

- HB 770 establishes technology as a major classification of school expenditures, which will result in an amendment to the *Classification of Expenditures* (8 VAC 20-210-10). This regulation was not included in the original NOIRA but is included in the proposed NOIRA.
- HB 137 and SB 356 changes the procurement provisions for textbooks purchased by school divisions, which will result in revisions to several sets of regulations governing textbooks, including *Regulations Governing Textbook Fund Management and Handling on Local Level* (8 VAC 20-270-10 et seq.), which was included in the original NOIRA but is not included in the proposed NOIRA. HB 137 and SB 356 are expected to result to changes in two additional sets of regulations, *Regulations Governing Textbook Adoption State Level* (8 VAC 20-220-10 et seq.) and *Regulations Governing Textbook Adoption Local Level* (8 VAC 20-230-10 et seq.). Staff suggests that the three sets of textbook regulations be updated and consolidated into one regulatory package to be brought before the Board later this year.

To accommodate these legislative changes, this NOIRA would replace the May 21, 2007 NOIRA.

Summary of Major Elements: The attached Notice of Intended Regulatory Action (NOIRA) Background Document summarizes the major elements of this project. As noted above, this proposal is to amend and reenact the *Regulations Governing Local School Boards* (8 VAC 20-490-10 et seq.) into the Regulations Governing Local School Boards and School Divisions by consolidating several applicable regulations to one concise regulation. The regulations to be consolidated into this one regulation are attached to this agenda item and are as follows:

8 VAC 20-150-10 et seq.	Regulations Governing Management of the Student’s Scholastic Record in the Public Schools of Virginia
8 VAC 20-170-10	Regulations Governing Instructional Materials – Selection and Utilization by Local School Boards
8 VAC 20-180-10	Regulations Governing School Community Programs
8 VAC 20-210-10	Classification of Expenditures
8 VAC 20-240-10 et seq.	Regulations Governing School Activity Funds
8 VAC 20-250-10	Regulations Governing Testing Sight and Hearing of Pupils
8 VAC 20-310-10	Rules Governing Instruction Concerning Drugs and Substance Abuse
8 VAC 20-320-10	Regulations Governing Physical and Health Education
8 VAC 20-390-10 et seq.	Rules Governing Division Superintendent of Schools
8 VAC 20-410-10	Rules Governing Allowable Credit for Teaching Experience
8 VAC 20-420-10	Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards
8 VAC 20-460-10 et seq.	Regulations Governing Sick Leave Plan for Teachers
8 VAC 20-490-10 et seq.	Regulations Governing School Boards Local
8 VAC 20-565-10 et seq.	Regulations for the Protection of Students as Participants in Human Research

When these regulations have been consolidated into the Regulation Governing Local School Boards and School Divisions, the current individual regulations will be repealed simultaneously with the promulgation of the new regulation.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education withdraw the May 2007 NOIRA, waive first review and approve the proposed NOIRA, and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act.

Impact on Resources: The administrative impact for the review and revision of these regulations is not expected to be unduly burdensome on the Department of Education and is expected to have a minimal to no fiscal or administrative impact on the local school divisions.

Timetable for Further Review/Action: The timetable for further action will be governed by the requirements of the Administrative Process Act.

Regulations Governing Management of the Student's Scholastic Record in the Public Schools of Virginia

8 VAC 20-150-10 et seq.

8VAC20-150-10. Definitions.

The terms used in this chapter, except as otherwise defined herein, shall be in accord with the definitions contained in the Family Educational Rights and Privacy Act, 20 USC §1232g, 34 CFR 99; the Individuals with Disabilities Education Act, 20 USC §§1400-1485, 34 CFR 300; and §22.1-289 of the Code of Virginia.

8VAC20-150-20. Management of scholastic record.

