



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	20
VAC Chapter Number:	640
Regulation Title:	Regulations Governing Substitute Teachers
Action Title:	Proposed Regulations
Date:	2/18/00

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Board of Education proposes to promulgate new regulations governing the qualifications that must be met by persons hired as substitute teachers by local school divisions. The proposed regulations governing substitute teachers are basic requirements.

A temporarily employed teacher is defined in the Code of Virginia as (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence, or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than ninety teaching days in such vacancy during one school year. The Board has specific statutory authority to prescribe, by regulation, requirements for temporarily employed teachers, which shall provide that such teachers be at least eighteen years of age and that they hold a high school diploma or a general educational development (GED) certificate.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Under Article VIII, Section 4 of the Constitution of Virginia (1971), the Board has the authority and responsibility for the general supervision of the public school system.

Section 22.1-16 of the Code of Virginia states: "The Board of Education may 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."

Section 22.1-302 of the Code: A temporarily employed teacher is defined in this section of the Code as (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence, or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than ninety teaching days in such vacancy during one school year.

Section 22.1-302, Subsection B, of the Code states that "the Board of Education shall promulgate regulations regarding temporarily employed teachers, as defined in this section, which shall provide that such teachers be at least eighteen years of age and that they hold a high school diploma or a general educational development (GED) certificate."

The Office of the Attorney General has certified that the agency has the legal authority to promulgate the proposed regulation, and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The Code of Virginia, Section 22.1-302.B requires that the Board of Education shall promulgate regulations regarding temporarily employed teachers. The primary purpose of promulgating

regulations for substitute teachers is to ensure that substitute teachers meet basic requirements before teaching in Virginia classrooms.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

Prior to 1993, the requirements for substitute teachers were included in the Licensure Regulations for School Personnel. The Advisory Board on Teacher Education and Licensure recommended that substitute teacher regulations be removed from the licensure regulations because substitute teachers are not issued licenses. As a result of the approval of the Licensure Regulations for School Personnel in July 1993, the Board of Education regulations for substitute teachers became nonexistent. The Board of Education reviewed local school board substitute teacher requirements and decided not to promulgate additional regulations. The General Assembly, however, has now required the Board to promulgate regulations (Section 22.1-302.B).

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.

The topic of qualifications of substitute teachers in Virginia's public school classroom is a major issue for local school boards. The Commonwealth has an interest in the quality of these teachers especially in light of the Virginia Board of Education's initiatives to insure that Virginia has a well qualified, high-quality teaching force. Substitute teachers are not required to be fully licensed teachers, but it is reasonable for the public to expect that substitute teachers do meet certain qualifications. The proposed regulations set those minimum statewide standards.

The substitute teacher shortage is a nationwide problem. Substitutes play a vital role in children's education, especially in light of statistics that show that American students, over the course of their K-12 studies, may have replacement teachers for an estimated 5-10% of their classroom time. National statistics also show that on any given school day, up to 10% of the nation's classrooms have substitute teachers. Obviously, schools employ substitutes to replace absent teachers, but what may not be equally evident are some of the contemporary factors that produce teacher absence. Traditionally, teacher absenteeism has occurred for the same reasons that employees in other fields are absent e.g., personal or family illness or emergency, jury duty,

professional development activities, short-term military service. Statistics also show that teacher absenteeism is on the rise. Classroom teachers are involved in a variety of nontraditional, noninstructional activities, such as professional development training, curriculum design, mentoring novice and preservice teachers, conducting action research, and working on collaborative teams with peers and college faculty. Employing substitutes is one method of covering the classes of teachers who participate in such activities during the school day.

In Virginia, qualifications for substitutes vary considerably among school divisions. Credentials may include teacher certification, criminal background checks, college transcripts, health certificates, and evidence of classroom management training. Full licensure is not required in Virginia or in most states; frequently a high school diploma is the sole academic credential needed.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The projected cost to the state to implement and enforce the proposed regulations is negligible. It is anticipated that the cost to the localities and to any persons affected is also minimal. There will be no cost incurred by the individual seeking a position as a substitute teacher.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The only provision contained in the proposed regulation that is not already required by state law is the provision that persons hired as substitutes must attend an orientation to school policies and procedures conducted by the local school division. The regulation does not specify what form this orientation session must follow; rather, this decision is left to the local school division. Therefore, the requirement contained in the proposed regulations that will need to be implemented in some school divisions is the establishment of an orientation for substitute teachers to school policies and procedures.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The Department of Education conducted a survey of all local school divisions in order to determine the local policies already in place. In surveying school divisions, most school boards have adopted local requirements which meet or exceed the proposed regulations. It was determined that the proposed regulations are appropriate for the needs of the local divisions and give the divisions the flexibility to make decisions based on local needs.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No comment was received during the NOIRA stage.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The proposed regulations have been reviewed by selected local school division personnel directors and by members of the Advisory Board for Teacher Education and Licensure. The proposed language was found to be clearly written and easily understandable by affected constituents.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The regulations will be reviewed by the Advisory Board for Teacher Education and Licensure. The measurable goal is that all local school divisions in Virginia comply with the provisions of the regulation. This will be measured by a survey to be conducted by the Department of Education. Date: July 1, 2003.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

A high quality teaching force will benefit all Virginians, not just those with children enrolled in the public schools. Teachers, administrators, and local school boards have an obligation to ensure that the best interests of students guide policy and practice. Thus, it is in the public's interest to set and maintain qualifications for substitute teachers in Virginia's public schools. This proposed regulation will have no negative impact on the family, family income, or family stability.