



# VIRGINIA BOARD OF EDUCATION

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# AGENDA ITEM

**Agenda Item:** D

**Date:** October 19, 2023

**Title:** Final Review of the Performance Level Appeals for Jenkins Elementary School, Prince William County Public Schools, and John F. Kennedy Middle School, Suffolk Public Schools

**Presenter:** Shelley Loving-Ryder, Assistant Superintendent of Student Assessment, Accountability, and ESEA Programs

## **Purpose of Presentation**

Review/action required by Board of Education Bylaws

## **Executive Summary**

A local school board may appeal a performance level designation for a state accreditation indicator, as described in [8VAC20-131-380\(F\)\(6\)](#) of the Regulations Establishing Standards for Accrediting Public Schools in Virginia (SOA):

The board shall provide a process for a local school board to appeal the performance level designation for a specific school quality indicator for any school in the division. The board shall grant such appeals only in limited circumstances that warrant special consideration in designating performance levels. In order to appeal such designation the local school board shall submit a request to the board, signed by the chairman of the school board and the school superintendent, explaining why the school board is appealing the designation and shall include documentation supporting the request to change the performance level designation.

The intent of this provision in the SOA is to provide potential relief to schools that have experienced a significant event impacting performance on an indicator. Such circumstances should be unusual, and appeals based on this section of the SOA should be rare.

Two schools applied for an appeal of a performance level indicator. Prince William County Public Schools submitted an appeal of the *Academic Achievement-Science* indicator for Jenkins

Elementary School, and Suffolk Public Schools submitted an appeal of the *Academic Achievement-English* indicator for John F. Kennedy Middle School.

For each school, the accreditation indicator under appeal is the only Level Three indicator of their respective final performance levels. If the appeal is not approved by the Virginia Board of Education (Board), the school will receive an accreditation status of *Accredited with Conditions*. If the appeal is approved by the Board, the school will receive an accreditation status of *Accredited*.

On September 7, 2023, an internal Virginia Department of Education (VDOE) committee met to discuss the basis for the appeals. The committee members were representatives of various VDOE offices and consisted of the Directors from the Offices of Accountability; Student Assessment; Data Standards and Governance; Student Services; and Instructional Services; the Assistant Superintendent of Student Assessment and Accountability; and the Assistant Superintendent of Policy and Communications. Based on their review of the information provided by the school divisions, the committee unanimously recommended that the Virginia Board of Education (Board) not approve the appeals. Summaries of the appeals and the committee response are listed below.

**Prince William County Public Schools (PWCPS), John D. Jenkins Elementary School (JDJ)  
Appeal Summary**

- While administering the grade 5 science Standards of Learning (SOL) test, staff erroneously administered the regular form of the test rather than the audio form of the test to students who should have been administered the audio form of the test. This resulted in 10 English Learner students who tested using the alternate form for the grade 5 science audio test. Seven of the 10 students failed the test.
- When a grade 3-8 student fails an SOL test, the student is eligible for an expedited retake if the student meets certain criteria, as outlined in the [Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) (page 4). Students are not required to take an expedited retake but are given the option to retake the test if the criteria in the guidance document are met. Parental permission is required to retest.

- Since the grade 5 science test was new in spring 2023, there were two test forms available for online administration, the regular and alternate forms. Because of the testing irregularity both test forms were utilized for the 10 students. Therefore, there was not a form to deliver as an expedited retake opportunity for the seven failing students.
- The division indicated that the school-year performance of these seven students was inconsistent with failing the SOL test and therefore would have qualified for an expedited retake.
- PWCPs is asking that the seven students be removed from the pass rates for *Academic Achievement-Science* since they were not afforded the opportunity for an expedited retake. If these seven students are removed, then the school will be able to earn a Level Two in *Academic Achievement-Science* based on improvement (R10).
- The school has implemented an improvement plan regarding the staff error in assigning test forms.

