COMMONWEALTH OF VIRGINIA
BOARD OF EDUCATION
RICHMOND, VIRGINIA

MINUTES

September 25, 2008

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

Dr. Mark E. Emblidge, President
Dr. Ella P. Ward, Vice President
Dr. Thomas M. Brewster
Mrs. Isis M. Castro
Mr. David L. Johnson
Dr. Gary L. Jones
Mr. Kelvin L. Moore
Mr. Andrew J. Rotherham
Mrs. Eleanor B. Saslaw

Dr. Billy K. Cannaday, Jr.
Superintendent of Public Instruction

Dr. Emblidge, president, presided and called the meeting to order at 9 a.m.

MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Dr. Emblidge asked Dr. Brewster to lead in a moment of silence and Pledge of Allegiance.

APPROVAL OF MINUTES

Mrs. Castro made a motion to approve the minutes of the July 17, 2008, meeting of the Board. The motion was seconded by Dr. Ward and carried unanimously. Copies of the minutes had been distributed to all members of the Board of Education.

RESOLUTIONS/RECOGNITIONS

The Board presented a Resolution of Appreciation to Dr. Billy K. Cannaday, Jr. The Resolution reads as follows:

Resolution of Appreciation
Dr. Billy K. Cannaday, Jr.
Superintendent of Public Instruction
July 2006-September 2008

Whereas, Dr. Billy K. Cannaday, Jr., as the Superintendent of Public Instruction from July 2006 through September 2008, has advised the Board of Education with remarkable skill and wisdom and with enormous energy and unparalleled talent for friendship; and

Whereas, throughout his tenure, Dr. Cannaday has worked diligently to implement educational initiatives that are sure to preserve and enhance the quality of public education for generations to

come, and the example of his stewardship has been and will remain of vital importance in ensuring a brighter, stronger future for Virginia's young people;

Now, Therefore, Be It Resolved that as Dr. Cannaday now leaves this high office for other exciting and challenging endeavors, we hereby proclaim our deep respect and admiration for his exemplary leadership, his thoughtful advice, and his personal caring for his associates at all levels;

Be It Further Resolved that we express to our valued friend and colleague, Dr. Billy K. Cannaday, Jr., our high regard and gratitude for his energetic and unfailing service to the Commonwealth and extend to him our warmest best wishes for continued success in his future endeavors.

Adopted in Richmond, Virginia, This Twenty-fifth Day of September in the Year 2008

Following are remarks from Dr. Cannaday after receiving the Resolution of Appreciation from the Board:

Dr. Cannaday thanked Board members for being great child advocates. Dr. Cannaday said that so often the Board is criticized for not doing enough or doing too much. He said that what he appreciates is that the Board always focuses on what is the bottom-line result of what's best for children for the near and the long-term. Dr. Cannaday said he appreciates being a part of a group that does that.

Dr. Cannaday said that he appreciates the people who attend the meetings on a regular basis so they may see first-hand how transparent the Board is in trying to do the best for children. He said that this does not mean that the Board always agrees. It means that the Board is committed to the same end. He said fortunately, the Board can discuss in public as to how they may attain that common desire.

Dr. Cannaday thanked the Board for allowing him to serve them and the nearly 1.2 million children that he sees as being the greatest asset in this country. Dr. Cannaday said that with all the discussion about how challenging things are; he keeps saying that it is not us who we have to be concerned about; rather, it is about those who will have to shoulder either the opportunities or burdens that the older people create.

Dr. Cannaday again thanked the Board for the opportunity to serve and said he will continue to do so. He also thanked the Board members personally for helping him to grow and better serve the children of the Commonwealth.

After Dr. Cannaday's remarks, Board members responded with individual expressions.

PUBLIC COMMENT

The following persons spoke during public comment:

Kitty Boitnott	Angela Ciolfi
Tom Nash	Richard Sebastian
Sue Clark	Sheree Brown Kaplan
Wyllys VanDerwerker	Maria Haw
Emily Dreyfus	

ACTION/DISCUSSION ITEMS

Final Review of Proposed New Regulations Governing Public Participants (8 VAC 20-11-10) and Repeal of Public Participation Guidelines (8 VAC 20-10-10 et seq.) Under the Fast Track Provisions of the Administrative Process Act

Mrs. Anne Wescott, assistant superintendent for policy and communications, presented this item. Mrs. Wescott said that public participation procedures exist to promote public involvement in the development, amendment, or repeal of state regulations.

Under § 2.2-4007.02 of the *Code of Virginia*, every rulemaking body in Virginia is required to adopt public participation procedures and to use such procedures in the development of its regulations. Mrs. Wescott said that the *Code of Virginia* was modified during the 2008 General Assembly session. The amendments, which took effect on July 1, 2008, specify that agencies will have until December 1, 2008, to either adopt model public participation regulations issued by the Department of Planning and Budget (DPB), or, if they need to make significant changes to the model regulations, to file a fast-track regulatory action with DPB by that time.

Mrs. Wescott said that staff reviewed the model regulations and recommended to the Board that minor, noncontroversial modifications be made for clarity and consistency. The fast-track rulemaking process was recommended in order to complete the new regulations. By simultaneous action, the current, out-dated regulations will be repealed and replaced by the new regulation. The Board approved the proposed changes and the proposals were distributed for a 45-day public comment period. No comments were received during the comment period.

Mrs. Wescott said that minor, noncontroversial modifications to DPB's model regulations were necessary in order to make the public participation rules consistent with Board's policies and procedures for public participation. The proposed changes are non-controversial because of the following:

- In every case, the proposed changes are consistent with long-standing Board of Education practice and procedures;
- The words and terms are consistent with current, clearly understood use;
- The changes serve to further clarify requirements so that they are easily understood by the Board of Education's constituents; and
- The provisions of the model guidelines and the proposed modifications are consistent with current public participation practices used by the Board of Education. Complying with the new provisions will require few modifications in the Board's current practice.

Dr. Brewster made a motion to adopt the fast-track *Regulations Governing Public Participants* and authorized staff to forward the regulations through the final steps of the fast-track regulatory process. The motion was seconded by Dr. Ward and carried unanimously. After the required steps are completed, the regulations will go into effect.

