

informed states that the graduation rate and supporting evidence will be peer reviewed by a panel of outside experts in February 2010.

Summary of Major Elements

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

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

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

Virginia’s proposed amendments fall under five areas: 1) calculating Adequate Yearly Progress (AYP) targets; 2) extending flexibility in AYP calculations for students with disabilities (SWD); 3) identifying Annual Measurable Achievement Objectives (AMAOs) for limited English proficient (LEP) students; 4) adjusting the requirements for AMAO 1, making progress, and AMAO 2, proficiency for LEP students; and 5) setting and reporting graduation rates and targets for continuous improvement. Attachment A describes each proposed amendment and the rationale for the proposed request.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed amendments to the Virginia Consolidated State Application Accountability Plan.

Impact on Resources:

The provisions of the ESEA 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:

The proposed amendments will be presented for final review at the January 2010 Board of Education meeting. Final approval of the amendments will be requested at this meeting to meet the USED deadline of January 15, 2010, for submission of amendments for review and approval by USED.

Attachment A

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

November 17, 2009

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).”

1. Calculating Adequate Yearly Progress (AYP) Targets (Critical Element 3.2b)

Request: As allowable under Title I regulations issued November 26, 2002, annual measurable objectives can be reevaluated and adjusted periodically. Virginia will revise the annual proficiency targets (annual measurable objectives) for reading and mathematics to hold the targets at 81 percent for reading and 79 percent for mathematics for Adequate Yearly Progress (AYP) calculations for the 2010-2011 school year based on assessments administered in 2009-2010. However, in order to make AYP without safe harbor for the 2010-2011 school year based on assessments administered in 2009-2010, the pass rates for state, divisions, and schools would have to exceed the 2008-2009 targets of 81 percent for reading and 79 percent for mathematics. For example, a school with a pass rate of 81.1 percent for reading would meet the target for reading while a school with a pass rate of 81 percent would not.

The chart below reflects the revised AYP targets.

Revised NCLB AYP Targets (Annual Measurable Objectives)

<u>Year of Test Administration</u>	<u>Reading</u>		<u>Mathematics</u>	
	<u>%Prof Current</u>	<u>%Prof Revised</u>	<u>%Prof Current</u>	<u>%Prof Revised</u>
<u>2001-02</u>	<u>60.7</u>	<u>60.7</u>	<u>58.4</u>	<u>58.4</u>
<u>2002-03</u>	<u>61</u>	<u>61</u>	<u>59</u>	<u>59</u>
<u>2003-04</u>	<u>61</u>	<u>61</u>	<u>59</u>	<u>59</u>
<u>2004-05</u>	<u>65</u>	<u>65</u>	<u>63</u>	<u>63</u>
<u>2005-06</u>	<u>69</u>	<u>69</u>	<u>67</u>	<u>67</u>
<u>2006-07</u>	<u>73</u>	<u>73</u>	<u>71</u>	<u>71</u>
<u>2007-08</u>	<u>77</u>	<u>77</u>	<u>75</u>	<u>75</u>
<u>2008-09</u>	<u>81</u>	<u>81</u>	<u>79</u>	<u>79</u>
<u>2009-10</u>	<u>85</u>	<u>> 81*</u>	<u>83</u>	<u>> 79*</u>

*School divisions and the state exceed the established target will be considered to have made AYP.

Rationale: Virginia recently adopted revised content standards in the area of mathematics

and is currently in the process of revising the reading content standards. Once new tests measuring the revised standards for reading and mathematics are implemented, in 2012 for mathematics and in 2013 for reading, Virginia plans to submit amendments to the accountability workbook to reflect the use of an index model to more accurately reflect student growth. Until the new tests are implemented and the necessary data to implement an index model using them are available, Virginia is proposing to hold the AYP targets at the 2008-2009 level, but only allow those schools and divisions that have made progress beyond the 2008-2009 targets to make AYP. These targets of 81 percent in reading and 79 percent in mathematics already exceed the state accreditation targets in both of these subject areas.

2. 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 2010-2011 school year, based on assessments administered to those students during the 2009-2010 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: In past years The U.S. Secretary of Education has allowed 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 and successful 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 with Recommendations”; 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.

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

Request: Virginia will set the Annual Measurable Achievement Objective (AMAO) for English language proficiency as 15 percent for the 2009-2010 school year. Virginia requests a waiver from setting the AMAO for progress until the state has data from two administrations of the statewide English Language Proficiency (ELP) assessment, Assessing Comprehension and Communication in English State by State (ACCESS) for English Language Learners (ELLs).