#### **Committee Response to PWCPs Appeal**

The committee agreed that the request was not a rare or unusual situation that met the intent of the appeal process. The reason the students did not have the opportunity for the expedited retake was due to the error of the school staff. Allowing students in an at-risk student group to be removed from the rate, especially for this reason, would set an undesirable precedent. In addition, the school earned a pass rate of 58.33%. There were many students that affected this rate and not specifically these seven English Learners. The committee unanimously agreed that the request should be denied.

#### **Suffolk Public Schools (SPS), John F. Kennedy Middle School (JFK) Appeal Summary**

- JFK was anticipating reaching the 75% Level One benchmark in spring 2020 when state testing was cancelled due to the COVID-19 pandemic.
- Targeted supports have been in place to raise achievement.
- SPS requests that “the 4-year rule be waived due to the impact of COVID, which prohibited us from reaching 75% or greater in the school years 2020 and 2021.”
  - “We ask that the 4-year accreditation rule be waived so that this school and its community can celebrate and enjoy the fruits of their hard work and for validation of our instructional support model.”

#### **Explanation of SOA’s Level Three 4-Year Rule**

- A school quality indicator with a status of Level Two or Level Three through four consecutive years is designated in the fifth year as *Level Three – Below Standard* (noted

as Level Three – 4 YRS) if the fifth year’s performance remains at Level Two or Level Three ([Standards of Accreditation](#)).

- JFK has performed in the Level Two range since 2015 and the Academic Achievement-Science indicator is a Level Three – 4 YRS based in the above noted regulation.
- SPS is requesting that this section of the SOA not be applicable to JFK so that they earn a Level Two rather than a Level Three on the indicator.

### **Committee Response to SPS Appeal**

The committee agreed that the request was not a rare or unusual situation that met the intent of the appeal process. The SOA contain regulations that are consistently applied to all public schools in the state so that the accreditation system evaluates schools equitably. There are many instances across the state where schools are similarly impacted by the “Level Three – 4 YRS” rating. Approving this appeal would set the precedent for many other appeals. In addition, while the division and school staff should be and are proud of the work that they are doing with students, the pandemic did impact student performance across the state, JFK’s experience is not unique.

### **Action Requested**

Final Approval: Action requested at this meeting.

### **Superintendent’s Recommendation**

The Superintendent of Public Instruction recommends that the Board deny both appeals because the appeals are not based on unusual circumstances and therefore do not merit special consideration under the intent of the Board’s regulations.

### **Background Information and Statutory Authority**

There are several regulations relevant to this Board item.

1. A local school board may appeal a performance level designation for a state accreditation indicator, as described in the Regulations Establishing Standards for Accrediting Public Schools in Virginia (SOA). Board regulation [8VAC20-131-380\(F\)\(6\)](#) states the following:

The board shall provide a process for a local school board to appeal the performance level designation for a specific school quality indicator for any school in the division. The board shall grant such appeals only in limited circumstances that warrant special consideration in designating performance levels. In order to appeal such designation the local school board shall submit a request to the board, signed by the chairman of the school board and the school

superintendent, explaining why the school board is appealing the designation and shall include documentation supporting the request to change the performance level designation.

The intent of this provision in the SOA is to provide potential relief to schools that have experienced a significant event impacting performance on an indicator. Such circumstances should be unusual, and appeals based on this section of the SOA should be rare.

2. [8VAC20-131-370](#) states that each public school in Virginia shall be accredited based on achievement of the conditions specified in [8VAC20-131-400](#) (Application of the school quality indicator performance levels to actions) and on continuous improvement of performance levels on measures of selected school indicators as described in [8VAC 20-131-380](#) (Measurement of school quality for accreditation).

Summarized, [8VAC20-131-370](#) indicates that all schools must be accredited based on the regulations and must engage in improvement activities based on the performance of the indicators.

3. [8VAC20-131-380](#) provides the definitions of the performance levels for the achievement indicators.

