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 as an item for immediate action.

Expected Outcome(s) of Agenda Item

The Board's adoption of these amendments.

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 and 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.

The rules were published in the Illinois Register March 9, 2001, to elicit public comment; eight letters of public comment were received. An analysis of that public comment and recommendation for action are discussed in the next section.
Analysis and Implications for Policy, Budget, Legislative Action and Communications

Policy Implications: The letters of public comment received addressed two issues relative to the proposed amendments: that the additional paperwork proposed is overly burdensome and unnecessary (seven comments) and that the State Board of Education lacks the authority to limit physical education waivers to one year (four comments). The proposed amendments, however, do not deal with requirements concerning physical education petitions; therefore, the analysis will not discuss that issue. It is assumed that the commenters who addressed physical education confused the Board's action in March adopting a policy statement about physical education waivers and modifications with the rule proposal under consideration at the same time.

Currently, the rules require that the school district superintendent or other eligible applicant certify on the application that all of waiver law's notice and public hearing requirements have been met. Last year, members of the public attending legislative hearings about physical education waivers complained that some school districts were not meeting these requirements. Due to these complaints, the Board in January directed staff to require by rule specific evidence of compliance, rather than providing only an assurance, by way of applicant's signature on the application, that the requirements had been met. As part of this evidence, the proposed amendments also would require applicants to describe the number of persons or organizations giving testimony at the public hearing, the affiliations of the persons/organizations, and the general nature of the testimony provided.

It may appear that this additional paperwork is unnecessary, but the State Board of Education has an obligation to ensure that the law is followed in every respect. It is within the Board's authority to request evidence of compliance, be that a simple assurance or copies of letters sent and notices published. In addition, the public hearing description will help inform the decision-making process associated with waiver and modification requests, providing further information to better help staff determine whether each request meets the intent of the waiver law before action is taken (i.e., approval, denial, submission to General Assembly without comment, or recommendation that the General Assembly deny a request).

For these reasons, staff recommends that no changes be made in response to the public comment received about this rulemaking.

Budget Implications: None.

Legislative Implications: None.

Communications: See "Next Steps" on the next page.
Pros and Cons of Various Actions

These rules deal exclusively with the State Board's process for considering requests for waivers and modifications of School Code mandates and agency rules. As such, there is no "action" contemplated or proposed. Adopting the changes presented here would address the concern of the Board that evidence of meeting the notice and hearing requirements contained in the waiver law be provided at the time application is made. If the amendments do not go forward, the signature of the district superintendent or other eligible applicant will continue to certify to the agency that all of the requirements of the law have been met.

Superintendent's Recommendation

Adopt the proposed amendments as presented in the attached version.

Next Steps

With the Board’s adoption of these amendments, staff will submit the required notice materials to the Joint Committee on Administrative Rules to initiate the Joint Committee’s review. When that review is complete, staff will submit the rules to the Administrative Code Division for publication in the Illinois Register and filing with the Secretary of State. Once the amendments are in effect, the waiver application will be changed to include the new requirements and then will be provided to all eligible applicants.