A. Local education agencies shall manage the scholastic records of all students in compliance with applicable law, including the Family Educational Rights and Privacy Act of 1974, 20 USC §1232g, 34 CFR 99; the Individuals with Disabilities Education Act, 20 USC §§1400-1485, 34 CFR 300; and §§2.1-377 through 2.1-386, 16.1-260, 16.1-305.1, 16.1-305.2, 22.1-3.1, 22.1-270, 22.1-271.2, 22.1-287, 22.1-287.1, 22.1-288, 22.1-288.2, 22.1-289, 32.1-36.1 and 42.1-76 through 42.1-91.

B. Every notice of adjudication or conviction received by a local superintendent, and information contained in the notice, which is not a disciplinary record, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against the student based upon an incident which formed the basis for the adjudication or conviction, the notice shall become a part of the student's disciplinary record. As used herein, "disciplinary record" means a record which is directly related to a student and any disciplinary action taken against that student for violation of school rules or policies occurring on school property or at school-sponsored events.

8VAC20-150-30. Access.

A parent, guardian or other person having control or charge of a student shall be notified of his right to review, and to request an amendment of, the student's scholastic record in accordance with the procedures set forth in 34 CFR 99.

Regulations Governing Instructional Materials – Selection and Utilization by Local School Boards

8 VAC 20-170-10

8VAC20-170-10. Responsibility - local school boards.

The Board of Education places with local school boards the responsibility for the selection, approval, and utilization of instructional materials.

In the selection of instructional materials, the local school board is responsible for the following:

1. Developing local criteria for selection (the Board of Education will assist by publishing guidelines for the development of criteria);
2. Approving materials which are consistent with instructional goals and objectives;
3. Appointing a division evaluation committee which should include, when appropriate, parents, students, teachers, supervisors, and nonparent patrons;
4. Providing for the examination of materials by appropriate committees and individuals (local boards may choose to exempt certain types of materials from the formal evaluation process - maps, charts, games, etc.);
5. Providing notice to parents that books and materials under consideration for approval will be available at designated locations for review by any interested citizens. Provisions should be made for those reviewing such materials to present their comments and observations, if any, to the school board through locally approved procedures. Those actions should be taken which are necessary to assure appropriate consideration of such citizen observations and adequate time for such consideration should be allowed. Such actions might include (i) opportunity to meet with the board, or (ii) opportunity to meet with board-appointed professional committees assigned responsibility for making recommendations to the board;
6. Requesting special assistance in the evaluation of proposed materials, if desired, from the Department of Education;
7. Establishing procedures for the reconsideration of challenged materials;
8. Placing special emphasis on the thorough evaluation of materials related to controversial or sensitive topics such as sex education, moral education, and religion;
9. Including in the curriculum and schedule options for students whose parents choose to withdraw them from class for the duration of the treatment of a sensitive or controversial topic. Parents should be required to justify their requests.

Regulations Governing School Community Programs

8 VAC 20-180-10

8VAC20-180-10. School improvement plan.

Each school division shall involve the staff and community in revising and extending biennially a six-year school improvement plan. This plan shall be reviewed and approved by the local school board and submitted by January 15 of each odd-numbered year to the Superintendent of Public Instruction for approval in accordance with criteria of the Board of Education. The plan shall include:

1. The objectives of the school division which can be measured by outcomes related to pupil performance, whenever possible;
2. An assessment of the extent to which the objectives are being achieved, including evidence from follow-up studies of former students;
3. Strategies for achieving the objectives of the school division; and
4. Evidence of community participation in the development of the six-year plan.

A report shall be made by November 1 of each year to the local school board and to the public on the extent to which the measurable objectives of the preceding two school years were achieved. Deviations from the plan shall be explained.

CLASSIFICATION OF EXPENDITURES

8 VAC 20-210-10

8VAC20-210-10. Classification of expenditures.

The following major classification of expenditures is prescribed for use by local school boards when the division superintendent, with the approval of the school board, prepares the estimate of moneys needed for public schools.