Final Review of the Proposed Revisions to the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8 VAC 20-81-10 et seq.)

Mr. H. Douglas Cox, assistant superintendent for special education and student services, presented this item. Mr. Cox introduced members of the Academy of Special Education Leaders to the Board. They were attending the meeting to further their education in policy development. Mr. Cox also introduced Ms. Patricia Addison, a recently retired special education director with Fairfax County Public Schools. Mr. Cox said that Ms. Addison coordinated the initiative.

Mr. Cox also recognized Dr. Judith Douglas, director, dispute resolution and administrative services, Suzanne Creasey, administrative services, and Melissa Smith, coordinator of administrative services.

Mr. Cox said that the current *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-80-10 et seq.) were adopted by the Board of Education on October 19, 2000, and became effective in January 2001. Technical changes proposed by the U.S. Department of Education were approved by the Board of Education on February 5, 2002, and became effective March 27, 2002.

The revision of the state regulations governing special education is required to ensure compliance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), and with its federal implementing regulations, at 34 C.F.R. Part 300, effective October 13, 2006. Alignment with these federal mandates is required to ensure Virginia's continued eligibility for federal special education funding, which will total $276.6 million in 2008-2009.

In accordance with the Virginia Administrative Process Act, on January 22, 2007, a Notice of Intended Regulatory Action (NOIRA) was published in the *Virginia Register of Regulations* to advise the public of the Board of Education's intent to conduct a comprehensive review of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-80-10 et seq.).

On December 14, 2006, a meeting of stakeholders was convened. The stakeholders, who represent a cross-section of constituencies impacted by the current regulations, discussed the current federal and state special education mandates and areas of concern. The information received via public comment and the stakeholders' meeting was reviewed and considered during the development of the proposed revisions to the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, which were presented to the Board of Education on September 26, 2007.

A 60-day public comment period began on April 28, 2008, and ended on June 30, 2008. Due to the comprehensive nature of the revisions, the current regulations (8 VAC 20-80-10 et seq.), which became effective March 27, 2002, will be repealed, and new regulations will be promulgated by the Board of Education (8 VAC 20-81-10 et seq.).

Dr. Jones said he wanted to be sure the public understood the issue on foster parents and asked Mr. Cox to clarify. Mr. Cox responded with the following comments:

- Unless there is a court order that terminates parental decision-making rights, the child's parents retain final decision rights.
- If the parents cannot be located, surrogate parents are appointed. Foster parents can be appointed as surrogate parents and retain all the rights of the parents.
- For adopted children, the adopted parents have parental decision-making rights even when there is communication between the adopted child and biological parents.

Mrs. Saslaw made a motion to amend the language in the special education regulations under developmental delay to read as follows: *Retain the proposed 2007 draft language that mandates the age range for children with developmental delay be 2 through 6, inclusive*. The motion was seconded by Mr. Johnson and carried unanimously.

Dr. Brewster made a motion to accept the additional changes and adopt the revisions to the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* and authorized staff of the Department of Education to proceed with the remaining steps required by the Administrative Process Act, and to make any minor technical or typographic changes that do not affect the substance of the standards. The motion was seconded by Mrs. Saslaw and carried unanimously.

Following are key elements in the final special education regulations:

Key Elements in the Final Draft of Special Education Regulations

Issue	What VDOE Is Recommending	Rationale
Parental Consent	Retain the 2002 parental consent requirements for the termination of special education and related services, as well as for interim and final IEPs for transfer students.	To preserve the historical Virginia-specific right of parents to consent in matters related to the child's educational needs, such as, the child's receipt of services under initial and on-going IEPs; eligibility determination; changes in disability category, and termination of special education and related services.
Administration of the hearing officers system	Retain the 2002 provision for the responsibility of the administration of the special education hearing officers system being with the Supreme Court of Virginia.	To ensure that there be no appearance of impropriety.
65-day timeline commencement date	Retain the 2002 provision that the 65-day evaluation-eligibility timeline commences when the special education administrator or designee receives the referral for evaluation, rather than from the proposed time of parental consent.	To retain the LEAs responsibility for ensuring the completion of the evaluation-eligibility process in a timely manner.
Eligibility criteria	Revise language regarding: • the eligibility criteria for the disability categories, particularly autism; and, • school personnel "identify"; not "diagnose".	To ensure greater consistency in the identification of children with disabilities and to assist school divisions in identifying a child with disability eligible for special education and related services. To remove confusing language that implies that school personnel "diagnose".

Terms: mental retardation; emotional disturbance	Revise terms "mental retardation" and "emotional disturbance" to "intellectual disability" and "emotional disability".	To be consistent with the actions of the 2008 General Assembly regarding the term "mental retardation". To be responsive to national and statewide consumer perspectives on appropriate terminology.
Functional behavioral assessment	Expand the term and application of "functional behavioral assessment".	To remind consumers that FBAs may be either a review of existing data or the LEA obtaining an evaluation, which in turn triggers the parent's right to consent and to request an independent educational evaluation if the parent disputes the LEA's evaluation.
Child Find (Child Study)	Expand the provisions for Child Find to include a framework for school-based teams (formerly known as Child Study Committees), timelines, and parent participation in the LEAs processing of referrals.	To provide sufficient structure to the child find process, while allowing LEAs maximum flexibility of responding to children's educational needs.
IEP Progress Reports	Retain the 2002 language regarding when IEP progress reports are to be provided to parents at the same intervals as provided to non-disabled peers.	To clarify when progress reports are to be provided to parents.
IEP (short-term objectives; benchmarks)	Add clarifying provisions that IEP teams document their consideration of short-term objectives or benchmarks for all students with disabilities while retaining the mandate for short-term objectives or benchmarks for students in the alternate assessment programs.	To emphasize that IEP teams may determine short-term objectives or benchmarks for children with disabilities other than children in the alternate assessment programs. To ensure that such determinations are documented for all children with disabilities.
Secondary Transition	Revise the provisions for secondary transition to differentiate the requirements for 14- and 16-year olds.	To clarify the LEAs responsibilities for these age groups.
Discipline	Expand the general provision for when school administrators render decisions regarding disciplining a student, making the determinations on a "case-by-case" basis and applying exceptional circumstances.	To identify mechanisms available to school administrators in making these decisions.
Due Process	Retain the 2002 provision for school divisions to submit to VDOE an implementation plan following the hearing officer's decision; however, clarify that this requirement applies to hearings that are fully adjudicated.	To ensure that an implementation plan is filed when cases are fully adjudicated but eliminate the requirement for when cases are dismissed or settled, when such a plan is unnecessary.
Due Process	Expand the right to raise additional issues during a due process hearing to the parent when the parent is not the initiating party.	To level the playing field for parents, instead of applying the federal mandate only to LEAs.
Due Process	Add provisions related to VDOE's responsibility for recertifying special education hearing officers and the criteria related to that process.	Based on the Office of the Attorney General's advice, VDOE recommends provisions related to VDOE's current responsibility and practice for recertifying special education hearing officers and the criteria related to that process. In accordance with the current regulations, VDOE has the authority to cap the number of special education hearing officers. The recertification process is in concert with the Supreme Court's Rules of Administration.

