Agenda Topic: Waiver Report

Materials: Spring 2001 Report to the General Assembly

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Purpose of Agenda Item

- To inform the Board members about requests for waivers and modifications that have been received since the last report in October 2000;
- To consider Board action to deny one request from a school district seeking to modify a School Code mandate; and
- To secure approval of the Spring 2001 Waiver Report for submission to the General Assembly by May 1, as required by law.

Expected Outcome(s) of Agenda Item

- The Board's approval to deny one request seeking to modify a School Code mandate;
- The Board's approval to recommend to the General Assembly that it deny one request contained in the report;
- The Board's approval to recommend to the General Assembly that it approve the requests for waivers of daily physical education for two years only (through school year 2002-2003); and
- The Board's authorization to submit the Spring 2001 Waiver Report to the General Assembly.

Background Information

The Spring 2001 Waiver Report is the twelfth report to be submitted to the General Assembly pursuant to Section 2-3.25g of the School Code. That law, enacted in 1995, permits school districts to request waivers or modifications of state education laws and administrative rules promulgated by the State Board of Education. All waivers of state law must be submitted to the General Assembly for its consideration.
At the time the Board adopted emergency rules for the waiver process in March 1995, it also acted to establish a procedure for considering those requests upon which the State Board must act (i.e., modifications of School Code mandates and waivers and modifications of agency rules). By law, the State Board must act on these requests within 45 days. Given this timeframe, the Board delegated responsibility to the State Superintendent to approve those requests that are in conformance with the law. In addition, it stipulated that any request that the State Superintendent believed should be denied must come before the Board for final action. The Board will consider one request that staff believe should be denied; the superintendent representing the school district submitting the request has been notified of the Board's consideration.

Although it is not required to do so, the State Board may recommend denial of certain statutory waiver requests at the time the report is submitted to the General Assembly. In 1996, the State Board asked that whenever the State Superintendent recommended such Board action, the district submitting the waiver request be given the opportunity to discuss its request with the Board. The superintendent from the school district whose petition is being recommended for denial by the legislature has been notified that the Board will be considering that action today.

This report contains 92 waiver requests covering ten topic areas, including substitute teacher certificates (32 requests), limitation of administrative costs (27 requests), daily physical education (19 requests), driver education (seven requests), non-resident tuition (two requests), and one request each addressing assessment (Prairie State Achievement Examination), content of evaluation plans, statement of affairs, township treasurer, and transfer of interest income.

**Analysis and Policy Implications**

While the Board frequently advises the General Assembly about certain waiver requests that it believes the legislature should deny, it has yet to deny any petition that has been within its authority to disapprove. Requests submitted to date that fall under the category of modifications of School Code mandates generally address two categories: those dealing with legal school holidays and those seeking relief from the daily physical education mandate in circumstances where the time devoted to physical education on less than a daily basis is substantially equal to that which the students would have received in daily physical education (primarily block scheduling).

Other requests that the State Board has approved include those that seek relief from certain agency rules (e.g., driver education, superintendent’s duties, attendance procedures, health-life safety).

Most recently, the Legal staff have determined that certain requests pertaining to parent-teacher conferences and school improvement activities are modifications of the School Code rather than waivers since the districts want to "modify" (i.e., change, alter, or partially amend) the requirements in order to better achieve their purposes in a way
that is more "effective, efficient, or economical." Included in this report are 16 such requests that have been approved as modifications.

In considering denial of a request deemed to be a modification of a School Code mandate or a waiver or modification of agency rules, the State Board reviews whether the request meets the criteria for disapproval stipulated in the law, which includes the following:

- The request is not based upon sound educational practices.
- The requested action would endanger the health or safety of students or staff.
- The requested action would compromise equal opportunities for learning.
- The request does not address the intent of the rule or mandate in a more effective, efficient or economical manner.
- The request does not have improved student performance as a primary goal.

One request from Rockford Public School District 205 for a modification of a School Code mandate meets one or more of these criteria. Specific reasons for recommending denial of this request are discussed below. As noted above, the State Board has 45 days to act to deny a request after that request has been received, otherwise the request is "deemed" approved. The 45-day timeline for the Rockford request will end April 30, 2001.

- **Rockford Public School District 205** (WM300-1867) has requested that it be allowed to modify Section 2-3.51 of the School Code to use Reading Improvement Block Grant funds in grades 7 through 12. Section 2-3.51 stipulates that these funds can only be used to benefit students and teachers in kindergarten through grade 6.

