



Final Regulation Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-720-10 et seq.
Regulation title	Regulations Governing Local School Boards and School Divisions
Action title	Promulgation of a new regulation through consolidation of several select regulations
Date this document prepared	March 18, 2010

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*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The new regulation amends and reenacts the *Regulations Governing School Boards Local* (8 VAC 20-490-10 et seq.) into the *Regulations Governing Local School Boards and School Divisions* (8 VAC-20-720-10 et seq.) by consolidating it with several applicable regulations into one concise regulation. The regulations to be consolidated into this one regulation are as follows:

8 VAC 20-150-10 et seq.	<i>Regulations Governing Management of the Student's Scholastic Record in the Public Schools of Virginia</i>
8 VAC 20-180-10	<i>Regulations Governing School Community Programs</i>
8 VAC 20-210-10	<i>Classification of Expenditures</i>
8 VAC 20-240-10 et seq.	<i>Regulations Governing School Activity Funds</i>
8 VAC 20-250-10	<i>Regulations Governing Testing Sight and Hearing of Pupils</i>
8 VAC 20-310-10	<i>Rules Governing Instruction Concerning Drugs and Substance Abuse</i>
8 VAC 20-320-10	<i>Regulations Governing Physical and Health Education</i>
8 VAC 20-390-10 et seq.	<i>Rules Governing Division Superintendent of Schools</i>
8 VAC 20-410-10	<i>Rules Governing Allowable Credit for Teaching Experience</i>

8 VAC 20-420-10	<i>Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards</i>
8 VAC 20-460-10 et seq.	<i>Regulations Governing Sick Leave Plan for Teachers</i>
8 VAC 20-490-10 et seq.	<i>Regulations Governing School Boards Local</i>
8 VAC 20-565-10 et seq.	<i>Regulations for the Protection of Students as Participants in Human Research</i>

Those regulations that are incorporated into the *Regulation Governing Local School Boards and School Divisions* will be repealed simultaneously with the promulgation of the new regulation.

Changes to the regulation from publication of the proposed regulation to the final regulation: The definitions of the terms “instructional materials” and “instructional personnel” have been removed because the terms do not appear in the regulation. The definition of the term “teacher” has been removed because it was subject to misinterpretation. A new section was added providing for waivers of the provisions of the regulation at the request of the division superintendent and chairman of the local school board if the provisions are not otherwise required by state or federal law or regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

Draft language: The Virginia Board of Education approved the *Regulations Governing Local School Boards and School Divisions* as final at its meeting on March 18, 2010.

Legal basis

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 numbers, 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.

Section 22.1-16 of the *Code of Virginia* authorizes the Board of Education to “...adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” These regulations are already in effect, but they are out-of-date. Therefore, in order for the Board to properly carry out its duties, the regulations must be updated.

Additionally, Item 140 C.5.k.4) of the 2009 Appropriation Act requires the Department of Education to “review state laws, regulations, and procedures that could be modified, reduced, or eliminated in an effort to minimize the administrative burden on local school divisions and the Department of Education. The findings from this review shall be submitted to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2009.”

These regulations are also being revised and consolidated in order to reduce the administrative burden on local school divisions and the Department of Education.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This regulation is needed because the *Regulations Governing School Boards Local*, 8 VAC 20-490-10 et seq., were adopted on or before September 1, 1980. Nine of the other regulations have not been amended since that time and are out of date. Three regulations, (*Classification of Expenditures*, 8 VAC 20-210; *Regulations Governing Management of the Student's Scholastic Record in the Public Schools of Virginia*, 8 VAC 20-150 et seq.; and *Regulations for the Protection of Students as Participants in Human Research*, 8 VAC 20-565 et seq.), have been promulgated since 1980, but lend themselves to consolidation with the *Regulations Governing School Boards Local*. This proposal is to promulgate new regulations governing local school boards that will include many of the provisions of the current regulation, along with incorporating the applicable regulatory requirements from these other regulations.

The regulations are already in effect. The purpose of this proposal is to consolidate them in such a way that school divisions will be able to access and implement them more effectively and efficiently for the management of the public schools in Virginia, thus better serving the students and their families. This will also help fulfill the purpose of Item 140 of the 2009 Appropriation Act as noted above.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

There are no substantive changes from the regulations that are currently in effect to the consolidated regulation. Some of the provisions of the current regulations are not included in the consolidated regulation because they are out of date or otherwise no longer applicable. Additionally, some of the very detailed requirements in the current regulations have been changed in the new regulation in order to give local school divisions more flexibility in the development of their own plans and procedures.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The consolidation of the regulations is beneficial to the public as well as local school divisions in that the provisions will be up to date and will, in some cases, provide local school divisions with more flexibility without having a negative impact on the provision of educational services. The new regulation will also provide local school boards and superintendents with one regulation with current regulatory requirements that are in 13 different regulations, thus making it easier for them to determine the necessary

requirements. Additionally, since the regulations have been updated in the new regulation, they provide requirements for today’s educational programs rather than those programs that existed in 1980.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	Definition of instructional materials	Definition eliminated	The term is not used in the consolidated regulation
10	Definition of instructional personnel	Definition eliminated	The term is not used in the consolidated regulation
10	Definition of teacher	Definition eliminated	The term is subject to misinterpretation
180	Not in proposed regulation	Addition of section 180 – Waivers	To permit the Board of Education to waive provisions of the regulations at the request of the division superintendent and chairman of the local school board. In view of the budget reductions, permitting the waiver of regulations could serve to reduce the administrative burden on school divisions.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response