Surrogate Parents	Retain the 2002 application of parental consent requirements for the termination of special education and related services, as well as for interim and final IEPs for transfer students, to surrogate parents.	To ensure consistency with the requirements under parental consent.
Local Advisory Committee	Add a provision for the LAC composition to include one teacher as a voting member.	To balance the composition of the LAC.
IEP Meetings	Remove the provision that a LEA may refuse a request for an IEP meeting that the LEA considers unreasonable.	While this provision is consistent with guidance provided by the U.S. Department of Education's Office of Special Education Programs (OSEP), it is unnecessary to regulate the issue.
LEA Accountability for child's progress toward meeting IEP goals	Remove the provision that LEAs are not held responsible if the child fails to achieve the growth projected through the annual goals.	While this provision is contained in the current Virginia special education regulations, and remains a provision under OSEP guidance, it is unnecessary to regulate the issue.
Developmental Delay	Retain the proposed 2007 draft language that mandates the age range for children with developmental delay be 2 through 6, inclusive.	Schools divisions that have eliminated the upper age range through age 8 report documented success in providing direct support to children who are at risk for academic or behavioral difficulty in the general education classroom. They have reduced the over identification of children, particularly for children of color and poverty, while at the same time placing more emphasis on timely interventions within their general education programs. Parents and school personnel still retain the right to request to initiate the evaluation-eligibility process of children suspected of having a disability. Some children, served under the DD category from ages 2-5, will continue eligibility for special education and related services and be more properly served in one of the other disability categories, such as autism, other health impaired, or multiple disabilities.
Discipline - Requisite timeframe to conduct functional behavioral assessment	Retain the proposed 2007 draft language in mandating that a FBA be completed when the IEP team determines that there is a manifestation of the child's disability and the disciplinary incident.	This provision mirrors the federal regulations in deleting the previous requirement that a FBA be triggered by the 11th cumulative day of disciplinary removal in a school year. The regulations emphasize in several sections, including IEPs and Discipline, the adequate protections for students with disabilities while providing IEP teams with the flexibility to develop FBAs and Behavioral Intervention Plans that are responsive to the child's unique needs. LEAs are still required to appropriately review and revise a child's IEP, if the child's behavior is impeding the child's learning or that of others. Parents remain members of the IEP team, and therefore, may fully participate in the development of FBAs and BIPs, and to request one at any time, if the child's behavioral needs warrant it.

First Review of Requests from Three School Divisions for Ratings of Conditionally Accredited

Dr. Kathleen Smith, director of the office of school improvement, division of student assessment and school improvement, presented this item. Dr. Smith said that three schools, warned for the fourth consecutive year, are requesting a rating of conditional accreditation. Danville City Public Schools, Portsmouth City Public Schools, and Roanoke City Public Schools are requesting ratings of Conditionally Accredited for Westwood Middle School, Brighton Elementary, and William Ruffner Middle School indicating that reconstitution efforts have changed the governance in the three schools. New principals have been employed at Westwood Middle School and William Ruffner Middle School. Two of these schools house a sixth- and seventh-grade and continue to be warned in mathematics. Pass rates have demonstrated some improvement.

Dr. Smith said that the department will provide technical assistance to the schools and divisions through a partnership with the Appalachia Regional Comprehensive Center (ARCC), the Virginia Foundation of Educational Leadership (VFEL), and the Center for Innovation and Improvement (CII). Portsmouth City Public Schools and Roanoke City Public Schools were provided a series of technical assistance opportunities via WebEx last year. Danville City Public Schools will participate in the same series this year.

The following are recommendations for each of the three schools requesting a rating of Conditionally Accredited:

1. The department will appoint an auditor through the academic review process or the PASS program to monitor the implementation of the school's reconstitution efforts monthly.
2. LEA staff assigned to work with the school throughout the year will attend technical assistance provided by the department regarding district support and the district framework needed to restructure and support low-performing schools. In addition, school staff, including the principal, will attend similar technical assistance regarding rapid improvement leadership indicators and systems and processes that support increased student achievement. This technical assistance will be provided by the Virginia Foundation of Educational Leadership, the Appalachian Regional Comprehensive Center, and the Center for Innovation and Improvement and will be monitored by a monthly online reporting system.
3. If warned in mathematics in the middle school grades, the Algebra Readiness Diagnostic Test (ARDT) will be given to all sixth- and seventh-grade students throughout the year. The Office of School Improvement and the LEA representative will set a schedule for this testing based on recommendations from the department's middle school mathematics specialist.
4. The division and school will submit the required data profile as specified by the department at least quarterly.
5. The division will adhere to any additional recommendations indicated in the Conditional Request and Recommendations form or by the auditor throughout the year and will comply with any reporting requirements requested (submission

of ARDT data on a regular basis, monthly reporting to the superintendent and Office of School Improvement).

Dr. Ward made a motion to waive first review and approve the recommendations and ratings of Conditionally Accredited for the three public schools. The motion was seconded by Mrs. Saslaw and carried unanimously.

