

Board of Education Agenda Item

Item: _____ M. _____

Date: January 10, 2008

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

Presenter: Dr. Linda M. Wallinger, Assistant Superintendent for Instruction
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Origin:

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

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

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

Previous Review/Action:

No previous board review/action

____ Previous review/action

Date: _____

Action: _____

Background Information:

The *No Child Left Behind Act of 2001* (NCLB), which is a reauthorization of the Elementary and Secondary Education Act (ESEA), requires all state educational agencies (SEA) to submit for approval to the United States Department of Education (USED) individual program applications or a consolidated state application. In May 2002 the Virginia Board of Education submitted and received USED approval for its initial Consolidated State Application under NCLB. The NCLB application process involves multiple submissions of information, data, and policies. A major component of the consolidated application is Virginia's Consolidated State Application Accountability Workbook. The workbook describes a single statewide accountability system for the Commonwealth. Virginia received USED approval for its accountability workbook in June 2003. Additional amendments were made to Virginia's workbook in September 2003, May 2004, June 2005, June 2006, and July 2007. The policies and procedures that were used to determine Adequate Yearly Progress (AYP) ratings for the 2007-2008 school year based on 2006-2007 assessment results are described in the amended workbook dated July 16, 2007.

States are permitted to revise their Consolidated State Application Accountability Workbook by submitting requests for review and approval to USED. USED has requested that states submit their amendment requests for 2007-2008 by February 15, 2008. Based on six years of implementing NCLB, the Virginia Department of Education has identified additional policy changes that will minimize unintended consequences in implementation of AYP policies. As a result, consideration of the additional proposed amendments for submission to USED is requested. Additionally, USED has requested certain technical clarifications of all states.

Summary of Major Elements

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

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

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

Virginia’s proposed amendments fall under two categories: 1) technical clarifications of how certain requirements are being implemented as requested by USED; and 2) revisions to existing policies. Under the first category, USED has requested a description of procedures for implementation of the state’s science assessments during the 2007-2008 school year. USED has also requested an accounting of each state’s AYP calculations including whether data are averaged across years. Under the second category, the following revisions to existing policies are being requested: a) reversing the order of the public school choice and supplemental educational services sanctions; b) extending flexibility in AYP calculations for students with disabilities (SWD); and c) identifying targets for Annual Measurable Achievement Objectives (AMAOs) for limited English proficient (LEP) students.

Superintendent's Recommendation:

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

Impact on Resources:

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

Timetable for Further Review/Action:

Following final approval, the proposed revisions will be submitted to the United States Department of Education as amendments to Virginia’s Consolidated State Application Accountability Workbook by the deadline of February 15, 2008.

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

January 10, 2008

NCLB Statutory Authority for Amendment Requests:

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

(b) IN GENERAL – Except as provided in subsection (c), the Secretary may waive any statutory agency, Indian tribe, or school through a local educational agency, that –

- (1) receives funds under a program authorized by this act; and
- (2) requests a waiver under subsection (b).”

Technical Amendments

1. Procedures for Implementation of Science Assessments during the 2007-2008 school year (Critical Element 6.1)

Technical Clarification: Virginia will use the science assessments already administered under its established state accountability system in grades 3, 5, 8, and End-of-Course to meet the requirement under Section 1111(b)(3) for implementation of science assessments beginning in 2007-2008. As stated in the USED guidance letter in November 2007, these science assessments will not be included in the Adequate Yearly Progress (AYP) calculations.

Rationale: Virginia has administered science assessments in grades 3, 5 and 8 and End-of-Course since 1998. End-of-course Standards of Learning (SOL) assessments in science have also been administered at the middle or high school level after completion of the corresponding content course since 1998. Existing science assessments already administered throughout the state since 1998 can be used to meet the NCLB requirement.

2. Procedures for Averaging Data Across Years for Adequate Yearly Progress (AYP) Calculations (Critical Element 6.1)

Technical Clarification: Virginia uses the uniform averaging procedure described in Section 1111(b)(2)(j) for adequate yearly progress (AYP) calculations. For the 2008-2009 school year based on assessments administered during the 2007-2008 school year, all tests given in grades 3, 4, 5, 6, 7, 8 and End-of-Course subjects will be included in the participation and performance calculations for AYP. Schools and school divisions can make AYP in one of two ways: 1) current year performance; or 2) the average of student

performance in grades 3 through 8 and End-of-Course for the previous three years. Safe harbor is applied if a school does not make AYP through the current or three-year average.

