually explicit materials that may be included in any course, inclusive of the textbook, or in any supplemental materials.

Since October 2016, the Board has received 74 comments in support of the amendments and 97 comments in opposition to the amendments.

The Board continued to hear and receive public comment, and at its November 16, 2016 meeting, the Board was presented, through public comment, suggested language to clarify the provision of alternatives to sexually explicit instructional materials.

In response to substantial review, the Board is considering proposed amendments to the *Regulations Governing Local School Boards and School Divisions* regarding procedures and policies for school divisions to provide parents and legal guardians an opportunity to review in advance and to address sexually explicit materials that may be included in any course, inclusive of the textbook, or in any supplemental materials.

The amendments to the regulations as proposed in November 2016 have been revised as follows, as a result of consideration of public comment.

8VAC20-720-160. Instructional Materials.

A. Local school boards shall be responsible for the selection and utilization of instructional materials.

B. Local school boards shall adopt policies and criteria for the selection of instructional materials that shall include, at a minimum:

1. The rights of parents **or legal guardians** to **inspect review**, upon request, any instructional materials used as part of the educational curriculum for students, and the procedure for granting a request by a parent **or legal guardian** for such access, in accordance with the Protection of Pupil Rights Amendment, 20 USC § 1232H, and its implementing regulation, 34 CFR Part 9;
2. The basis upon which a person may seek reconsideration of the local school board's selection of instructional materials, including but not limited to materials that might be considered sensitive, ~~or~~ controversial, **or sexually explicit**, and the procedures for doing so; ~~and~~
3. Pursuant to § [22.1-253.13:7](#) of the Code of Virginia, clear procedures for handling challenged controversial materials, **including procedures that would provide non-explicit instructional material and related academic activities to any student whose parent or legal guardian so requests, as an alternative to instructional material and related academic activities that include sexually explicit content; and to any student whose parent or legal guardian requests alternatives to instructional materials and related academic activities, to have as a replacement, non-explicit instructional material and non-explicit related academic activities.**
4. **A requirement that each school shall provide an annual notice to the parent or legal guardian at the beginning of the school year, identifying any sexually explicit materials as defined by the local school board that may be included in any course, inclusive of the textbook, or in any supplemental materials, or during the school year if such materials have not been previously included.**

This proposal differs from the bill vetoed by the Governor in that, in the proposed amendment, the term *sexually explicit materials* is to be defined by the local school board. In addition, any related policy or criteria set would be determined by the local school board.

The Superintendent recommended that the Board approve the proposed amendments to the *Regulations Governing Local School Boards and School Divisions* for further action as governed by the requirements of the Administrative Process Act.

Board Discussion:

The Board had a substantive and comprehensive discussion on the rights of parents as well as what is currently in the *Code of Virginia* and regulation. Many Board members stated that they saw both sides of this issue. Some Board members believed that this issue was an important one to be discussed by local school boards.

Mrs. Wodiska believed that more information was required before acting on this item. She made a motion to collect more data from a school division survey and present those findings with this item to the Board during the April 2017 meeting. Dr. Cannaday asked all those in favor by show of hands. Three members were in favor of collecting additional data; five members were not in favor.

Mr. Gecker made a motion to 1) accept the changes in paragraph one; 2) reject the changes in paragraph two; 3) reject the changes in paragraph three; and 4) reject paragraph four in its entirety. Mr. Dillard seconded the motion. Dr. Cannaday asked all those in favor of this motion by show of hands. Five members were in favor, two members were not in favor. One member, Mr. Romero, was absent, and the motion carried.

The revised language, as adopted, is outlined below.

8VAC20-720-160. Instructional Materials.

A. Local school boards shall be responsible for the selection and utilization of instructional materials.

B. Local school boards shall adopt policies and criteria for the selection of instructional materials that shall include, at a minimum:

3. The rights of parents or legal guardians to inspect review, upon request, any instructional materials used as part of the educational curriculum for students, and the procedure for granting a request by a parent or legal guardian for such access, in accordance with the Protection of Pupil Rights Amendment, 20 USC § 1232H, and its implementing regulation, 34 CFR Part 9;
4. The basis upon which a person may seek reconsideration of the local school board's selection of instructional materials, including but not limited to materials that might be considered sensitive or controversial and the procedures for doing so;
3. Pursuant to § [22.1-253.13:7](#) of the Code of Virginia, clear procedures for handling challenged controversial materials.

Dr. Cannaday expressed to parents and teachers that this should not be a win-lose situation, but should strike a balance that respects parents right to know, as well as educators responsibility to prepare students for a world beyond where they are now. He stated that this is not an easy decision but applauded the Board for taking action.

