

Board of Education Agenda Item

Item: _____ E. _____

Date: _____ October 18, 2007 _____

Topic: First Review of the Notice of Intended Regulatory Action (NOIRA) to Revise the Regulations Governing Pupil Transportation (8 VAC 20-70)

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Origin:

Topic presented for information only (no board action required)

Board review required by

State or federal law or regulation

Board of Education regulation

Other: _____

Action requested at this meeting Action requested at future meeting: _____ (date)

Previous Review/Action:

No previous board review/action

Previous review/action

date _____

action _____

Background Information:

The Board of Education is required to promulgate regulations governing pupil transportation pursuant to §22.1-176, *Code of Virginia*. Further, Executive Order Number 36 (2006) states, "Since circumstances, conditions and technologies change, regulations should not be considered perpetual and will be subjected to periodic re-evaluation."

The Board's Regulations Governing Pupil Transportation were last revised in 2004. Due to changes in technology and issues surrounding pupil transportation, the regulations need to be updated. The Department of Education (DOE) requests permission to begin the process for revising these regulations. Specifically, DOE requests permission to submit the Notice of Intended Regulatory Action (NOIRA) to the Department of Planning and Budget consistent with Executive Order Number 36 (2006) and also to submit the NOIRA to the State Registrar as required by the Administrative Process Act (APA).

Summary of Major Elements

The following is a preliminary list of issues to be addressed with changes in the pupil transportation regulations:

- Federal regulations have added a “multifunctional” bus that needs to be included in the Virginia regulations.
- Due to the increased speed limit allowed for school buses, the regulation allowing standees on buses for the first 30 instructional days of the school year needs to be reviewed.
- Maintenance requirements for local school divisions need to be more clearly defined. Currently, the regulations state that maintenance must be conducted on buses every 30 operating days or 2,500 miles of travel. It was the intent of this language that school divisions would have a maintenance schedule of every 30 operating days or 2,500 miles of travel, not a combination.
- Due to the new non-sequential lighting system that is required on school buses, the language on railroad crossings needs to be updated to reflect the operation of this lighting system.
- As new division pupil transportation directors are hired, it is deemed imperative that they attend the training class provided by the Department of Education to ensure they understand the regulations and requirements for pupil transportation.
- A new section needs to be added to the regulations which outlines the on-site fleet assessments conducted by the Department of Education. This section would include the items to be assessed by the Department.
- The majority of the section on activity vehicles has been moved to the Bus Specifications document which are reviewed by the Board of Education each year. This section needs to be updated to delete items moved to the Specifications document.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board waive first review of this request and permit the Department to proceed with submission of the NOIRA to the Department of Planning and Budget and to the State Registrar.

Impact on Resources:

There is no impact on Department resources to initiate this process. The impact on Department resources to complete the APA process will be minimal and will result from the costs of conducting public hearings and producing materials.

The impact of the proposed changes to the regulations cannot be determined at this time since the process has not yet begun. As changes are discussed, Department staff will advise the Board if any changes will have a fiscal impact on school divisions.

Timetable for Further Review/Action:

Upon approval of the NOIRA package by the Department of Planning and Budget and the Secretary of Education, the Department will file the NOIRA package with the State Registrar, which will begin the APA process. The first step in the APA process is for the NOIRA to be published in the Register of Regulations. This first publication meets the requirements for public notice.

The Board will be asked to begin the revision process at the first meeting following the conclusion of the public notice period. The Board should consider any changes it wishes to make to the regulations. The Department will present details regarding changes to improve safety, incorporate changes in manufacturing standards, or to address requirements of state or federal law.