A public comment period was held from September 14, 2009 to November 17, 2009. The public comment period included opportunities to submit comments to the Board of Education via the Town Hall, mail, electronic mail and at a public hearing held on November 17, 2009. In spite of all of these efforts, no comments were received. This regulation is noncontroversial in nature as it is a consolidation and revision of several regulations that were already in effect.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
"School activity funds" adapted from 8VAC20-240-10; "Teaching day" adapted from 8VAC20-131-5; "Standards of Learning" adapted from § 22.1-253.13:1 of the <i>Code of Virginia</i>	8VAC20-720-10	The regulations being consolidated did not have formal definitions.	Therefore, the majority of the definitions in this regulation were created or adapted from other regulations or the <i>Code of Virginia</i> . The purpose of the definitions is to provide clarity for those who read and who implement this regulation.
8VAC20-490-50	8VAC20-720-20	Requires maintenance of up-to-date policy manual and some items that must be included.	To require up-to-date policies in accordance with the Standards of Quality, <i>Code of Virginia</i> § 22.1-253.13:7. School divisions already have to certify compliance with the SOQ; the consequence is for failure to comply with the SOQ.
8VAC20-490-60	8VAC20-720-30	Establishes requirements for reports.	To ensure the receipt of required reports in a timely manner and establish consequences for the failure to submit such reports in that manner.
8VAC20-180-10	8VAC20-720-40	Establishes requirements for school division-wide plans	To require a division-wide plan in accordance with the Standards of Quality, <i>Code of Virginia</i> § 22.1-253.13:6. School divisions already have to certify compliance with the SOQ; the consequence is for failure to comply with the SOQ.
8VAC20-490-10	8VAC20-720-50	Requires familiarity by all school officials with school laws and regulations and	To require familiarity and adherence to applicable school laws and regulations in Title 22.1 of the <i>Code of Virginia</i> and

		assurance of their implementation.	Volume 8, Section 20 of the <i>Virginia Administrative Code</i> .
8VAC20-210-10	8VAC20-720-60	Prescribes classification of expenditures to be used by local school boards.	To provide school divisions with new classification of expenditures passed by the 2008 General Assembly. (§ 22.1-115 of the <i>Code of Virginia</i> .)
8VAC20-240-10 et seq.	8VAC20-720-70	Establishes requirements for school activity funds.	To update and clarify requirements regarding school activity funds.
	8VAC20-720-80	Reserved for a section on fees and charges.	Not applicable at this time – will be added later.
8VAC20-310-10; 8VAC20-320-10	8VAC20-720-90	Establishes requirements for a health education program.	To provide the requirements and eliminate out-of-date provisions from the regulations to be repealed.
8VAC20-390-10 et seq.	8VAC20-720-100	Establishes requirements for the division superintendent of schools.	To provide the requirements and eliminate some unnecessary provisions in the regulation to be repealed.
8VAC20-490-20; 8VAC20-410-10	8VAC20-720-110	Sets requirements for teacher contracts and licenses.	To minimize requirements by requiring that teachers be licensed and endorsed in accordance with 8VAC20-21-10 et seq. and that contracts be made in accordance with 8VAC20-440-10 et seq.
8VAC20-460-10 et seq.	8VAC20-720-120	Sets requirements for sick leave plans for teachers.	To provide the requirements and eliminate out-of-date provisions from the regulation to be repealed.
8VAC20-150-10 et seq.	8VAC20-720-130	Establishes requirements for the management of student records.	To continue to provide the laws that must be adhered to in the management of student records.
8VAC20-565-10 et seq.	8VAC20-720-140	Sets requirements for students as participants in human research.	To continue to provide the requirements for research on students in accordance with § 22.1-16.1 of the <i>Code of Virginia</i> .
8VAC20-250-10	8VAC20-720-150	Establishes requirements for testing sight and hearing of students.	To continue to provide the requirements for the testing of sight and hearing
	8VAC20-720-160	Reserved for a section on instructional materials.	Not applicable at this time – will be added later.
	8VAC20-720-170	Reserved for a section on textbooks.	Not applicable at this time – will be added later.
	8VAC20-720-180	None	Permits waivers of some of the requirements if requested by the school division superintendent and local school board chairman provided that the requirements are not mandated by other federal or state laws or regulations.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for

small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation does not impact small businesses. The Virginia Department of Education does not regulate any businesses.

Family impact

Please assess the 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.

Schools are important institutions in communities. The impact of the proposed regulatory action on the institution of the family will be continued improvement in the public school system. Students must be adequately prepared for the future in order to lead productive lives. Being productive and successful will increase the potential for strong stable families.