E. Final Review of Model Policy Regarding Political Candidates and Public Officials and Model Policy Regarding Controversial Issues

Ms. Emily Webb, director for board relations, presented this item. She reminded the Board that this agenda item came from the Virginia Commission on Civics Education. The Commission developed these model policies to address political candidates and public officials in the classroom and to help guide teachers in addressing controversial issues. The Commission had requested the Board of Education share these model policies with school divisions. The presentation included the following information:

At the October 27, 2016, meeting, the Board of Education received for first review the *Model Policy Regarding Political Candidates and Public Officials* and *Model Policy Regarding Controversial Issues*. During the public comment period of the October 27, 2016, meeting,

stakeholders from the Virginia School Boards Association (VSBA) and the Virginia Association of School Superintendents (VASS) offered feedback on the model policies. The concerns outlined by VSBA and VASS include the necessity of the policy and the process in which the model policies were developed. Also during public comment, VSBA highlighted its policy manual for local school divisions, which includes several provisions relating to the teaching of controversial issues, distribution of materials, and staff participation in political activities. At the Board's request, additional public comment was solicited from stakeholders on November 8, 2016. To date, the Virginia Association of Elementary School Principals (VAESP) has submitted additional public comment. The concerns outlined from VAESP include the lack of age appropriateness outlined in the model policies, the immense responsibility placed on the school principal rather than the superintendent or local school board, and potential lack of policy consistency between individual schools within a local school division.

The Superintendent provided the recommendation of the Board's policy subcommittee, which was to approve the model policies. Ms. Webb stated that if approved, the model policies will be distributed via Superintendent's Memo.

Board Discussion:

Mrs. Atkinson stated that she was concerned about the process used to bring these model policies forward and recommended that the Board not get into the business of approving and distributing model policies from outside entities. She felt that the model policies place too much responsibility on the principal, and not the superintendent or local school board.

Mrs. Wodiska agreed with Mrs. Atkinson and added that these model policies have been prepared without any data from local school board policies. She also stated her concern about the process and expressed reservations about the substance of the model policies. Mr. Dillard responded by stating he took a survey of local school board chairs three years ago.

Mr. Dillard moved to approve the model policies to be distributed to local school board chairs for their review. Mrs. Lodal seconded the motion. Dr. Cannaday added to the motion that the distribution to local school board chairs would include a summary of public comment and feedback received. The motion carried four to three.

F. First Review of Recommendation of the Advisory Board on Teacher Education and Licensure (ABTEL) for a Passing Score for the Praxis algebra I (5162) Test for the Mathematics – Algebra I (Add-on) Endorsement

Mrs. Patty Pitts, assistant superintendent for teacher education and licensure, presented this item for first review. This item will be presented at the February 2017 meeting for final review. The presentation included the following information:

Currently, the Board of Education requires the following licensure assessments:

- Virginia Communication and Literacy Assessment (VCLA)
- Praxis: Subject Assessments

- Reading for Virginia Educators (RVE)
- School Leaders Licensure Assessment (SLLA) – The SLLA is specific to the Administration and Supervision PreK-12 endorsement.
- Praxis Braille Proficiency Test – The Braille Proficiency Test is specific to the Special Education Visual Impairments PreK-12 endorsement.

The Educational Testing Service (ETS) developed the Praxis Algebra I (5162) test. The Algebra I test is designed to assess the mathematical knowledge and competencies necessary for a beginning Algebra I teacher.

The Mathematics – Algebra I (add-on) endorsement requires individuals to hold a license endorsed in another teaching area to be eligible for the endorsement. The Praxis Algebra I (5162) test is not a required assessment for individuals who wish to seek the Mathematics – Algebra I (add-on) endorsement, but rather an option for certain licensees who may wish to add the endorsement by testing.

Upon Board approval, an individual holding a Virginia license with a teaching endorsement (who has met initial subject assessment requirements) may be eligible for the Mathematics – Algebra I (add-on endorsement) by passing the Praxis Algebra I (5162) test. This testing option does not apply to individuals who hold a technical professional license, vocational evaluator license, pupil personnel services license, school manager license, or division superintendent license.

At the November 14, 2016, meeting, the Advisory Board on Teacher Education and Licensure recommended that the Virginia Board of Education approve the use of the Praxis Algebra I (5162) test as an option to add the Mathematics Algebra I (add-on) endorsement in accordance with licensure regulations and set a passing score of 148 for the test. The passing score recommended by the Advisory Board is one CSEM below the multi-state panel recommended score. The Advisory Board also recommended that the passing score be reviewed after sufficient performance data become available for the test.

The Superintendent of Public Instruction recommended that the Board of Education receive for first review the Advisory Board on Teacher Education and Licensure's recommendation to: (1) approve the use of the Praxis Algebra I (5162) test as a professional teacher's assessment as an option to add the Mathematics – Algebra I (add-on endorsement) to a teaching license; (2) set a passing score of 148 for the test; and (3) review the passing score after sufficient performance data become available.