1. Instruction;
2. Administration, attendance and health;
3. Pupil transportation;
4. Operation and maintenance;
5. School food services and other noninstructional operations;
6. Facilities;
7. Debt and fund transfers; and
8. Contingency reserves.

Regulations Governing School Activity Funds

8 VAC 20-240-10 et seq.

8VAC20-240-10. Classification; responsibility for administration of regulations, exclusion of specific funds.

All funds derived from extracurricular school activities, such as entertainment, athletic contest, cafeteria, club dues, etc., and from any and all activities of the school involving personnel, students, or property are by this chapter classified as school activity funds (internal accounts). The local school boards shall be responsible for the administration of this chapter in the schools under their control and may determine which funds in any school may be excluded from those subject to this chapter. (Funds defined by law as public funds are not subject to this chapter and are to be handled as provided by law.)

8VAC20-240-20. Records, school finance officer, bonds.

Each school shall keep an accurate record of all receipts and disbursements so that a clear and concise statement of the condition of each fund may be determined at all times. It shall be the duty of each principal to see that such records are maintained in accordance with this chapter and rules promulgated by the local school board. The principal or person designated by him shall perform the duties of school finance officer or central treasurer. The school finance officer shall be bonded, and the local school board shall prescribe rules governing such bonds for employees who are responsible for these funds.

8VAC20-240-30. Forms.

The use of forms prescribed by the Board of Education is not mandatory but the basic information required by the uniform system must be incorporated in any system substituted for that designed by the Board of Education.

8VAC20-240-40. Audits; monthly and annual reports.

School activity funds (internal accounts) shall be audited at least once a year by a duly qualified accountant or accounting firm approved by the local school board and a copy of the audit report shall be filed in the office of the division superintendent. Monthly reports of such funds shall be prepared and filed in the principal's office, and annual reports shall be filed in the office of the principal or division superintendent. The cost of such an audit is a proper charge against the school operating fund or school activity funds.

8VAC20-240-50. Interpretation of regulations and forms.

Nothing in this chapter or suggested forms shall be construed as superseding or modifying the federal-state plan for operation of cafeterias under the National School Lunch Act, 42 USC § 1751 et seq.

Regulations Governing Testing Sight and Hearing of Pupils

8 VAC 20-250-10

8VAC20-250-10. Testing of sight and hearing; monitoring.

That sight and hearing of pupils in grades K, 3, 7, and 10 be screened within 60 administrative working days of the opening of school. Whenever a pupil is found to have any defect of vision or hearing or a disease of the eyes or ears, the principal shall notify the parent or guardian in writing, of such defect or disease. This screening of pupils will be monitored through the administrative review process.

Rules Governing Instruction Concerning Drugs and Substance Abuse

8 VAC 20-310-10

8VAC20-310-10. Health education program.

The Board of Education recognizes that the illegal and inappropriate use of certain substances constitutes a hazard to the development of students. Elementary and secondary schools shall include in the health education program instruction in drugs and drug abuse.

Therefore, the public schools of the Commonwealth shall:

1. Be concerned with education and prevention in all areas of substance use and abuse.
2. Establish and maintain a realistic, meaningful substance abuse prevention and education program that shall be developed and incorporated in the total education program.
3. Establish and maintain an ongoing in-service substance abuse prevention program for all school personnel.
4. Cooperate with government and approved private agencies involved with health of students relating to the abuse of substances.
5. Encourage and support pupil-run organizations and activities that will develop a positive peer influence in the area of substance abuse.
6. Create a climate whereby students may seek and receive counseling about substance abuse and related problems without fear of reprisal.

Regulations Governing Physical and Health Education

8 VAC 20-320-10

8VAC20-320-10. Health education program.

Elementary and secondary schools shall present a comprehensive health education program which focuses on instruction related to alcohol and drug abuse, smoking and health, personal growth and personal health, nutrition, prevention and control of disease, physical fitness, accident prevention, personal and family survival, environmental health, mental health, and consumer education. These shall be developed in accordance with procedures outlined in the Curriculum Guide for Health Education.