Rationale: In September 2007, the Virginia Board of Education approved the ACCESS for ELLs as the statewide ELP assessment to meet the requirement in Section 1111(b)(7) of the *No Child Left Behind Act of 2001(NCLB)* for implementation in the 2008-2009 school year. Prior to the 2008-2009 school year, the Stanford English Language Proficiency (SELP)

assessment or a locally developed and/or selected ELP assessment were the Board-approved ELP assessments administered in the state. The change in the statewide ELP assessments has presented a need to analyze the data and set new AMAOs.

The methodology outlined in the Wisconsin Center for Education Research (WCER) Working Paper No. 2008-2, Issues in the Development of Annual Measurable Achievement Objectives for WIDA Consortium States, as well as the data from the 2008-2009 administration of ACCESS for ELLs, were used to set the proposed AMAO for proficiency. Working Paper No. 2008-2 recommends that states determine the starting point for the AMAO for proficiency at the 20th percentile. Although 2008-2009 is the first year of implementation of the ACCESS for ELLs, the AMAO for proficiency was set at 15 percent, or the 50th percentile, to account for 6 years of implementation of statewide ELP assessments and standards. The 15 percent target represents the number of ELLs that were reported as proficient out of the total number of ELLs for the 2008-2009 school year. The proficiency calculation will be made based on the total number of ELLs as is required by the Federal Register Notice of Final Title III Interpretations, November 17, 2008. Previously USED allowed Virginia to report the number of proficient ELL students out of the number of ELLs who were on monitor status. Students on monitor status are close to achieving English Language proficiency but their progress is being monitored for one to two years.

The United States Department of Education (USED) granted Virginia a waiver from calculating progress for the 2008-2009 school year since data were not available from two administrations of the ACCESS for ELLs. Virginia is requesting a waiver from setting the AMAO for progress for the 2009-2010 school year until data from two administrations of the ACCESS for ELLs are available. AMAO targets for future years will be proposed once data are analyzed.

Annual Measurable Achievement Objectives (AMAOs) for Limited English Proficient (LEP) Students Expressed as Percents		
School Year	Percent of All LEP Students Making Progress	Percent of All LEP Students Attaining English Language Proficiency
2009-2010	<u>Waiver Requested</u>	<u>15</u>
2010-2011	TBD	TBD
2011-2012	TBD	TBD
2012-2013	TBD	TBD
2013-2014	TBD	TBD

4. Adjusting the Requirements for AMAO 1, Making Progress, for LEP students and AMAO 2, Proficiency for LEP students, (Consolidated State Application September 1, 2003 Submission)

Request: Adjust the requirements for AMAO 1, making progress in learning English for LEP students, and for AMAO 2, proficiency in learning English for LEP students, to represent only the student assessment results on the ACCESS for ELLs. Prior to the release of the USED Notice of Final Title III Interpretation, November 18, 2008, Virginia was approved to allow school divisions to report LEP student progress and proficiency as measured by a body of

evidence that included the state-approved English Language Proficiency (ELP) assessment results as well as other evidence. The Notice of Final Title III Interpretation requires that states allowing a body of evidence ensure that the additional measures included in the body of evidence met certain psychometric requirements.

Rationale: The USED Final Title III Interpretation, November 18, 2008, require states to demonstrate that all of the assessments used to measure English language proficiency meaningfully measure student progress and proficiency in each language domain and, overall, are valid and reliable measures of student progress and proficiency in English. The ACCESS for ELLs meets the above described criteria whereas the additional measures of English language proficiency allowed through a body of evidence do not meet the above described criteria.

5. Reporting graduation rates, section 1111(h) of ESEA updated to comply with § 200.19 of federal regulations issued in October 2008.

Request: Virginia will report the federally prescribed cohort graduation rates for students who graduate in four-, five, and six years in accordance with the formula prescribed in federal regulations issued on October 29, 2008. The federal graduation indicators defined in regulation are based on cohorts of students adjusted for students who transfer in, transfer out, or are deceased; the regulations do not permit states to adjust for certain students such as English language learners and students with disabilities who may require more time to graduate. Virginia will prepare reports that provide the information prescribed in the final regulations and information on the number of cohort students (for the state, school divisions, and schools, by subgroup) who: are still enrolled in school; earn alternative completion credentials; drop out; or are on long-term leave of absence. Similar reports that rely on the state definition of an adjusted cohort may be found at:
http://www.doe.virginia.gov/VDOE/src/ontime_grad_rate.shtml.

