Agenda Topic: Proposed Amendments – Part 1 (Public Schools Evaluation, Recognition and Supervision)

Materials: Recommended Amendments

Staff Contact(s): Connie Wise

Purpose of Agenda Item

To present the proposed amendments for the Board's initial review and secure authorization to distribute them for public comment.

Expected Outcome(s) of Agenda Item

A motion authorizing the staff to publish the rules in the Illinois Register to elicit public comment.

Background Information

These rules establish requirements for the submission of requests for waivers and modifications pursuant to Section 2-3.25g of the School Code by school districts and other eligible applicants. The proposed amendments make additional application requirements relative to public hearings and notification of those hearings; these requirements were discussed as part of the Board's consideration of the cumulative waiver report last month. In addition, the proposed changes respond to recent legislation:

- P.A. 90-653, effective July 29, 1998, which makes certain requirements for requests seeking to waive the administrative expenditure limitation set forth in Section 17-1.5 of the School Code;
- P.A. 91-269, effective July 23, 1999, which prohibits waivers from Section 5-1 of the School Code concerning township treasurers and trustees; and
- P.A. 91-318, effective July 29, 1999, which authorizes regional superintendents of schools to submit waiver or modification requests on behalf of alternative schools established pursuant to Article 13A of the School Code.
Analysis and Implications for Policy, Budget, Legislative Action and Communications

Policy Implications: During hearings held last year by the House Education Subcommittee on Physical Education Waivers, speakers complained about what they perceived as insufficient opportunities to discuss the potential impact of the waiver or modification requests before the petitions were submitted to the State Board of Education. The law requires that public hearings be held by school boards contemplating waivers or modifications and that the public and collective bargaining agents be provided specific written notice seven days in advance of the hearing.

Currently, school district superintendents certify on their applications that they have met all of these notice and public hearing requirements, including the date of the public hearing held to take testimony on the waiver or modification proposal. Required notice consists of written correspondence to the collective bargaining agent seven days before the public hearing and publication in a newspaper of general circulation of a notice of the hearing and its subject matter seven days in advance of the hearing.

In order to address the concerns expressed during the subcommittee hearings, the Board in January directed staff to amend the rules governing the waiver process to require that applicants provide certain information about the public hearings, to include copies of the required notices and a description of the public hearing. Specifically, the proposed amendments would require applicants to describe the number of persons or organizations giving testimony, the affiliations of the persons/organizations, and the general nature of the testimony provided.

It should be noted, however, that this regulatory change would not grant the State Board additional authority to directly use the public hearing description to deny requests in situations where the public unanimously opposes a proposed request or in instances where the public hearing is deemed to be lacking in some other respect. The law stipulates those circumstances for which the State Board can deny requests that are modifications of School Code mandates or waivers or modifications of agency rules (i.e., if they are not based upon sound educational practices, endanger the health or safety of students or staff, compromise equal opportunities for learning, do not address the intent of the rule or mandate in a more effective, efficient or economical manner, or do not have improved student performance as a primary goal). The State Board can return as incomplete, however, those applications that do not include copies of the required notices (see Sections 1.110(g) and (j) of the rules).

The information contained in the description will help inform the decision-making process and assist the State Board in determining whether the request meets one of the denial criteria described above or should be included in the recommendations made from time to time to the General Assembly that it act to deny certain requests.

Budget Implications: None.
Legislative Implications: None

Communications: Please see "Next Steps" below.

Pros and Cons of Various Actions

The proposed changes concerning public hearings would require that applicants for waivers and modifications respond to an additional question on the application and to submit copies of the public hearing notices required under the law. Since the notices must be provided and the public hearing held, it is not overly burdensome to require that applicants include evidence that these requirements have been met.

If these amendments are not pursued, then the staff would continue to rely on the signed certification of the superintendent on the application that the school board held the public hearing and provided proper notice as required by Section 2-3.25g of the School Code. The changes being made in response to recent legislation are already being implemented and this rulemaking simply makes the rules consistent with the law.

Superintendent’s Recommendation

Direct the dissemination of the proposed amendments for public comment.

Next Steps

With the Board’s authorization, staff will submit the proposed amendments to the Administrative Code Division for publication in the Illinois Register to elicit public comment. In addition, the proposed amendments will be placed on the agency’s web site so that individuals may review them and comment on the content, if they have concerns.