Rules Governing Division Superintendent of Schools

8 VAC 20-390-10 et seq.

8VAC20-390-10. Qualifications.

Division superintendents of county, town, and city school systems are required by law to be appointed from a list of eligible persons approved by the State Board of Education. To be placed on the list of eligibles, applicants must meet the following qualifications:

1. Personal qualities. Eligibility shall be limited to individuals whose records attest to good character and demonstrated ability as an educational administrator.

2. Education. The applicant shall have earned 60 semester hours of graduate work from an institution of higher learning accredited by the state accrediting agency and shall hold the Master's degree or be pursuing a doctoral program approved by any such accredited institution.

The applicant shall have completed graduate work in the following areas: history or philosophy of education, courses designed to develop competence in supervision and curriculum development, administration, finance, law, plant, personnel management or school-community relations, research, or statistical methods.

3. Experience. The applicant shall have had at least five years of satisfactory and full-time experience in administration or supervision, or both, in public schools.* This experience shall have been acquired in the principalships or positions, or both, within the central administrative offices of the school division. A maximum of two years of this requirement may be met through full-time experience in the assistant principalship. Certification as to whether the applicant has served satisfactorily in full-time positions of administration or supervision, or both, must be mailed directly to the Department of Education by the division superintendent.

4. Recency of professional education or experience, or both, and status report. A portion of either professional education or experience, or both, shall have been within a period of four years immediately prior to the application. An individual not serving as a division superintendent is required to complete a status report every four years. The report should include current information about the individual, such as current position, professional growth activities, and other pertinent data. The Department of Education will request the status report early in the school year prior to commencement of the new term for the division superintendents.

5. Conditions. Superintendents in office in Virginia as of November 1, 1967, shall not be required to meet these qualifications as long as they serve continuously in such positions in the state.

Persons on the eligible list as of November 1, 1967, who did not meet the education requirement effective that day shall submit to the department official transcripts of graduate work in support of at least six semester hours beyond the master's degree each two years thereafter until such

time as they meet the new academic requirement. Any person who does not comply with this requirement will be removed from the eligible list.

*Comparable experience in accredited private schools or other educational systems may be accepted upon the recommendation of the Superintendent of Public Instruction and the approval of the Board of Education.

8VAC20-390-20. Part-time service as school principal.

The division superintendent of schools, on a part-time basis, may with the consent of the Board of Education serve as school principal.

8VAC20-390-30. Acting superintendents.

In case of a vacancy occurring during the regular four-year term of office of the division superintendent, an acting superintendent shall be designated by the school board or boards to serve until the newly appointed superintendent assumes office. The local school board or boards may compensate such acting superintendent from local funds and such board or boards may provide necessary traveling expenses.

8VAC20-390-40. Observing regulations; making annual and special reports.

It shall be the duty of each division superintendent to observe such directions and regulations as the Superintendent of Public Instruction or Board of Education may prescribe and to make special reports to the Superintendent whenever required.

8VAC20-390-50. School accounts.

It shall be the duty of the division superintendent to inspect the accounts of the clerk of the school board from time to time during the year and see that such accounts are kept correctly and that all school funds are properly applied.

8VAC20-390-60. Distribution of state reports, forms, laws, and regulations.

Superintendents shall distribute promptly all reports, forms, laws, and regulations which may be received from the Superintendent of Public Instruction, in accordance with his directions.

8VAC20-390-70. Explanation of school system; enforcement of school laws, regulations, etc.

Superintendents shall explain the school system and give information about it on all suitable occasions, and shall make certain that all school laws and regulations are strictly enforced and that the decisions of the Superintendent of Public Instruction and of the Board of Education are complied with. When such decisions are not complied with, the division superintendent shall inform the Superintendent of Public Instruction.

8VAC20-390-80. Inspection and supervision of schools.