Specific recommendations for each school are as follows:

Division	School Name	Recommendations
Danville City Public Schools	Westwood Middle School	Division staff, VDOE contractor, and school staff must meet monthly to discuss the progress in the school's implementation of the school improvement plan and the alignment of state and LEA resources.
Portsmouth City Public School	Brighton Elementary School	Division staff, PASS coach, and school staff must meet monthly to discuss the progress in the school's implementation of the school improvement plan and the alignment of state and LEA resources.
Roanoke City Public Schools	William Ruffner Middle School	Division staff, OSI staff, PASS coach, and school staff must meet monthly to discuss the progress in the school's implementation of the school improvement plan and the alignment of state and LEA resources.

First Review of Requests for Continuation of the Rating of Conditionally Accredited from Eight School Divisions

Dr. Smith presented this item. Dr. Smith said that last year, 30 schools were granted an accreditation rating of Conditionally Accredited. As indicated by preliminary data, 20 of those schools will be Fully Accredited. Nine schools from eight divisions are requesting a continued rating of Conditionally Accredited for the second consecutive year. Ellen W. Chambliss Elementary in Sussex County Public Schools is seeking a conditional rating for the third year.

The following are recommendations for each of the ten schools requesting a continued rating of Conditional Accreditation:

1. The department will appoint an auditor through the academic review process or the PASS program to monitor the implementation of the school's reconstitution efforts monthly
2. LEA staff assigned to work with the school throughout the year will continue to attend technical assistance sessions provided by the department regarding district support and the district framework needed to restructure and support low-performing schools. In addition, school staff, including the principal, will attend similar technical assistance sessions regarding rapid improvement leadership indicators and systems and processes that support increased student achievement. This technical assistance will be provided by the Virginia

Foundation of Educational Leadership, the Appalachian Regional Comprehensive Center, and the Center for Innovation and Improvement and will be monitored by a monthly online reporting system.

3. If warned in mathematics in the middle school grades, the Algebra Readiness Diagnostic Test (ARDT) will be given to all sixth- and seventh-grade students throughout the year. The Office of School Improvement and the LEA representative will set a schedule for this testing based on recommendations from the department's middle school mathematics specialist.
4. The division and school will submit the required data profile as specified by the department, at least quarterly.
5. The division will adhere to any additional recommendations indicated in the Conditional Request and Follow-up form or by the auditor throughout the year and will comply with any reporting requirements requested (submission of ARDT data on a regular monthly basis, reporting to the superintendent and Office of School Improvement).

Mr. Johnson made a motion to waive first review and approve the recommendations and ratings of Conditionally Accredited for the ten schools. The motion was seconded by Dr. Ward and carried unanimously.

Specific recommendations for each school are as follows:

Division	School Name	Recommendations
Caroline County	Caroline Middle School	Since there is a new central office team, it is recommended that at least three division staff assigned to support the school participate in technical assistance regarding division-level support as well as school-level support. It is recommended that the same auditor from 2007-2008 be assigned to this school to provide for continuity in programming.
Hampton City	Hampton Harbour Academy	Student progress at this alternative school needs to be closely monitored. The auditor will meet with a division-level representative and the principal at least monthly. The purpose of this meeting is to monitor individual student progress. Extra support needed to increase student achievement will be discussed at this meeting. The auditor will monitor the implementation of the school improvement plan. It is recommended that a new auditor be assigned to this school.
Henrico County	New Bridge School	Student progress at this alternative school needs to be closely monitored. The auditor will meet with a division-level representative and the principal, at least monthly. The purpose of this meeting is to monitor individual student progress. Extra assistance needed to support student achievement will be discussed at this meeting. The auditor will follow the implementation of the support throughout each month. It is recommended that a new auditor be assigned to this school.
Norfolk City Schools	Lake Taylor Middle School	It is recommended that the same auditor from 2007-2008 be assigned to this school to provide for continuity in programming.
Portsmouth City	Cradock Middle School	It is recommended that the same auditor from 2007-2008 be assigned to this school to provide for continuity in programming.
Richmond City	Chandler Middle School	Since this school is in Year 6 of school improvement, it is recommended that school improvement funds be used to employ a school improvement expert to assist the alternative governance team. In addition, the PASS assistance will be elevated from coach to auditor. The auditor will meet with a division-level

Division	School Name	Recommendations
		representative and the principal at least monthly. The purpose of this meeting is to align district and school resources as well as discuss the implementation of the school's improvement plan. It is recommended that a new auditor be assigned to this school.
Richmond City	Thomas C. Boushall Middle School	PASS assistance will be elevated from coach to auditor. The auditor will meet with a division-level representative and the principal at least monthly. The purpose of this meeting is to align district and school resources as well as discuss the implementation of the school's improvement plan.
Roanoke City	Addison Middle School	The auditor will meet with a division-level representative and the principal at least monthly. The purpose of this meeting is to align district and school resources as well as discuss the implementation of the school's improvement plan.
Sussex County	Sussex Central Middle School	With a new principal this year, it is recommended that an alternative governance team be established to monitor the implementation of the school improvement plan. This team should meet monthly and include the auditor and any outside experts needed for improvement. It is recommended that a new auditor be assigned to this school.
Sussex County	Ellen W. Chambliss Elementary School	It is recommended that an alternative governance team be established to monitor the implementation of the school improvement plan. This team should meet monthly and include the auditor and any outside experts needed for improvement. It is also recommended that the division explore the possibility of changing or making adjustments to the current basal series that align with the Standards of Learning. It is recommended that a new auditor be assigned to this school.

Report on Petersburg City Schools' Implementation of the Memorandum of Understanding and Findings of the Division-Level Review

Dr. Smith also presented this item. Dr. Smith said that in 2004, the Petersburg School Board requested a division-level review and assistance from the Virginia Department of Education (VDOE). Petersburg Public Schools and the Virginia Board of Education (BOE) signed an initial memorandum of understanding (MOU) detailing the review process on April 21, 2004. Petersburg Public Schools have been in division-level review status since 2004 and has reported to the BOE regularly on the status of implementing the corrective action plan and the terms of the initial MOU. The VDOE has provided ongoing technical assistance and monitored the implementation of the division's corrective action plan.