  The district argues, however, that it can better meet the intent of the law (to improve reading and study skills) if the program includes all students in the district. The district indicates that a significant proportion of its students in grades 7 through 10 are below grade level in reading achievement, noting a drop in reading scores when students move into the middle grades. It intends to use Reading Improvement Block Grant funds to train or retrain teachers at all grade levels, deploy staff who provide reading support for kindergarten through grade 5 to assist in grades 6 through 12, and expand direct reading instruction to students in grades 7 through 12.

  While reading achievement scores for students in grades 7 through 10 are below grade level, the results on both the Illinois Standards Assessment Test (ISAT) and the Stanford 9 indicate that significant numbers of students in the lower grades also are not meeting either state or local reading standards. In the 1999-2000 school year, for example, 51 percent of third-graders (46 percent in 1998-99) and 49 percent of fifth-graders (48 percent in 1998-99) taking the reading ISAT failed to meet standards. Report card data showed that in the same school year, the school district had 23 elementary buildings where 50 percent or more of the third-graders did not meet standards on the reading ISAT and 21 schools where 50 percent or
more of fifth-graders performed below standards. Rockford has approximately 40 elementary schools.

Results for the Stanford 9 assessment, submitted as part of Rockford's Reading Performance Reports required under the Reading Improvement grant, indicated that reading performance as measured by that test declined, with 46 to 49 percent of students in grades 3 through 6 meeting local standards in school year 1999-00, compared to 53 to 65 percent meeting local standards in the previous year.

This evidence suggests that expanding services provided through the Reading Improvement Block Grant funds to other grade levels may actually have a detrimental effect on the students and teachers who are supposed to benefit from the program by diluting the programs at the kindergarten through grade 6 level. Given the low achievement levels that persist at many of the district's elementary schools, staff believe the request is not based on sound educational practices, since expanding services to other grade levels without additional resources will mean that fewer elementary students will be provided with direct reading instruction necessary to improve achievement. In addition, not as many elementary teachers will receive the training designed to improve their reading instructional skills for this group of students.

For these reasons, it is recommended that the State Board of Education deny the request from Rockford Public School District 205 to use Reading Improvement Block Grant funds to benefit students in grades 7 through 12.

Should the Board act to deny this request, then the denial will be included in the report to the General Assembly in a separate section as an informational item only.

**Analysis of Certain Waiver Requests**

Staff are recommending that the Board consider asking the General Assembly to disapprove one request. In addition, several other issues associated with certain requests are discussed below.

- **Antioch Community High School District 117** (WM300-1758-3) has requested a waiver of Section 2-3.64 of the School Code to allow it to administer an assessment other than the Prairie State Achievement Examination (PSAE). For the next five years, starting this year, the district would like to substitute certain portions of PSAE (ACT and WorkKeys) with the Comprehensive Testing Program III. This assessment, designed to gauge verbal and quantitative ability and achievement, has been used by the district since the 1999-2000 school year to establish baseline data for freshmen students and to gather data on students over the course of their high school career in order to determine student progress and the effectiveness of the district's instructional program.
The PSAE, given to students in grade 11, is designed to measure a student's achievement of the Illinois Learning Standards in reading, writing, mathematics, science, and social science. In order to do this, the PSAE is constructed as a single exam by using three separate components: ISBE-developed writing, science, and social science assessments; the ACT assessment, which includes four components (reading, English, mathematics, and science reasoning); and the WorkKeys Reading for Information and Applied Mathematics tests. Achievement of the standards can only be measured by students' completing all three components of the PSAE. It is not possible to obtain a complete set of PSAE scores if the ISBE-developed component is given separate from the other two parts, as the district is requesting to do.

Moreover, the district has not provided any evidence that the proposed alternative (i.e., the Comprehensive Testing Program III) is aligned with the Illinois Learning Standards and would therefore be a valid measure of students' performance relative to these standards. It is not educationally sound practice to administer an achievement test that has not been proven to measure the knowledge and skills that students are expected to master.

Finally, the use of an alternate assessment would be detrimental to both student and school accountability. The law provides that the State Board establish a minimum score in each academic area tested that would qualify students to receive a Prairie State Achievement Award. These minimum scores are derived from items on the separate tests that make up the PSAE (i.e., three ISBE-developed components, four ACT assessment tests, and two WorkKeys tests). The State Board would be unable to calculate a PSAE score for four of the five academic areas tested if six of the tests were eliminated, as proposed in the district's request. Students not receiving four of five PSAE scores could receive the Prairie State Achievement Award for social science only, which could jeopardize their receipt of educational benefits in the future.