It shall be the duty of the division superintendent to visit and inspect each school in his division. He shall inquire into all matters relating to the management of the school, the course of study, method of instruction, and use of textbooks, and shall give particular attention to the conditions of the school buildings.

8VAC20-390-90. Supervision of teachers.

The division superintendent shall see to it that teachers discharge faithfully the duties assigned to them, and any neglect or violation by teachers of any of the laws or regulations shall be promptly reported to the school board with recommendations for appropriate action.

8VAC20-390-100. Condemnation of school buildings.

The superintendent shall have authority to condemn school buildings, as provided by law, when such school buildings are not safe and may endanger the health of pupils.

8VAC20-390-110. Promotion of improvement and efficiency of school personnel; promotion of appreciation, etc. of education.

It shall be the duty of superintendents to promote the improvement and efficiency of teachers and other school personnel by all appropriate methods. They shall also endeavor by all appropriate means to promote an appreciation and desire for education among the people.

Rules Governing Allowable Credit for Teaching Experience

8 VAC 20-410-10

8VAC20-410-10. Teaching experience credit.

Credit for teaching experience may be allowed:

1. For teaching in public schools in the state and out of the state.
2. For teaching in accredited institutions of higher learning in and out of the state.
3. For teaching in schools operated in military installations, supported by federal tax funds, and for which academic credit is accepted for admission to the public schools of Virginia.
4. For teaching in public resident schools, such as the Virginia School for the Deaf and Blind.
5. For teaching in accredited private schools and in private schools for which teachers receive credit under the provisions of the Virginia Retirement System.

Teachers in the field of vocational education, where the requirement calls for occupational work experience beyond the apprenticeship level, may be allowed credit for one year of teaching experience for each two years of work experience.

**Regulations Governing Personnel in Public School Libraries Operated Under
Joint Contract Under Control of Local School Board or Boards**

8 VAC 20-420-10

8VAC20-420-10. Library personnel.

All such persons employed in any public school library or any library operated under joint contract between a school board or boards and the trustees of a county or regional library system shall be under the direction, supervision, and control of the local school board or boards.

Regulations Governing Sick Leave Plan for Teachers

8 VAC 20-460-10 et seq.

8VAC20-460-10. Allowances.

Allowances shall be as follows:

1. Each full-time teacher in the public free schools shall earn a minimum of 10 days each year.
2. Earnings for less than a full year of full-time employment shall be at the rate of one day per month, or major fraction thereof. This provision applies to teachers who do not begin teaching at the start of the school term and to those who do not complete the full year.
3. A teacher cannot claim any portion of earned leave unless he or she has actually reported for duty for the regular school term in accordance with the terms of the teacher's contract. If a teacher is unable, because of illness, to begin teaching when school opens in the fall, such teacher may be allowed to use accumulated leave not to exceed the balance credited to him or her as of June 30 of the immediate preceding school year.
4. School boards may, by resolution, permit teachers to anticipate sick leave earnings for the current school year, provided adequate provision is made for a refund in the event the teacher terminates employment before such credit is earned.

8VAC20-460-20. Accumulating sick leave.

Sick leave, if not used, may accumulate to a minimum of 90 days.

8VAC20-460-30. When substitute employed.

When a substitute has to be employed, such leave shall be allowed for personal illness, including quarantine, or illness or death in the immediate family requiring the attendance of the employee for not more than three days in any one case, unless the local school board by resolution wishes to allow an extension.

8VAC20-460-40. "Immediate family" defined.

The "immediate family" of an employee shall be interpreted to include natural parents, adoptive parents, foster parents, stepmother, stepfather, wife, husband, children, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and any other relative living in the household of the teacher ("any other relative living in a household of a teacher" is limited only in that the relative, however distant, must live in the household of a teacher).

8VAC20-460-50. Termination of accumulative sick leave; transfer of sick leave; when teacher presumed to have left teaching profession.