Based on 2005-2006 assessment results and the resulting accreditation and federal adequate yearly progress (AYP) ratings of the division and its schools, Petersburg Public Schools entered into a second memorandum of understanding on November 20, 2006. This MOU with the BOE required Petersburg Public Schools to continue in division-level academic review status and participate in an academic review process prescribed by the BOE. The following performance objectives were established in the MOU:

In 2007-2008, Petersburg Public Schools will:

1. Meet AYP requirements in at least seven (7) schools by achieving established benchmarks or through the 'safe harbor' method for all subgroups.
2. Achieve full accreditation in at least five (5) schools.

The BOE implemented a provision in the Appropriation Act that permitted it to authorize an efficiency review as part of a division-level academic review process. As a part of the MOU, Petersburg Public Schools were required to incorporate 40 percent of the recommendations of the efficiency review by January 1, 2008, and half of the recommendations by January 1, 2009.

Academic Achievement

The MOU set specific accountability targets for each of three years beginning in 2007 with assessments from 2006-2007. The division has failed to meet accreditation targets set forth in the MOU for two consecutive years. For the 2008-2009 accreditation cycle and AYP ratings, the achievement target was having at least seven schools making adequate yearly progress (AYP) and five schools meeting the status of fully accredited. By 2009, the accountability target as indicated in the MOU is that no schools will remain in accreditation denied status. Based on preliminary data for 2008-2009, one of the seven schools will remain fully accredited, one will return to accredited with warning status, and five will remain in accreditation denied status, as compared to two schools in the previous year.

One of the seven schools made AYP in 2008-2009, as compared to two schools in the previous year. Two schools entered Year 5 of school improvement after not making AYP for six consecutive years, and one school entered Year 7 of school improvement after not making AYP for eight consecutive years. Two of these schools, including the school in Year 7 of school improvement, are middle schools.

Highly-Qualified Teachers

Another area of concern addressed in the current MOU is the limited number of highly-qualified teachers employed by the division as well as the number of teachers who are provisionally licensed and the number of long-term substitutes employed as teachers in core content areas. The MOU states that the Petersburg central office leadership, under the direction of the chief academic officer (CAO), will develop and monitor individual action plans to reduce the number of teachers holding a provisional license and implement a research-based hard-to-staff incentive program. Hard-to-staff funding has been provided in the first two years of the MOU; however, results presented at the Senate Finance Committee on December 6, 2007, demonstrated little improvement in the number of provisional or unlicensed teachers employed by the division. The MOU states that Petersburg Public schools will commit to hiring personnel who are the most qualified for the position vacancy.

Contingency Restructuring Plan

The MOU specifies that a contingency plan be developed if the schools do not meet school accreditation targets. The MOU states:

> *The Petersburg School Board, Virginia Board of Education and the Department of Education will develop a contingency plan for major restructuring to be in place for the 2007-2008 school year if significant improvements in student achievement and school accreditation do not occur for the 2006-2007 school year. The decision to begin the planning for restructuring will be based on reports provided by Petersburg Public Schools to both the Virginia Board of Education and department staff as well as recommendations made by the CAO throughout the year.*

Although the development of the contingency restructuring plan was implemented one year later than planned in the MOU, a committee of outside experts from universities, community-based organizations working in Petersburg, the chief academic officer (CAO), and department staff met during the 2007-2008 year after assessments given in 2006-2007 resulted in the division not meeting accountability goals of the MOU for two consecutive years. This committee developed an instructional intervention to be led by an outside entity for middle school students and parents (by choice of entry into the intervention) to begin in 2009-2010.

This plan was based in part on the work of Mass Insight Education and the concept of a turnaround zone. The committee agreed that the plan should include an outside partner to develop and implement a comprehensive "school within a school" model for middle grade students. The committee presented this plan at the June 18, 2008, meeting of the Accountability Committee for Schools and Divisions meeting. Federal school improvement funds that are allocated only to local education agencies (LEA) with schools in improvement are available to cover the start-up costs for program development and implementation planning.

School Improvement Funding

Since the implementation of the current MOU, Petersburg Public Schools have received $1.1 million in school improvement funding. In 2008-2009, Petersburg Public Schools will receive $525,000 in school improvement funds. These funds are used to implement the initiatives indicated in both the MOU and corrective action plan.

Recommendations

1. Petersburg Public Schools will report quarterly to the Board of Education student achievement data as prescribed by the Department of Education using the quarterly report form.
2. Petersburg Public Schools will report quarterly to the Board of Education a breakdown of teacher quality data as prescribed by the Department of Education, including teachers' progress toward full licensure and achieving highly qualified status.
3. As specified in the MOU, the Board of Education requests the Petersburg City School Board to plan for the implementation of the contingency restructuring proposal in the 2009-2010 school year and authorizes the Department of Education to assist Petersburg Public Schools in such planning by providing available federal resources.

Dr. Ward made a motion to waive first review and accept the recommendations for Petersburg Public Schools to provide data as indicated in the required quarterly report on October 15, 2008, for review by the Accountability Committee for Schools and Divisions on October 23, 2008. Per the MOU, and based on 2008-2009 accreditation ratings, Petersburg will proceed with plans to provide a choice option for middle school students for the 2009-2010 school year. The motion was seconded by Mrs. Saslaw and carried unanimously.

First Review of the 2007-2008 Annual Report on Public Charter Schools in the Commonwealth of Virginia Department of Education

Ms. Roberta Schlicher, director, office of program administration and accountability, presented this item. Ms. Schlicher said that the annual report contains a summary of information from the required data collections for operating public charter schools in Virginia as well as applications for public charter schools. Since the initial state legislation for charter schools was passed in 1998, ten charter schools in eight school divisions have been approved. During the 2007-2008 school year, three schools operated. One charter school that was approved by its local school board in June 2007 opened in August 2008; and one charter school that was approved by its local school board in June 2008 is waiting for contract approval before opening in July 2009. Ms. Schlicher said that information collected from division superintendents revealed that no charter school applications were denied.

Dr. Jones made a motion to waive first review and approve the 2008 Annual Report on Charter Schools in Virginia pursuant to §22.1-212.15, Code of Virginia. The motion was seconded by Mrs. Saslaw and carried unanimously.

