Proposed Rules: Alternative Learning Opportunities Program (Part 240)

Purpose of Agenda Item

To present the proposed rules 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 proposed rules in the Illinois Register to elicit public comment.

Background Information

The proposed rules implement the provisions of P.A. 92-42, effective January 1, 2002, which establishes Alternative Learning Opportunities Programs (Article 13B of the School Code). These programs are for students who are at risk of academic failure and who demonstrate a need for educational supports or other support services beyond those that are provided by the regular school program.

The Alternative Learning Opportunities Program has generated a fair amount of controversy, both during legislative debates last session and a special veto session hearing held in November. Legislation introduced during the veto session to delay implementation of the program failed to be enacted.

The proposed rules, therefore, attempt to address -- within the authority granted to the State Board of Education by Article 13B -- some of the concerns that legislators and others communicated during hearings on the bill. The proposed rules set forth the requirements both for approval of Alternative Learning Opportunities Programs by the State Board of Education (Subpart A of the rules) and approval of grant applications submitted for funding to plan for the establishment of such programs or provide additional resources to support operation of approved programs (Subpart B of the rules). The proposed rules govern program implementation to ensure that programs
operate consistently across the state and that the rights of the students served in such programs are protected.

Before bringing the proposal to the Board for initial review, it was sent to approximately 100 individuals external to the agency, including 60 randomly chosen school district superintendents, members of two alternative education committees, and representatives of groups that opposed the legislation, as well as key legislators and their staff. Staff also shared the proposed rules with the Court-appointed Monitor and the other parties to the *Corey H.* litigation. Ten individuals submitted comments about the proposed rules. Those comments and changes in the proposal resulting from the comments are summarized below.

**Analysis and Implications for Policy, Budget, Legislative Action and Communications**

**Policy Implications:** Article 13B of the School Code allows a school district to establish and operate an Alternative Learning Opportunities Program or contract with another eligible entity to operate the program. Under the proposed rules, the school district establishing the program would be held accountable for showing results, rather than the entity with which the district may have contracted to operate the program. As such, the school district retains responsibility for the achievement of the students that it enrolls in the alternative program and for that program’s quality and compliance with all applicable laws and rules.

The proposed rules contain provisions to safeguard the rights of parents or guardians to choose the best educational program for their children. This was a concern expressed by several opponents during the legislative debate. In particular, the proposed rules will require that written notification be provided to the parent or guardian of the conference required under the law to be held to discuss the program and its benefits for the student to be enrolled. As required under the law, a student will not be enrolled in the program unless his or her parent or guardian attends the conference and gives written consent for the student’s participation. Parents will have the right to request a meeting to discuss their child’s progress any time during the school year, and progress reports for children in the program must be provided at least in the same manner and with the same frequency as progress reports sent to parents of students in the regular school program.

The proposed rules include standards that a school district must meet when formulating admission criteria for the program and for returning the student to the regular school program. A common standard for defining poor academic performance will be established for all districts so that expectations for participation are the same statewide (see Section 240.20). Admission criteria must be nondiscriminatory, that is, without regard to race, national origin, gender, religion or disability. In addition, the district must be unable to provide, as part of its regular program, the educational supports and/or other support services that the student needs to improve his or her academic performance.
Programs for students in grades 4 and 5 generated concern among opponents of the legislation, who feared that these children would be removed from their home schools and inappropriately placed in programs serving much older students. While the law enables programs to be established away from a student’s home schools, the proposed rules require that the program for a student in grade 4 or 5 must be located in the student’s home school. In addition, all efforts must be made to provide program services in the classroom or classrooms to which that student is originally assigned. The proposed rules also require that initial placement of a student in the program not exceed two school years, unless documentation is provided that a longer period of time is necessary for the student to meet the academic, social and/or behavioral outcomes identified in his or her educational plan, or Student Success Plan.

The law allows Alternative Learning Opportunities Programs under certain circumstances to provide less than five clock-hours of school work and still qualify for General State Aid, and the proposed rules further require that the services provided in lieu of school work be directly linked to the student’s Student Success Plan, provided by qualified staff, and monitored by program personnel to ensure that the services are effective in improving the student’s academic achievement (see Section 240.60). Students receiving less than five clock-hours of school work must receive supports to assist them in making academic progress sufficient for them to be returned to the regular school program.

The district’s ability to meet the requirements for establishing a program will be determined through an application for approval submitted to the State Board (see Section 240.70). The criteria for program approval focus on the proposed admission criteria, the likelihood that the proposed curriculum and support services will improve a student’s academic performance, procedures for successfully returning students to the regular school program, the quality and certification status of staff, and the soundness of the financial plan and resources employed to assure effective and efficient delivery of program services and activities (see Section 240.75).

Overall, the comments received during the external review were positive, with most requesting clarification of certain requirements rather than directing changes in the proposal. The comments addressed admission criteria and eligibility for the program, parent responsibilities, contents of the Student Success Plan to be developed for each student served by the program, teaching credentials, awarding course credit, transition requirements, and eligibility for grant awards.

Changes made in the proposed rules resulting from the comments included:
- Reorganizing the section pertaining to admission criteria so that the criteria are more clearly presented;
- Adding a provision about a student’s being returned to the regular school program in situations when a parent withdraws consent for the alternative program within two weeks of the end of a grading period (i.e., a quarter or semester);
• Reiterating the statutory requirement that the rights and responsibilities of a parent or guardian become those of the student once he or she turns 18 years old;
• Moving the requirement for documentation of a student’s need to remain in the program for more than two years from the section about “Program Requirements” to the section dealing with “Student Success Plans”; and
• Adding a requirement that transition support must be provided for both students who complete their Student Success Plans as well as those who are removed from the program before completion of those plans.

**Budget Implications**: The agency has requested $1 million in its FY2003 budget to fund Alternative Learning Opportunities Program grant proposals.

**Legislative Implications**: None.

**Communications**: Please see "Next Steps" below.

**Pros and Cons of Various Actions**

This rulemaking attempts to incorporate requirements for Alternative Learning Opportunities Programs that the law directs the State Board of Education to draft as well as address concerns of the public about these programs within the statutory constraints imposed by the legislation. Proponents believe that some of the requirements – the application process, for instance – are too “bureaucratic,” while opponents of the program question whether the proposed rules provide enough safeguards for students who are being considered for placement in the program. Overall, the proposed rules attempt to strike a balance between the two groups, without exceeding the Board’s authority to regulate the establishment and operation of these programs.

The law took effect on January 1, 2002; however, programs cannot begin operation until the rules are in effect since the standards for program approval and other restrictions on program operations are stated only in the proposed rules. If the proposed rules do not go forward, then districts would be unable to establish Alternative Learning Opportunities Programs for students who at risk of academic failure but who may need additional supports that are not currently offered by the school district. Districts also would not be able to convert existing alternative programs to Alternative Learning Opportunities Program status, enabling these existing programs to continue to operate outside of the requirements and safeguards that Article 13B of the School Code imposes.

**Superintendent’s Recommendation**

Direct the dissemination of the proposed rules for public comment.

**Next Steps**
With the Board’s authorization, staff will submit the proposed rules 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 and sent to individuals with a specific interest in the program, so that individuals may review them and comment on the content, if they have concerns.