All accumulated sick leave shall terminate, except as defined below, upon the expiration of employment as a teacher. A teacher may transfer from one school system to another in Virginia and also may transfer any accumulated leave if the school board of the system to which the transfer is being made signifies its willingness to accept such transfer.

A teacher will be presumed to have left the teaching profession if he or she accepts employment other than in the public school system of Virginia, or is unable to teach in the public schools of Virginia for a period of three consecutive years because of illness or physical disability or family responsibilities. Teachers who leave the teaching profession to enter the armed services do not forfeit accumulated earnings unless they fail to return to the teaching profession immediately upon discharge from an original tour of duty in the armed services.

8VAC20-460-60. Local supplementary regulations.

Local school boards may adopt supplementary rules and regulations, not in conflict with this chapter, and, in the discretion of the local board, such local regulations may provide for the submission of a doctor's certificate in case of absence due to illness.

Regulations Governing School Boards Local

8 VAC 20-490-10 et seq.

8VAC20-490-10. Familiarity with and implementation of school laws and regulations.

It is the duty of all school officials to acquaint themselves with the school laws and regulations and to see that they are implemented.

8VAC20-490-20. Teacher contracts.

The school board shall enter into written agreements with teachers before they begin their duties, but no teacher may be employed or paid from public funds who is not certified to teach in the public schools of Virginia. Contracts with teachers shall be executed on behalf of the board by the chairman and the clerk.

8VAC20-490-30. Length of the school day.

The time for opening and closing schools shall be prescribed by the local school board upon recommendation of the division superintendent, provided that the daily program for students in grades 1 through 12 shall average at least 5 ½ hours, not including meal intermissions. If the required program length is maintained, the local school board may approve occasional shortened days for staff development, conferences, planning, and other activities designed to improve the instructional program, provided that no more than one day in each five-day week may be shortened to no less than four hours. The daily program for kindergarten shall be at least three hours, not including meal intermissions. The student day here described shall be considered a minimum day rather than an optimum day; a longer student day is encouraged to accommodate the instructional program and student needs.

When exceptions in the length of the daily program are necessary for special education, alternative education, double shifts, and scheduling or other unusual situations, the local board shall request approval by the Superintendent of Public Instruction of the exceptions by August 1 preceding the school year for which they are applicable. The affected programs must be in compliance with such other regulations as may apply to them.

The length of the work day for employees shall be determined by the local school board. It shall be of sufficient length to allow for the daily program for students and additional time as may be necessary for such activities as planning, preparation, meetings, workshops, conferences, meal intermissions, or other contractual obligations.

8VAC20-490-40. Textbooks.

School officers and teachers shall require all children who apply for admission into the public free schools to be provided with such books as have been duly approved under the regulations of the Board of Education. In the case of children whose parents or guardians are financially unable

to furnish them, school boards shall provide, free of charge, such textbooks and workbooks required for courses of instruction.

There shall be kept in every school a copy of the list of textbooks prescribed for use in that division.

8VAC20-490-50. Policy manual.

Each local school board shall maintain an up-to-date policy manual which shall include:

1. The grievance procedure prescribed by the Board of Education;
2. A system of communication between the local school board and its employees in order that views of all school employees may be received in an orderly and constructive manner in matters of concern to them; and
3. A cooperatively developed procedure for personnel evaluation.

An up-to-date copy of the local school board policy manual shall be kept in the library of each school in that division, and shall be available to employees and to the public.

8VAC20-490-60. Annual report.

With the assistance of the division superintendent, each school board shall make a report on or before the first day of August of each year, covering the work of the schools for the year ending the 30th day of the preceding June. The report shall be made to the Board of Education on forms supplied by the Superintendent of Public Instruction. The Superintendent of Public Instruction may grant, for good cause, an extension of time not to exceed 15 days for making such report.

Regulations for the Protection of Students as Participants in Human Research

8 VAC 20-565-10 et seq.

8VAC20-565-10. Definitions.