Following is the executive summary from the annual report on public charter schools in the Commonwealth:

Annual Report on Public Charter Schools in the Commonwealth
Executive Summary

The evaluation of the public charter schools of Virginia examines the three public charter schools in operation in the state during the 2007-2008 school year. All three schools in operation in Virginia are designed to provide alternative and experiential learning opportunities for students who are at risk. However, differences among these schools include: the histories of the schools, characteristics of the communities served, characteristics of the students enrolled, size of the student bodies, grade levels served, resources available, and educational approaches and priorities. A fourth charter school, approved in 2007, used 2007-2008 as a planning year and opened for students in August 2008. The fifth charter school, approved in June 2008, is waiting for contract approval before opening in July 2009.

Key Observations and Findings
National

- Legislation. Forty (40) states and the District of Columbia have charter school laws in place.
- Schools. Of the more than 130,407 public K-12 schools nationally, 4,225 are charters.
- Students. A total of 1,242,427 students are enrolled in public charter schools. The total United States public school enrollment is 49,113,000.

Virginia

- Schools. Three charter schools operated in Virginia in 2007-2008. As of June 2008, the total enrollment for the three charter schools was 248 students.
- Staff. The three schools reported a total of 35.5 staff members including principals, teachers, paraprofessionals, and guidance counselors. The average student-to-teacher ratio was 10 students per teacher.
- Progress in Achieving Goals. Progress as reported in terms of improved academic achievement, average daily attendance, and decreased dropout rates varies from year to year and among the schools. All three schools, Murray High School, Hampton Harbour Academy, and York River Academy achieved Adequate Yearly Progress (AYP) performance targets under the *No Child Left Behind Act of 2001* for the 2007-2008 school year based on data from spring 2007. For 2004-2005, 2005-2006, 2006-2007, and 2007-2008, Murray High School and York River Academy were fully accredited. Hampton Harbour Academy was conditionally accredited for the 2007-2008 school year. In 2006-2007, the school status was "Accreditation Withheld/Improving School Nearing Accreditation." For 2004-2005 and 2005-2006, the school was accredited with warning.

- Average Daily Attendance and Dropout Rates. The overall average daily attendance rate in the charter schools has improved slightly during the last several years and is presently at 91 percent. The state rate for 2007-2008 is 95.2 percent. While dropout rates in the public charter schools have historically been higher than comparable rates for the divisions in which they are chartered, dropout rates in 2006-2007 were at zero percent in two of the schools and 1.1 percent in the third school. Official dropout rates for 2007-2008 will be available from the Virginia Department of Education after October 1, 2008.
- Comparison of Student Performance. The performance of pupils in charter schools as compared to students in other schools is reported in Adequate Yearly Progress (AYP) and Standards of Learning (SOL) assessment results. Assessment results indicate that in some cases, student performance in the charter schools exceeds that of the more traditional school; in other cases it does not. The three schools also self-reported that the students in the charter schools are generally performing better than if they had remained in a traditional school.
- Impact on the Community. All of the schools reported programs to achieve parental and community involvement. The perceptions of the schools, community awards, other forms of recognition, and parental surveys suggest success in these efforts. Survey results suggest that the small size, individualized instruction, and innovative approaches to education found in these schools have had a positive impact on the communities they serve.

The *Code of Virginia* and Charter Schools

The Virginia General Assembly passed House Bill 2311, Public Charter School Fund, during the 2006-2007session that amended the *Code of Virginia* by adding a section numbered 22.1-212.5:1, establishing a public charter school fund. The purpose of this fund is to establish a mechanism whereby gifts, grants, bequests, or donations from public or private sources can be paid into the state treasury and credited to the fund for establishing or supporting public charter schools in the Commonwealth that stimulate the development of alternative public education programs. Criteria for making distributions from the fund were approved by the Virginia Board of Education on January 10, 2008. To date, no gifts, grants, bequests, or donations have been received in the fund for disbursement.

Growth of Charter Schools in Virginia

In July 2005, the United States Education Department (USED) awarded three federal charter school grants for proposed public charter schools in Albemarle County, Richmond City, and Norfolk City. The charter school applications in Albemarle and Richmond have been approved by the respective local school boards. The Norfolk charter school application has not been presented to the local school board for approval.

In Administrative Superintendent's Memorandum, Number 13, dated April 25, 2008, "Charter School Report for 2007-2008,"superintendents were asked to respond to the following charter school question: "Whether you have charter schools or not in your division, please list barriers you perceive in establishing charter schools in Virginia." Forty-nine (49) percent of the divisions did not respond to the question; 21 percent listed no barriers; 18 percent cited fiscal barriers; 11 percent indicated that there was no interest or need; and nine percent cited lack of facilities. Other barriers mentioned included: difficulty obtaining certified teachers; high-quality public school programs; restrictiveness of Virginia charter school law; insufficient research; and a lack of political will for establishing charter schools. The responses cited above are similar to responses received for the 2006-2007 charter school report.

First Review of Plan for Increasing Number of Students Obtaining Industry Certification and Licensure

Mr. Lan Neugent, assistant superintendent for technology and career education, presented this item. Mr. Neugent said that Senate Bill 326 requires the Board of Education to develop a plan for increasing the number of students receiving industry certification and state licensure as part of their career and technical education. The Virginia Department of Education needs to provide the plan to the bill patron and to the Manufacturing Development Commission.

The proposed plan meets the requirement of Senate Bill 326 by:

- Including rigorous academic preparation and career and technical assessment in the standard technical and advanced technical diplomas in the proposed Standards of Accreditation (SOA);

- Collaborating with middle/secondary education and providing for industry certification and licensure in an academic and career plan for all students as requested by Governor Kaine and included in the proposed SOA;
- Providing for industry certification and licensure in the newly implemented Governor's Career and Technical Academies that are designed to expand options for the general student population to acquire science, technology, engineering and mathematics (STEM) literacy as well as other critical skills and knowledge;
- Continuing to offer training and certification for teachers through academies and virtual online courses that will allow schools to offer industry certification and licensure to students; and
- Utilizing industry certification and state licensure as part of the requirement to meet Perkins Performance Standard 25 – Technical Skills Attainment. This performance standard now requires a third-party assessment in combination with validated classroom assessment for all career and technical education completers. (Perkins Performance Standard was approved by the U.S. Department of Education via Grant Award letter dated July 1, 2008.)

Dr. Ward made a motion to waive first review and approve the plan. The motion was seconded by Mr. Johnson and carried unanimously.

