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Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation	6 VAC 20 -270
Regulation title	Emergency Regulations Relating to Campus Security Officers
Action title	Regulations Relating to Campus Security Officers (New)
Date this document prepared	September 1, 2009 *amended January 27, 2010

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Preamble

The APA (Code of Virginia § 2.2-4011) states that an "emergency situation" is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.

- 1) Please explain why this is an "emergency situation" as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

The Board and the Department are required by §9.1-102 (49) to establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula and certification requirements for campus security officers. At the present time there are no regulations in place regarding campus security officers. As a result the Department is unable to enforce training standards that are necessary for certification.

The issue of safety and security on college campuses was addressed in the 2006 Crime Commission Study on Campus Safety. This study resulted in the statutory requirements under §9.1-102 (49).

Legal basis

Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The legal authority is found in §9.1-102 (49) of the Code of Virginia that authorizes the Department, under the direction of the Criminal Justice Services Board to “establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and certification requirements for campus security officers.”

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

To promulgate the regulations for campus security officers. The regulations establish a certification process for campus security officers to include a background investigation to include a criminal history records inquiry, compulsory minimum training standards, administration of the regulatory system, administrative requirements and standards of conduct. The regulations also authorize the Department to approve instructors to deliver compulsory minimum training and establish administrative requirements and standards of conduct for the instructors. These regulations provide the department with the authority to approve training waivers and suspend or decertify an individual as a campus security officer and establish an appeal process for the individual.

A public hearing will be held during the promulgation process; participation from individuals will be strongly encouraged.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

College populations represent a large concentration of students between the ages of 18-25 years with limited supervision and life experience. In terms of homeland security, campuses are identified as “soft targets” and are frequently targeted by domestic and foreign terrorists. Campuses also house volatile materials and research facilities which are also targeted by radical elements in society. Campuses also host large stadium events and concerts which are potential targets for terrorism and riots. Most campuses are also open access facilities to the public and relatively difficult to secure and lockdown.

Campus Security Officers are primary first responders to incidents of crime and violence on campus. Currently, little or no standardized training for Campus Security Officers exists. Additionally, there is not any established standard employment criteria or background check requirements. The regulations will address these issues.

Substance

Please detail any changes that will be proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate.

Code of Virginia § 9.1-102 (49) directs the Department of Criminal Justice Services to establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for **campus security** officers. Such training standards shall include, but not be limited to, the role and responsibility of **campus security** officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The campus security officer regulations address the necessary definitions, initial certification and training requirements and exemption from such procedures, suspension of certification, training waivers for experienced officers, standards of conduct, and recertification and decertification procedures. Additionally, instructor approval, administrative requirements, and standards of conduct are addressed.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also describe the process by which the agency has considered or will consider, other alternatives for achieving the need in the most cost-effective manner.

There are no alternatives to the proposed regulatory action.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public meeting is to be held to receive comments on this notice.

The agency/board is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency/board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to **Lisa McGee, Department of Criminal Justice Services, Office of Regulatory Affairs, P.O. Box**

1300, Richmond, VA 23218, fax: 804-786-6344, lisa.mcgee@dcjs.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public meeting will be held during the proposed stage of the regulatory action and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may also be submitted at that time.

Participatory approach

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Department of Criminal Justice is using the participatory approach to develop a proposal. The Department has established an advisory committee which includes Chiefs of Police of campus police departments, Security Directors of campus security departments and other college and university officials responsible for the security of their institutions. This advisory committee also includes representatives from the Department of Criminal Justice Services and a representative from the Private Security Services Advisory Board. The primary function of this advisory committee is to develop recommended regulation amendments for Department consideration through the collaborative approach of regulatory negotiation and consensus. The Department and advisory committee will consider establishing additional ad hoc committees should the need arise.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Standardized training and employment criteria will enhance the service response delivered to students, faculty and staff on campus and further provide a safe and secure environment for all involved in the educational institution. Knowledge of criminal offenses and proper tracking and reporting in accordance with the Clery Act will help to ensure that parents/guardians have all necessary information to make an informed decision about the safety of a college campus.