To be consistent with the longitudinal student tracking required for the cohort graduation rate, Virginia will define LEP students based on their status from the first time they enter the cohort. Students who meet the federal definition of limited English proficiency for purposes of state, division, and school accountability at any time since first entering a federally defined cohort will be included in longitudinal cohort graduation rate reported to meet federal requirements.

Virginia will include in the federal cohort graduation rate indicator all diplomas that require a minimum number of prescribed courses that are aligned with state content standards (the Standards of Learning) and require students to participate in and pass state-approved assessments. Currently, this would exclude from the reported rate the Virginia Board of Education-approved Special Diploma, the General Achievement Diploma (GAD) and other recognized completion credentials including the General Education Development Certificate (GED) and the locally awarded Certificate of Program Completion.

Virginia will include summer graduates in the federal graduation rate. Data for summer graduates are not available at the time of AYP determinations. As such, the data reported in any given year will be based on the previous year's graduates. Report cards will be updated when the data become available.

Rationale: In October 2008, the US Department of Education issued final amended regulations governing programs administered under Part A of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. ESEA as amended requires states to report graduation rates for public secondary school students. Federal regulations as amended in October 2008 prescribe the method for calculating a cohort graduation rate. Final regulations do not permit students to have their cohort adjusted, and require that data be disaggregated by subgroups.

Beginning with the 2004-2005 school year, Virginia's statewide longitudinal data system included unique identifiers for all students who were enrolled in Virginia public schools. Using data from this system, Virginia is able to calculate a four-year adjusted cohort graduation rate consistent with those prescribed in federal regulations at the school, school division, and state level, disaggregated by subgroup, beginning with the graduating class of 2008. We propose to amend the accountability workbook to report graduation rates consistent with the adjusted cohort graduation rate prescribed in the amended regulations. The rate will include all diplomas that require a minimum number of prescribed courses that are aligned with state content standards (the Standards of Learning) and that require students to participate in and pass state-approved assessments to graduate.

We propose to amend the accountability workbook such that for purposes of reporting graduation rates, English language learners who meet the federal definition of limited English proficient (LEP) at any time since first entering the adjusted cohort will be included in the LEP student subgroup. This would include all students identified as LEP for calculating the pass rates for federal accountability, *and* students who were identified as LEP at anytime since first entering ninth grade or otherwise transferring into the adjusted cohort. Virginia's educators are committed to educating all students. Students who were identified as LEP in the early years of high school but are no longer part of the LEP subgroup when they graduate have benefitted from the instruction that our schools provide; the reporting should reflect our schools' and students' commitment and success.

Data required to calculate the federal graduation rate are not available at the time of determining adequate yearly progress and updating school report cards. Therefore, we will include the prior years' graduation rate on report cards issued in the summer, and update report cards when final data become available.

6. Annual Measurable Objectives for Graduation Rate (Critical Element 3.2b) and Targets for Continuous and Substantial Improvement (§200.19 (b)(3)(i).)

Request: To provide consistency for Virginia's high schools, and consistent with Section 9401 of the Elementary and Secondary Education Act, Virginia requests waivers from certain provisions of CFR §200.19 and requests that for purposes of making AYP determinations, the Commonwealth be approved to use the Graduation and Completion Index (GCI) as adopted into state regulation by the Virginia Board of Education as the other academic indicator for schools with a graduating class. In adopting the GCI requirement as part of the regulations governing state school accreditation, the state Board required schools to earn a GCI of 85 or higher to be fully accredited. This benchmark is proposed as the statewide goal consistent with §200.19 (b)(3)(i).

Virginia proposes to establish targets for continuous and substantial improvements toward

meeting the statewide goal of 85 by applying a calculation that requires schools to increase their index by a percent reduction in their non-completer rate.¹ The following calculations will be applied to the index to determine whether the state, school divisions, schools, and subgroups that do not meet the statewide goal of 85 have made continuous and substantial improvement:

State, division, school, or subgroup index score	Methodology for determining target for substantial and continuous improvement
$75 \leq \text{Index} < 85$	Target = $((100 - \text{last year's index}) * 0.05) + \text{last year's index}$
Index < 75	Target = $((100 - \text{last year's index}) * 0.10) + \text{last year's index}$

For purposes of calculating AYP for the LEP subgroup, we propose to apply a definition of LEP students that is consistent with the longitudinal nature of the accountability measure. English language learners who meet the federal definition of LEP at anytime since first entering the adjusted cohort will be included in the LEP student subgroup for purposes of accountability. This would include all students identified as LEP for calculating the pass rates for federal accountability, *and* students who were identified as LEP at anytime since first entering ninth grade or otherwise transferring into the adjusted cohort. Virginia’s educators are committed to educating all students. Students who were identified as LEP in the early years of high school but are no longer part of the LEP subgroup when they graduate have benefitted from the instruction that our schools provide; our accountability system should reflect their commitment and successes.