Following is the plan for increasing the number of students obtaining industry certification and licensures:

Plan for Increasing the Number of Students Obtaining Industry Certification and Licensures

Career and Technical Education (CTE) in Virginia is a national leader in the use of industry certification and licensure as credentials for CTE students at the secondary level. Because of our success in the use of industry credentialing, Virginia is one of only a few states that has been approved to use credentialing as a component to meet the federally-mandated technical assessment of students.

Since the Office of Career and Technical Education began collecting data on industry credentials in 2004 – 2005, we have steadily increased the number of credentials obtained by students (Table 1: State Report Card, Appendix A) and have surpassed the projected number of industry certifications for Virginia Performs (Table 2: Virginia Performs – Industry Certifications, Appendix A). Beginning in 2008 - 2009, individual school division industry certification attainments will be placed into a chart for an overall review of the state reports by industry credential type (i.e., industry certification, state licensure, and NOCTI tests).

Industry credentials earned by students are reported on Virginia's School Report Card that provides information on student achievement, accreditation, safety, and attendance for the state as a whole and for individual schools. In addition, Virginia's schools and school divisions may earn points in the *Virginia Index of Performance* program for continually increasing the number of industry certifications and licensures earned annually or relative to enrollment. The *Virginia Index of Performance (VIP)* is intended to measure the extent to which students are progressing towards advanced proficiency levels in reading, mathematics, science, and history and social science and on other indicators of school and student performance. It is an incentive program to encourage and recognize school accountability performance and competence to excellence.

Industry certification and licensure is highly visible within the proposed Virginia Standards of Accreditation. First, the Technical Diploma and Advanced Technical Diploma are designed to increase rigor in academic preparation as well as provide for Career and Technical Education assessments in the graduation requirements. Second, Governor Kaine requested and the State Board of Education has included in the proposed Standards of Accreditation the use of an Academic and Career Plan. Public hearings for the proposed new Standards of Accreditation are scheduled for October 2008. The Academic and Career Plan propose the same components as the Career Pathway Plans of Study that have already been developed through the Office of Career and Technical Education at the Virginia Department of Education in cooperation with the Virginia Community College System. Merger of the Academic and Career Plan and the Career

Pathway Plans of Study will simplify implementation of the two requirements for school divisions. Local school divisions are required to develop Plans of Study for each Career Pathway that is offered through their Career and Technical Education programs. Components included in these plans of study are career assessment, academic preparation, electives, career and technical sequential offerings, industry certification and licensure, work-based learning opportunities, sample careers, and articulation among middle, secondary, postsecondary, and four-year education levels of instruction.

Another highlight for Career and Technical Education in Virginia are the Governor's Career and Technical Academies. These academies are programs designed to expand options for the general student population to acquire science, technology, engineering, and mathematics (STEM) literacy and other critical skills, knowledge, and credentials that will prepare them for high-demand, high-wage and high-skill careers in Virginia. Achievement benchmarks for the academies will include industry certification and licensure. There are seven academies this first year of implementation.

The Carl D. Perkins Career and Technical Education Act of 2006 (the Act of 2006) includes eight performance standards that state career and technical education programs are required to meet. One of the performance standards requires states to measure technical skills attainment of career and technical education graduates. The U.S. Department of Education, Office of Vocational and Adult Education, has approved Virginia's plan to continue utilizing the student competency records that are documented at the local level in combination with students obtaining an industry certification, licensure, or passing National Occupational Assessment Test Institute tests (NOCTI) which have been approved by the Virginia Board of Education for verified credit.

The plan for implementing this process is for local school divisions to test all career and technical education completers (students who complete a CTE program and graduate) by the year 2010 – 2011. The divisions will be adding one-third of their completers each year so the goal of 100 percent can be met by the 2010 – 2011 school year. Currently state dollars have been allocated through the 2009 – 2010 school year and Perkins allocations to local school divisions may also be utilized for this purpose. This supports Governor Kaine's goal for Virginia to elevate the levels of education preparedness and attainment for its citizens and the Virginia Index Performance program to measure this attainment. Technical assistance with this initiative will be provided through the Office of Career and Technical Education staff. The technical assistance will include workshops, on-site visits, and electronic communications.

The Virginia Department of Education, Office of Career and Technical Education (VDOE/CTE) continues to provide teacher training and industry certification through academies and/or virtual online training. If the VDOE/CTE does not provide an academy or virtual online training then local school divisions may utilize their Perkins dollars to support training and testing for the teachers. For those programs where a state licensure is appropriate for the student, current state teacher licensure regulations require the teacher to have this when employed.

Final Review of Proposed Board of Education Meeting Dates for the 2009 Calendar Year

Dr. Margaret Roberts, executive assistant to the Board of Education, presented this item. Dr. Roberts said that in recent years, the Board of Education has met monthly except for the months of August and December. Meetings are typically held on the fourth Thursday of the month, although this is not a requirement. Exceptions are the January meeting which is held early in the month to coincide with the opening of the General Assembly session, and the November meeting, which is scheduled to avoid meeting during Thanksgiving week. The April meeting is typically a two- or three-day planning session. Meetings are scheduled to avoid major religious or secular holidays.

In addition to the regular, monthly business meetings, the President may call special meetings of the full Board of Education and its committees, as deemed necessary. Unless otherwise announced by the President, all Board of Education meetings will be held in the Jefferson Conference Room on the 22nd floor of the James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Mr. Rotherham made a motion to adopt the list of meeting dates for 2009. The motion was seconded by Mrs. Castro and carried unanimously.

The dates are as follows:

Thursday, January 15, 2009
Thursday, February 19, 2009
Thursday, March 26, 2009
Wednesday-Thursday, April 22-23, 2009
Thursday, May 28, 2009
Thursday, June 25, 2009
Thursday, July 23, 2009
Thursday, September 24, 2009
Thursday, October 22, 2009
Tuesday, November 17, 2009

First Review of Proposed Revised Guidelines and Standards of Learning for Family Life Education as Required by the 2008 General Assembly

Dr. Cynthia Cave, director of student services, presented this item. Dr. Cave stated that the Family Life Education requirements of the Board of Education were first enacted in 1987 by the General Assembly. In 1988, the Board of Education prepared a document that included Standards of Learning (SOL) Objectives and Descriptive Statements, guidelines for training individuals who will be teaching family life education, and guidelines for parent/community involvement.