Level One: Schools with a current year or three-year average rate of at least 70%, or schools that were at Level Two the prior year and decrease the failure rate by 10% or more from the prior year.

Level Two: Schools not meeting Level One performance with a current year or three-year average rate of at least 66%, or schools with a prior year rate of at least 50% and decrease the failure rate by 10% or more from the prior year. **A school shall not receive a Level Two performance designation for more than four consecutive years** (bold italics provided for clarity).

Level Three: Schools not meeting Level One or Level Two performance.

4. [8VAC20-131-420](#) states that waivers of certain sections of the regulations are not permissible, and the sections that are not permissible include [8VAC20-131-380](#), which includes the Level Three – 4 YRS designation.

Except as specified in this section, the board may grant, for a period of up to five years, a waiver of requirements of this chapter that are not mandated by state or federal law or designed to promote health or safety. The board may grant all or a portion of the request for a waiver and designate conditions as appropriate.

Waivers of requirements in [8VAC20-131-30](#), [8VAC20-131-50](#), [8VAC20-131-51](#), [8VAC20-131-70](#), and [8VAC20-131-370](#) through [8VAC20-131-430](#) shall not be granted, and no waiver may be approved for a program that violates the Standards of Quality.

5. The criteria used for determining the eligibility of students for an expedited retake is as follows ([Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) (pages 4-5):

The student must have a passing grade in the class associated with the test and meet one of the following:

- The student failed the test by a narrow margin as defined as a scaled score of 375-399; or
- The student failed the test with a scaled score below 375; and
  - had a documented extenuating circumstance that prevented him/her from performing at the expected level; and/or
  - there was a significant discrepancy between the student's SOL test score and his/her typical academic performance.

Extenuating Circumstance:

An extenuating circumstance is defined as an unusual and uncontrollable event that negatively impacted a student's test performance. Examples of extenuating circumstances may include, but are not limited to: the recent death of a family member, friend, or pet; a traumatic home situation; or other significant personal distress or disruption that does not qualify for irregularity retesting. Generally, school staff identify such situations before the student begins testing so that the testing session may be rescheduled. However, there are incidences where the circumstances affecting the student are not known until after testing has begun.

Significant Achievement Discrepancy:

Evidence that the SOL test score is significantly lower than expected based on the student's typical level of achievement may be used to justify retesting. Data used to establish the student's typical performance may include previous SOL test data in the same content area or evidence of the student's current academic achievement.

Required Documentation:

School divisions will maintain documentation of the unusual circumstances experienced for each student retested under the extenuating circumstances provision and evidence of the student's typical academic achievement for those retesting under the significant

achievement discrepancy provision. Documentation will be subject to periodic review by Department staff on behalf of the Board. Information gathered during the reviews will be used to provide technical assistance to school divisions and may be shared in summary form with the Board. Parental Permission: Prior to any expedited retake for students who have failed an SOL test for grades 3-8, school divisions shall obtain and thereafter maintain documentation annually of affirmative parental consent and permission for a child to take an expedited retake. Parents of eligible students shall be notified: (a) of the opportunity to retake the test(s); (b) that the decision not to retake any or all of the test(s) will not impact their child's grade or academic record; and (c) of the opt-in requirement.

### **Stakeholder Engagement**

On September 7, 2023, an internal Virginia Department of Education (VDOE) committee met to discuss the basis for the appeals. The committee members were representatives of VDOE offices and consisted of the Assistant Superintendent of Student Assessment and Accountability; the Assistant Superintendent of Policy and Communications; the Director of Accountability; Director of Student Assessment; the Director of Data Standards and Governance; the Director of Student Services; and the Director of Instructional Services.

### **Implementation and Communication**

VDOE staff will communicate the Board's decision to the Superintendents of both school divisions. No other follow-up is necessary.

### **Impact on Fiscal and Human Resources:**

There is no fiscal or human resources impact.