Because the complete data on student graduation and completion rates, including summer graduates, are not available until after adequate yearly progress determinations are announced each year, Virginia will calculate adequate yearly progress based on the previous year’s graduation and completion index. This will permit the calculations to be available in time to make AYP determinations before the beginning of the school year.

Rationale:

AYP Determinations

In 2009, the Virginia Board of Education adopted a regulatory requirement that requires all schools with a graduating class to meet a minimum pass rate on end-of-course assessments *and* a minimum index score on a prescribed graduation and completion index to be fully accredited under the state’s accountability system. The Board-approved GCI results in a weighted percentage of students who graduate from high school with a Board of Education-approved diploma or who earn alternative completion credentials from each high school. Under the state accountability system, all schools with a graduating class will be held accountable for meeting or exceeding a GCI of 85 beginning with the graduating class of 2011.

The GCI is calculated by following each cohort of students for four or more years, starting with the year that students first enter ninth grade or when students first transfer into the cohort. Consistent with federal regulations permitting accountability measures to include the four-year

¹ The non-completer rate will be defined based on the weighted formula used to calculate the index. It will be the inverse of the index score.

and extended graduation rates, the GCI cohort includes students who graduate in four years and students who require more time to graduate from high school. The index results in a weighted percentage based on the following points awarded according to student status:

- Graduate with a diploma – 100 points in the graduation year
- Earn a GED certificate – 75 points
- Remain in school beyond expected cohort graduation year – 70 points
- Earn a certificate of completion – 25 points

Use of the GCI offers schools incentives to continue to support students who require more than four years to graduate by giving them points for students who stay in school beyond their four-year (or “expected”) graduation year, and by giving schools full credit when such students earn diplomas. This aspect of the policy is consistent with recent research showing that late graduates fare better in many aspects of life than GED earners or dropouts, including employment outcomes, involvement in civic life, and commitment to healthy lifestyles (Hull, 2009). The index also incorporates the alternative completion credentials recognized in Virginia, the GED certificate and the Certificate of Program Completion, but gives them less weight than a high school diploma—substantially less weight than the minimum index of 85 that is required for full accreditation. Including alternative credentials in an accountability system is consistent with research showing that compared to students who drop out, students who earn alternative completion credentials have better short- and long- term employment outcomes (Kienzi & Kena, 2006; Boesel, Alsalam, & Smith, 1998).

Defining the LEP subgroup as it relates to accountability for high school graduation

Virginia is proposing to include students who enter high school as English language learners but leave high school without this designation in the LEP subgroup for making AYP determinations. Currently, all of Virginia’s subgroups established for federal accountability are based on the students’ most recent status. That is, students are included in the subgroup if they are identified in the group at the end of the reporting period. However, English language learners are dynamic; students move in and out of the subgroup school based on instructional need. Schools should be recognized for successfully transitioning students out of LEP status and supporting persistence to graduation. Therefore, we propose to include in the LEP subgroup all students defined as part of the status group *and* students who were identified as being LEP students at anytime since they first entered the cohort.

Virginia data will lag by one year

Because the complete data on student graduation and completion rates, including summer graduates, are not available until after AYP determinations are made, Virginia will calculate AYP based on the previous year’s GCI. This will permit the calculations to be available in time to make AYP determinations before the beginning of the school year

References

- Boesel, D., Alsalam, N. & Smith, T.M. (1998). *Research synthesis: Educational and labor market performance of GED recipients*. Washington, D.C.: U.S. Department of Education.
- Hull, J. (2009). Better late than never? Examining late high school graduates. Center for Public Education. Retrieved May 6, 2009.
(http://www.centerforpubliceducation.org/site/c.kjXJ5MPIwE/b.4950685/k.B12B/Better_late_than_never_Examining_late_high_school_graduates.htm).

Kienzi, G. & Kena, G. (2006). *Issue brief: Economic outcomes of high school completers and noncompleters 8 years later*. U.S. Department of Education, NCES 2007-019. Washington, D.C. National Center for Education Statistics, U.S. Department of Education.