The 1988 guidelines were revised in 2002 to include the requirements of HB 1206 (benefits of adoption), in 2004 to include the requirements of HB 1015 (sexual assault) and again in 2007 to include HB 1916 (dating violence and the characteristics of abusive relationships). In the 2008 session of the Virginia General Assembly, Senate Bill 640 amended § 22.1-207.1 of the *Code of Virginia* to require that information concerning mental health education and awareness be included in the Family Life Education curriculum guidelines.

§22.1-207.1. Family life education.

The Board of Education shall develop by December 1, 1987, standards of learning and curriculum guidelines for a comprehensive, sequential family life education curriculum in grades K through 12. Such curriculum guidelines shall include instruction as appropriate for the age of the student in family living and community relationships; abstinence education; the value of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; dating violence; the characteristics of abusive relationships; steps to take to avoid sexual assault, and the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention and effects of sexually transmitted diseases; and mental health education and awareness.

Dr. Cave said that the *Guidelines and Standards of Learning for Family Life Education* has been revised in accordance with the 2008 legislation. The descriptive

statements supporting the Standards of Learning objectives have been amended to reflect the required age-appropriate changes in the guidelines. Some descriptive statements have been edited to reflect correct terminology and grammar.

Dr. Brewster made a motion to accept for first review the revised guidelines regarding Family Life Education. The motion was seconded by Mrs. Saslaw and carried unanimously.

First Review of the Standards of Quality

Mrs. Wescott presented this item. Mrs. Wescott said that the *Code of Virginia* requires the Board of Education to review the Standards of Quality every two years. The *Code* also requires that the Board's annual report to the Governor and General Assembly include any recommendations for revisions to the Standards of Quality.

Mrs. Wescott said that the proposed resolution would reaffirm the Board's commitment to the seven staffing recommendations that have not yet been funded while recognizing the budget constraints facing the Governor and General Assembly during the 2009 Session. The proposed resolution would ask that consideration of these additional staffing recommendations be made when the revenue picture has improved.

Furthermore, in the event that funding for K-12 public education must be reduced as a result of declining revenues, the Board would urge the Governor and the General Assembly to give local school boards flexibility in meeting the staffing requirements in the Standards of Quality while maintaining accountability requirements in the Standards of Learning program.

Dr. Jones and several other Board members stated that they could not support the draft resolution. The Board requested that the proposed resolution be revised to reflect the Board's support of full funding of the seven staffing recommendations despite budget constraints facing the Governor and General Assembly. A revised proposal is expected to be presented to the Board for first review at the October 23, 2008, Board meeting with final review expected to take place on November 20, 2008.

Report on the Statewide Dropout Prevention Summit Planned for October 28

Dr. Cave presented this item. Dr. Cave said that on October 28, 2008, the Virginia Department of Education (VDOE) is hosting a statewide summit addressing dropout prevention and promoting collaborative partnerships of cross-sector leaders to increase public awareness of the issue of high school drop-out and school completion in Virginia.

With the theme of *Learning, Working and Living: Keeping Promises to our Youth*, the purpose of the Virginia summit is to promote information sharing and action planning among the sectors about implementation of best practices and policies that increase the number of students who complete school. Anticipated summit participants include school superintendents and personnel, local school board members, state legislative and appointed officials, business representatives, and service and community organizations. A Project

Leadership Team comprised of representatives of these various sectors has been working with VDOE to plan the summit.

The agenda for the summit has been divided into four strands, with three sessions each:

- *Engaging the Student, Engaging the Family: Going Beyond the School Door*: Presents effective practices involving schools and community partners that provide supports, such as mentoring, after-school and service learning programs
- *Counteracting Loss: Making a Living, Making a Difference*: Presents effective programs initiated by schools, businesses, community colleges and other organizations that provide opportunities to regain lost academic ground and prepare for continued education and meaningful work
- *From the State House to the School House: The Intentional and Unintentional Impact of Policies*: Addresses legislative and administrative policies at the state and local level that promote student support and persistence to graduation or may have negative consequences for students
- *Maximizing Resources: Knowing What is Available, Combining Resources*: Presents information about public and private resources available to support programs for students

The Board accepted the report.

DISCUSSION OF CURRENT ISSUES

Dr. Jones requested that the role of foster parents be made clear in the final *Regulations Governing Special Education Programs for Children with Disabilities in Virginia.*

EXECUTIVE SESSION

Dr. Ward made a motion to go into executive session under *Virginia Code* 2.2-3711.A, specifically to discuss personnel matters related to licensure. Mrs. Castro seconded the motion and it carried unanimously. The Board adjourned for the Executive Session at 11:45 a.m.

Mrs. Saslaw made a motion that the Board reconvene in open session. The motion was seconded by Mrs. Castro and carried unanimously. The Board reconvened at 12:10 p.m.

Mrs. Saslaw 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 by Virginia law were discussed in the executive session to which this certification motion applies, and (2) only such public business matters as were identified in the motion convening the executive session were heard, discussed or considered by the Board. The motion was seconded by Mrs. Castro and carried unanimously.

Board Roll call:

Andrew Rotherham – Yes	David Johnson – Yes
Gary Jones – Yes	Ella Ward – Yes
Isis Castro – Yes	Thomas Brewster – Yes
Eleanor Saslaw – Yes	

The Board voted six to one to reinstate the license of David Yezek.

***PUBLIC HEARING ON THE PROPOSED REVISIONS TO THE REGULATIONS GOVERNING EDUCATIONAL SERVICES FOR GIFTED* STUDENTS**

The following persons spoke during public hearing:

1. Allison Sheppard
2. Jenni Jones
3. A. J. Rogers
4. Judy Williams
5. Liz Nelson
6. Patty Davis
7. Kelly Jordan-Wilson
8. Maria Haw
9. Beth Dandridge
10. Kris Ross
11. Sarah Getzler

ADJOURNMENT

There being no further business of the Board of Education and the Board of Career and Technical Education, Dr. Ward adjourned the meeting at 12:42 p.m.

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President