Rationale: By 2007-2008, schools and divisions will have implemented assessments in grades 3 through 8 and End-of-Course for three consecutive years. This three-year implementation of the assessments will allow averaging across all grade levels as opposed to averaging of assessments only in grades 3, 5, 8 and End-of-Course as was previously required.

Policy Amendments

3. Reversing Order of School Improvement Sanctions (Critical Elements 1.6 and 4.1)

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

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

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

4. Assessing Students with Disabilities – Use of Two Percent Proxy (Critical Element 5.3)

Request: Virginia will continue to implement the United State's Secretary of Education's Transition Option Number 1 (2 percent proxy) for the inclusion of students with disabilities in the calculation of Adequate Yearly Progress (AYP) for the 2008-2009 school year, based on assessments administered to those

students during the 2007-2008 school year. Option Number 1 permits states to make a mathematical adjustment to the proficiency rate for the students with disabilities subgroup in schools or divisions that failed to make AYP based solely on the scores of students in that subgroup. The proxy will be calculated in accordance with guidance disseminated by USED on May 10, 2005.

Rationale: The U.S. Secretary of Education has extended the use of a proxy for students with disabilities for states that are working toward developing modified achievement standards if certain eligibility conditions are met. Virginia meets the eligibility requirements as follows: 1) the statewide assessment participation rate for students with disabilities for the purpose of measuring AYP is 95 percent; 2) Virginia is in compliance with the Individuals with Disabilities Education Act (IDEA); 3) appropriate accommodations on statewide assessments are available for students with disabilities; 4) targeted statewide technical assistance efforts are being implemented to improve students' achievement for students with disabilities; 5) Virginia's assessment system has received a rating of "Approval Expected"; and 6) Virginia is making substantial progress in developing an alternate assessment based on modified achievement standards. Therefore, Virginia is requesting a continuation of the use of the proxy for certain students with disabilities under this extension.

5. Annual Measurable Achievement Objectives for Limited English Proficient (LEP) students (Consolidated State Application September 1, 2003 Submission)

Request: Virginia will extend the targets for the Annual Measurable Achievement Objectives (AMAOs) for limited English proficient (LEP) students approved by USED in the Consolidated State Application September 1, 2003, submission to include the 2008-2009 school year. The AMAOs for the percent of LEP students making progress and attaining English language proficiency will each increase by 5 percent in 2008-2009 in keeping with the previously approved trajectory. AMAOs for future years will be set after the data from the statewide implementation of the newly adopted English Language Proficiency (ELP) assessment scheduled for implementation in 2008-2009 have been analyzed.

Rationale: The AMAOs for the percent of LEP students making progress in learning English and attaining English language proficiency have been approved through the 2007-2008 school year. Currently, school divisions report the progress and proficiency results for their LEP students on an annual basis as a result of their performance on state-approved ELP assessments and if applicable, a body of evidence. Beginning with the 2008-2009 school year, it is anticipated that the majority of school divisions will implement the state-approved ELP assessment, ACCESS for ELLs. Therefore, it is recommended that the targets for progress and proficiency each increase by 5 percent in keeping with the previously approved trajectory. Once data are analyzed from the implementation of the single statewide ELP assessment, targets for future years will be proposed. (See the following table.)

Annual Measurable Achievement Objectives (AMAOs) for Limited English Proficient (LEP) Students Expressed as Percents		
School Year	Percent of LEP Students Making Progress	Percent of LEP Students Attaining English Language Proficiency
2002-2003	Baseline Year	Baseline Year
2003-2004	20	10
2004-2005	25	15
2005-2006	30	20
2006-2007	35	25
2007-2008	40	30
2008-2009	45	35
2009-2010	TBD	TBD
2010-2011	TBD	TBD
2011-2012	TBD	TBD
2012-2013	TBD	TBD
2013-2014	TBD	TBD