

Diploma Project. This session will be followed by an ethics briefing from 3:45 p.m. to 4:15 p.m. upon which the March 7 session of the Board will adjourn.

The Nominations Committee will meet in closed session on March 8, 2003 from 8 a.m. to 9 a.m. to receive nominations for Board membership. This discussion pertains solely to internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of section 552b(c) of Title 5 U.S.C.

On March 8, 2003 the full Board will meet in open session from 9 a.m. to 12 p.m. The Board will receive an update on plans for the 12th grade NAEP Commission. This presentation will be followed by Board actions on policies and Committee reports. The March 8, 2003 session of the Board meeting will adjourn at 12 noon.

Summaries of the activities of the closed session and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington DC from 9 a.m. to 5 p.m. Eastern Standard Time.

Dated: February 14, 2003.

Charles Smith,

Executive Director, National Assessment Governing Board.

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DEPARTMENT OF EDUCATION

West Virginia Department of Education; Written Findings and Compliance Agreement

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of written findings and compliance agreement.

SUMMARY: Section 457 of the General Education Provisions Act (GEPA) authorizes the U.S. Department of Education to enter into a compliance agreement with a recipient that is failing to comply substantially with Federal program requirements. In order to enter into a compliance agreement, the Department must determine, in written

findings, that the recipient cannot comply until a future date with the applicable program requirements and that a compliance agreement is a viable means of bringing about such compliance. On March 29, 2002, the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) entered into a compliance agreement with the West Virginia Department of Education (WVDE). Under section 457(b)(2) of GEPA, the written findings and compliance agreement must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dr. Grace A. Ross, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., room 3W118, Washington, DC 20202. Telephone: (202) 260-0967.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under Title I, Part A of the Elementary and Secondary Education Act of 1965 (Title I), each State, including the District of Columbia and Puerto Rico, was required to develop or adopt, by the 1997-98 school year, challenging content standards in at least reading/language arts and mathematics that describe what the State expects all students to know and be able to do. Each State also was required to develop or adopt performance standards, aligned with its content standards that describe three levels of proficiency to determine how well students are mastering the content standards. Finally, by the 2000-2001 school year, each State was required to develop or adopt a set of student assessments in at least reading/language arts and mathematics that would be used to determine the yearly performance of schools in enabling students to meet the State's performance standards.

WVDE submitted, and the Department approved, evidence that it has content standards in at least reading/language arts and mathematics. In August 2000, WVDE submitted evidence of its final assessment system and performance standards. The Department submitted that evidence to a panel of three assessment experts for peer review. Following that review, the Assistant

Secretary for Elementary and Secondary Education concluded that WVDE's proposed final assessment system and performance standards did not meet a number of the Title I requirements.

Section 454 of GEPA, 20 U.S.C. 1234c, sets out the remedies available to the Department when it determines that a recipient "is failing to comply substantially with any requirement of law" applicable to Federal program funds the Department administers. Specifically, the Department is authorized to—

- (1) Withhold funds;
- (2) Obtain compliance through a cease and desist order;
- (3) Enter into a compliance agreement with the recipient; or
- (4) Take any other action authorized by law. 20 U.S.C. 1234c(a)(1) through (a)(4).

In a letter dated November 8, 2000 to Dr. David Stewart, Superintendent of Schools for the West Virginia Department of Education, the Assistant Secretary notified WVDE that, in order to remain eligible to receive Title I funds, it must enter into a compliance agreement with the Department. The purpose of a compliance agreement is "to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements." 20 U.S.C. 1234f(a). In order to enter into a compliance agreement with a recipient, the Department must determine, in written findings, that the recipient cannot comply until a future date with the applicable program requirements, and that a compliance agreement is a viable means for bringing about such compliance.

On March 29, 2002, the Assistant Secretary issued written findings, holding that compliance by WVDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. Having submitted its assessment system for peer review in August 2000, WVDE was not able to make the significant changes to its system that the Department's review required in time to meet the spring 2001 statutory deadline to have approved assessments in place. As a result, WVDE administered its unapproved assessment system in 2001. The Assistant Secretary also determined that a compliance agreement represents a viable means of bringing about compliance because of the steps WVDE has already taken to comply, its commitment of resources, and the plan it has developed for further action. The agreement sets out the action plan that WVDE must meet to come into compliance with the Title I