The terms in this chapter, except as otherwise defined herein, shall be in accord with the definitions contained in Chapter 5.1 (§[32.1-162.16](#) et seq.) of Title 32.1 of the Code of Virginia entitled "Human Research."

8VAC20-565-20. Scope.

No human research involving students shall be conducted or authorized by the Virginia Department of Education or any public school of the Commonwealth, including the Virginia Schools for the Deaf and Blind, or any proprietary schools certified by the Board of Education, unless in compliance with this chapter and other applicable law, including 45 CFR 46.

8VAC20-565-30. Informed consent.

No such research shall be conducted or authorized unless the student and the student's parents or legally authorized representative give their informed consent. Such informed consent shall be evidenced by a signed and witnessed informed consent form. Such form shall comply with [§32.1-162.18](#) A of the Code of Virginia.

8VAC20-565-40. Research committee.

Any such research shall be approved and conducted under the review of a human research committee, which shall be established by the agency or school conducting or authorizing the research. Any such committee shall comply with the provisions of [§32.1-162.19](#) of the Code of Virginia. Each committee shall submit to the Governor, the General Assembly, and the Superintendent of Public Instruction or his designee at least annually a report on the student projects reviewed and approved by the committee, which shall state significant deviations from the proposals as approved.

8VAC20-565-50. Exemptions.

There shall be excluded from the operation of this chapter those categories of research as set forth in [§32.1-162.17](#) of the Code of Virginia which exempts "Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies, the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods, or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subjects. . . ."



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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-490-10 et seq.
Regulation title	Regulations Governing School Boards Local
Action title	Revision of regulation through consolidation with other select regulations
Date this document prepared	March 27, 2008

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*.

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.

The *Regulations Governing School Boards Local*, 8 VAC 20-490-10 et seq., were adopted on or before September 1, 1980. These regulations have not been amended since that time and are out of date. Additionally, several other regulations have been promulgated that address regulatory requirements for local school boards and school divisions. Some of these regulations were adopted on or about September 1, 1980 as well. They all lend themselves to consolidation with the *Regulations Governing School Boards Local*. This proposal is to adopt revised regulations governing local school boards under the title *Regulations Governing Local School Boards and School Divisions* and to incorporate the applicable regulatory requirements from these other regulations so that local school boards and school divisions will have one regulation containing applicable regulatory requirements and will not have to look to several regulations for guidance.

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 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.

Section 22.1-16 of the Code of Virginia provides that “The Board of Education may adopt bylaws for its own governance and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” These regulations governing local school boards and school divisions are necessary for the governance of schools and programs by the Board of Education.

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.

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 of Virginia. This will benefit students, parents and staff.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

As noted above, this proposal is to amend and reenact the *Regulations Governing Local School Boards* (8 VAC 20-490-10 et seq.) into the Regulations Governing Local School Boards and School Divisions by consolidating several applicable regulations into one concise regulation. The regulations to be consolidated into this one regulation are as follows:

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| 8 VAC 20-460-10 et seq. | Regulations Governing Sick Leave Plan for Teachers |
| 8 VAC 20-490-10 et seq. | Regulations Governing School Boards Local |
| 8 VAC 20-565-10 et seq. | Regulations for the Protection of Students as Participants in Human Research |

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.

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, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Other alternatives to amending the regulations have not been considered by the Board of Education as many of the regulations are out of date. Additionally, the consolidation of the regulations will assist school divisions. The only acceptable alternative would be to amend the appropriate regulations and promulgate new regulations without consolidating them.

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 hearing is to be held to receive comments on this notice.

The agency 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 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 may do so by mail, email or fax to Anne Wescott, Assistant Superintendent for Policy and Communications, Virginia Department of Education, P. O. Box 2120, Richmond, VA 23218-2120, (804) 225-2403, fax (804) 786-5389, e-mail Anne.Wescott@doe.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 hearing on the NOIRA will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved 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 agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach.

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.

The proposed regulatory action is not expected to have a negative impact on the institution of the family and family stability.