As for school accountability, the State Board's rules require that it provide to each school and district state assessment results for each student taking the assessment and summary data that includes percentage of students whose scores exceed, meet, and fail to meet the standards. The State Board is also to notify each school whether it exceeds, meets, or fails to meet state standards, based upon the scores achieved by students in the school. This information is further used to determine whether to place a school on the Academic Early Warning List, and, if warranted, to eventually place it on the Academic Watch List.

None of these requirements would be met, however, should this request be granted. Without the ability to produce a complete set of PSAE scores, the State Board would be unable to provide either student or district achievement information, hampering the district's ability to ensure that students meet the Illinois Learning Standards. The district also would be unable to comply with the school accountability requirements of Section 10-17a of the School Code, regarding the preparation of a School Report.
Card. For these reasons, staff believe the request is not based upon sound educational practices and does not have improved student performance as a primary goal, particularly as it pertains to improving student achievement of the Illinois Learning Standards as measured by the PSAE. Therefore, staff propose that the Board recommends to the General Assembly that it disapprove this request.

- **Daily Physical Education.** Following the receipt of all of the physical education waivers for this current report, the Board adopted a policy that asks school districts to submit additional information about student performance relative to the Illinois Standards for Physical Development and Health at the time that those requests are submitted to waive or modify the daily physical education requirement or when districts are renewing previously approved waivers or modifications. The Board would then use this information to determine whether the requests for modifications of this School Code mandate should be denied, based on the criteria in the law, or whether to recommend that the General Assembly deny certain of those requests that seek to waive the daily physical education.

Due to this new policy and to pending legislation that would statutorily require the submission of student performance data, staff recommend that the State Board suggest to the General Assembly that it consider approval of physical education waiver requests for two years only (through school year 2002-2003). This would ensure that adequate mechanisms will be put in place to implement the new policy and inform applicants of its requirements, without unduly penalizing those school districts whose requests were submitted prior to the policy's adoption.

- **Substitute Teachers.** The number of substitute teaching petitions received to waive or modify the 90-day limit on the number of days substitutes can work in a school year indicates that the shortage of substitutes continues to be a problem for many districts. The State Board has approved two of these requests as modifications of Section 21-9 of the School Code, allowing substitutes to teach no more than 120 days in a school year, and 32 are being sent to the General Assembly for action.

Of the requests going to the General Assembly, more than half of the districts submitting requests indicate that they will try to employ substitutes who also hold a teaching certificate in instances where a substitute is needed for more than 90 days and will continue to employ substitutes based on their effectiveness in the classroom. The remaining petitions seek to use the most qualified substitutes available. Currently, legislation, sponsored by Senator Dan Cronin, would allow substitute teachers holding teaching certificates to work up to 120 days during a school year.

It is anticipated that the teachers’ unions will continue to oppose these requests since they believe they address certification, an area exempted from the waiver law. The General Assembly has acted only twice -- in spring 1998 and fall 1999 -- to deny
four similar requests. To date, the legislature has approved 29 substitute teaching requests.

- **Non-resident Tuition.** The two non-resident tuition requests in this report both seek to charge less than the 110 percent of the per capita tuition cost for non-resident students whose parents are employees of the districts. Neither district anticipates that these waivers, if granted, would be implemented with prejudice to resident pupils. While neither district has an intergovernmental agreement with neighboring districts or other assurances that these neighboring districts will not object to the requests, each has indicated it is seeking the reduced tuition for circumstances that are unique for certain employees.

**Superintendent’s Recommendation**

- The Board should deny the petition from Rockford School District 205 because the district has 23 elementary schools where more than 50% of the third grade students do **not** meet reading standards. The reading grant money should be used first and foremost to address the needs of these students.

- The request from Antioch Community High School District 117, concerning the Prairie State Achievement Examination, should be forwarded to the General Assembly with a recommendation for legislative denial.

- The 19 requests seeking to waive the daily physical education requirement should be forwarded to the General Assembly with the recommendation that the legislature approve these requests for two years only (through school year 2002-2003).

- The remaining requests in the report should be forwarded to the General Assembly without comment.

- The Board should approve the report and authorize its submission to the General Assembly by May 1.

**Next Steps**

Submit the Spring 2001 Waiver Report as presented to the General Assembly by May 1.