The Board of Education received for first review the Recommendation of the Advisory Board on Teacher Education and Licensure (ABTEL) for a Passing Score for the Praxis algebra I (5162) Test for the Mathematics – Algebra I (Add-on) Endorsement. Board members thanked Mrs. Pitts for presenting this item.

G. First Review of Proposed Revisions to the Regulations Governing the Employment of Professional Personnel (8VAC20-441-10 et seq.) (Final Stage)

Mrs. Patty Pitts, assistant superintendent for teacher education and licensure, presented this item. The presentation included the following information:

The *Regulations Governing the Employment of Professional Personnel* provide policies and procedures regarding contracts for teachers, assistant principals, principals, and supervisors. The *Regulations Governing the Employment of Professional Personnel* became effective April 20, 1994, and were amended effective March 28, 2003.

The 2012 Virginia General Assembly approved House Bill [76](#) and Senate Bill [278](#) to amend and re-enact § [22.1-304](#) of the *Code of Virginia*, as follows. Senate Bill [278](#) bill is identical to House Bill [76](#). Revisions in the *Code* needed to be incorporated into the *Regulations Governing the Employment of Professional Personnel*.

The 2013 Virginia General Assembly approved Senate Bill [1223](#) to amend and re-enact §§ [2.2-507](#), [22.1-79](#), [22.1-253.13:5](#), [22.1-293](#), [22.1-294](#), [22.1-295](#), [22.1-298.1](#), [22.1-299](#), [22.1-302](#), [22.1-303](#), [22.1-304](#), [22.1-305](#), [22.1-305.1](#), [22.1-306](#), [22.1-307](#), [22.1-309](#), [22.1-311](#), [22.1-313](#), and [22.1-314](#) of the *Code of Virginia* and to repeal §§ [22.1-299.3](#), [22.1-310](#), and [22.1-312](#) of the *Code of Virginia*, relating to public schools; evaluation policies and grievance procedures.

On October 25, 2012, the Board of Education approved the Notice of Intended Regulatory Action (NOIRA), which is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA) and Executive Order 14 (2010). The *Regulations Governing the Employment of Personnel* (8VAC20-440) were requested to be repealed and new regulations (8VAC20-441) promulgated. The NOIRA was filed with the Virginia Registrar, and the public comment period for the NOIRA concluded on January 30, 2013. No comments were received during the NOIRA public comment period.

After the Board of Education approved the proposed *Regulations Governing the Employment of Personnel* (Proposed Stage) on June 27, 2013, the executive review process commenced. During this review, Part II Uniform Hiring of Teachers of the *Regulations Governing the Employment of Personnel* was stricken from the text because the *Constitution of Virginia* (Article VIII, Section 7) provides that “The supervision of schools in each school division shall be vested in a school board, to be composed of members selected in the manner, for the term, possessing the qualifications, and to the number provided by law.” The employment of teachers is the responsibility of a school board.

The proposed regulatory action replaced the existing regulation numbered 8VAC20-440 with a new regulation numbered 8VAC20-441. Proposed amendments reflect changes in the *Code of Virginia* based on Chapters 106 and 687 of the 2012 Acts of Assembly and Chapters 588 and 650 of the 2013 Acts of Assembly. The proposed amendments include: defining assistant principals; clarifying the definitions of teachers and supervisors; defining the probationary terms for teachers, which, at local option, can be three years and up to five years; defining the standard 10-month contract; and adding the list of essential contract elements in the regulations. Additional amendments repeal the provisions on the uniform hiring of teachers.

A Board of Education public hearing was held September 22, 2016, in the James Monroe Building, 101 North 14th Street, 22nd Floor Conference Room, Richmond, Virginia 23219. The

public hearing was scheduled immediately following the Board of Education meeting. No comments were received during the public comment period that concluded on October 21, 2016.

The Superintendent of Public Instruction recommended that the Board of Education receive for first review the proposed *Regulations Governing the Employment of Professional Personnel*, 8VAC20-441, (Final Stage).

Dr. Cannaday asked for a motion. Mrs. Atkinson moved to waive first review and approve the *Regulations Governing the Employment of Professional Personnel*, Mrs. Wodiska seconded, all members were in favor of waiving first review and approving the regulations.

REPORTS

H. Report of the Standards of Learning Innovation Committee

Dr. Stewart Roberson, Chair of the Standard of Learning Innovation Committee, presented an update on the work of the Committee.

The charge of the Committee is to periodically make recommendations to the Board of Education and on (a) the Standards of Learning assessments, (b) authentic individual student growth measures, (c) alignment between the Standards of Learning and assessments and the School Performance Report Card, and (d) ideas on innovative teaching in the classroom.

The focus of the Committee is to ensure Virginia has an accountability system that is fair, balanced, and supportive of this vision as the Commonwealth prepares our students for success beyond their high school years.

The work of the Committee, which began in 2014 with the passage of HB930, has made significant progress. Reports, executive summaries and recommendations of the Committee can be found online at <http://education.virginia.gov/initiatives/sol-innovation-committee/>

Board members thanked Dr. Roberson for his leadership with the Standards of Learning Innovation Committee.

Due to a lengthy Board meeting, Dr. Cannaday decided to continue Report Items I, J and K to the February 23, 2017, Board meeting.

DISCUSSION OF CURRENT ISSUES

Dr. Cannaday informed the Board that he and Dr. Staples sent out a [Superintendent's Memo](#) to local school board chairs and superintendents, on January 25, 2017, that provided information on selected investigation and reporting requirements established by statutes and regulations relating to the revocation or suspension of a license. He stated that it is our job is to make sure every child is safe.

Ms. Emily Webb, director for board relations, informed the Board of a set of *Regulations Governing Local School Boards and School Divisions* that has been in the Secretary's office since April 26, 2010. The intent of these regulations is unknown. This information is to inform the

Board that these regulations are going to be withdrawn. The Department of Planning and Budget and the Secretary's office concur with the course of action. The Board agreed with the staff recommendation.

DINNER MEETING

The Board met for a public dinner on Wednesday, January 25, 2017 at 6:00 p.m., at the Berkley Hotel with the following members present: Mrs. Atkinson, Dr. Baysal, Dr. Cannaday, Mr. Dillard, Mr. Gecker, Mrs. Lodal and Mr. Romero. The following department staff also attended: Dr. Steven Staples, superintendent of public instruction, and Ms. Emily Webb, director of board relations. Members discussed pending Board agenda items. No votes were taken, and the dinner meeting ended at 7:45 p.m.

EXECUTIVE SESSION

Mrs. Atkinson made a motion to go into executive session under Virginia Code §2.2-3711(A)(41), for the purpose of discussion and consideration of records relating to denial, suspension, or revocation of teacher licenses, and that Susan Williams and Mona Siddiqui, legal counsel to the Virginia Board of Education; as well as staff members Dr. Steven Staples, Patty Pitts, Nancy Walsh, and John Brooks, whose presence will aid in this matter, participate in the closed meeting. The motion was seconded by Mr. Gecker and carried unanimously. The Board went into Executive Session at 4:00 p.m.

Mrs. Atkinson made a motion that the Board reconvene in open session. The motion was seconded by Dr. Baysal and carried unanimously. The Board reconvened at 4:50 p.m.

Mrs. Atkinson made a motion that the Board certify by roll-call vote that to the best of each member's knowledge; (1) only public business matters lawfully exempted from open meeting requirements under this chapter and; (2) only public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered.

Any member who believes there was a departure from these requirements shall so state prior to the vote, indicating the substance of the departure that, in his or her judgement, has taken place. The statement of the departure will be recorded in the minutes. The motion was seconded by Mr. Gecker and carried unanimously.

Board Roll call:

Mrs. Lodal – Yes
Mr. Dillard - Yes
Dr. Cannaday – Yes
Mrs. Atkinson – Yes
Dr. Baysal – Yes
Mr. Gecker – Yes

The Board made the following motions:

- Mrs. Atkinson made a motion to revoke the license of Lee Ann Palarino Povlish. The motion was seconded by Mrs. Lodal and carried unanimously.
- Dr. Cannaday made a motion to revoke license of Whitney Suzanne Shipman. The motion was seconded by Mrs. Atkinson and carried unanimously.
- Mrs. Atkinson made a motion to revoke the license of Jaime Ann Banach. The motion was seconded by Mrs. Lodal and carried unanimously.
- Mrs. Atkinson made a motion to revoke the license of Allison Jones Layne. The motion was seconded by Mrs. Lodal and carried unanimously.
- Mrs. Atkinson made a motion to deny a renewal license to Kelly Steele Chadwell. The motion was seconded by Mrs. Lodal and carried unanimously.
- Mrs. Atkinson made a motion to issue a renewal license in Case #2. The motion was seconded by Mrs. Lodal and carried unanimously.
- Mrs. Atkinson made a motion to revoke the license of LeeAnn Lowman. The motion was seconded by Mrs. Lodal and carried unanimously.
- Mrs. Atkinson made a motion to revoke the license of Zachary Jefferson Van Dyke. The motion was seconded by Mrs. Lodal and carried unanimously.

ADJOURNMENT OF THE BUSINESS SESSION

There being no further business of the Board of Education, Dr. Cannaday adjourned the meeting at 4:56 p.m.



President