

Board of Education Agenda Item

Item: _____ A. _____

Date: November 17, 2009

Topic: First Review of the Notice of Intended Regulatory Action (NOIRA) for the *Regulations Governing Career and Technical Education (8VAC 20-120-10 et seq.)*

Presenter: Mr. Lan Neugent, Assistant Superintendent for Technology and Career Education

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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 regulations governing career and technical education are complex and are divided into three specific categories: (1) general provisions; (2) administration; and (3) operation of programs. Specific sections of the regulations may be mandated by federal law while others are mandated by state law. Changes in both federal and state laws pertaining to career and technical education have made it necessary to revise the Regulations Governing Career and Technical Education.

Suggested changes in the Regulations Governing Career and Technical Education will include: (1) addition of regulations as mandated by federal (Perkins Act reauthorization of 2006) or state laws; (2) revisions to regulations to reflect changes in federal and state laws; and (3) deletion of any regulations not deemed essential.

Summary of Major Elements

The proposed action is to amend existing regulations. The current regulations should be revised for clarity and to ensure that there are no conflicts with existing Board of Education regulations and state and federal laws. Examples of anticipated changes include:

- a clarification of definition of terms impacted by the Perkins Act reauthorization of 2006, such as “career clusters,” “career pathways,” and “sustained professional development;”
- an identification and clarification of the U. S. Department of Education’s approved Virginia requirements for meeting the performance standards of the Perkins Act of 2006; and
- a clarification of maximum class sizes for career and technical education.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Virginia Department of Education staff to proceed with the process to review and revise as necessary the Regulations Governing Career and Technical Education.

Impact on Resources:

There may be an administrative impact on some school divisions.

Timetable for Further Review/Action:

The timetable for further action will be governed by the requirements of the Administrative Process Act.



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-120-10 through 8 VAC 20-120-170
Regulation title	Regulations Governing Career and Technical Education
Action title	Revision of Regulations
Date this document prepared	October 29, 2009

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 career and technical education are complex and are divided into three specific categories: (1) general provisions; (2) administration; and (3) operation of programs. Specific sections of the regulations may be mandated by federal law while others are mandated by state law. Changes in both federal and state laws pertaining to career and technical education have made it necessary to revise the *Regulations Governing Career and Technical Education*.

Suggested changes in the *Regulations Governing Career and Technical Education* will include: (1) deletion of any regulations not deemed essential; (2) revisions to regulations to reflect changes in federal and state laws; and (3) addition of regulations as mandated by federal or state laws.

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.

The following is a list of state and federal regulations that, in whole or in part, mandate regulations for career and technical education:

Federal: Part B, Section 121 of the Carl D. Perkins Career and Technical Education Act of 2006 (20USC2301 et. seq.) specifics and details the responsibilities of the eligible state agencies. These responsibilities include the requirement that the participating agency coordinate the development, submission, and implementation of the

State Plan, and evaluate the program, services, and activities assisted under this title, including preparation for nontraditional fields.

State: § 22.1-16. Bylaws and regulations generally.

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.

(Code 1950, § 22-19; 1971, Ex. Sess., c. 203; 1980, c. 559.)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-16>

§ 22.1-227. Board designated to carry out provisions of federal act.

The Board of Education is designated as the State Board of Career and Technical Education to carry out the provisions of the federal Vocational Education Act of 1963, as amended, and as such shall promote and administer the provision of agriculture, business, marketing, home economics, health, technology education, trade and industrial education in the public middle and high schools, regional schools established pursuant to § [22.1-26](#), postsecondary institutions, and other eligible institutions for youth and adults.

For the purposes of this section, "promote" shall not be construed to mandate the implementation of any additional career and technical education programs that are not currently offered.

(Code 1950, § 22-319; 1980, c. 559; 1992, cc. 673, 897; 2001, c. [483](#).)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-227>

§ 22.1-228. Definitions.

As used in this article:

1. "Career and technical education project" or "project" means a project that supplements the regular career and technical education program in a school division and that is designed to provide effective practical training to students in the secondary schools of the school division and in which participation is optional and voluntary.

(Code 1950, § 22-330.37; 1974, c. 336; 1975, c. 139; 1980, c. 559; 2001, c. [483](#).)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-228>

§ [22.1-253.13:1](#). Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.

D. Local school boards shall also implement the following:

3. Career and technical education programs incorporated into the K through 12 curricula that include:

a. Knowledge of careers and all types of employment opportunities including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;

b. Career exploration opportunities in the middle school grades; and

c. Competency-based career and technical education programs that integrate academic outcomes, career guidance and job-seeking skills for all secondary students. Programs must be based upon labor market needs and student interest. Career guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local community colleges and shall be submitted to the Superintendent of Public Instruction in accordance with the timelines established by federal law.

4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § [22.1-200.03](#).

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

(1988, cc. 645, 682; 1990, cc. 797, 820, 839; 1991, cc. 295, 304; 1992, cc. 132, 591; 1994, cc. [618](#), [790](#); 1996, cc. [163](#), [522](#); 1997, cc. [466](#), [828](#), [829](#); 1998, cc. [103](#), [602](#), [627](#), [800](#), [816](#), [902](#); 1999, cc. [377](#), [444](#), [445](#), [452](#), [461](#), [488](#), [552](#), [595](#), [994](#); 2000, cc. [504](#), [547](#), [653](#), [662](#), [677](#), [684](#), [710](#), [750](#), [867](#); 2001, c. [483](#); 2002, c. [837](#); 2003, cc. [690](#), [697](#), [714](#), [861](#); 2004, cc. [404](#), [848](#), [939](#), [955](#); 2005, cc. [331](#), [450](#); 2007, c. [234](#); 2008, c. [661](#); 2009, c. [802](#).)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-253.13C1>

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 review of Virginia Regulations Governing Career and Technical Education in Virginia should include the following goals:

- Update the regulations to comply with new state and federal laws, such as an identification and clarification of the U. S. Department of Education's approved Virginia requirements for meeting the performance standards of the Perkins Act of 2006;
- Update definitions for consistency with other state and federal regulations dealing with similar issues such as a clarification of definition of terms impacted by the Perkins Act reauthorization of 2006, such as "career clusters," "career pathways," and "sustained professional development;"
- Eliminate any duplication of regulations.

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.

A comprehensive review of the Virginia *Regulations Governing Career and Technical Education* in Virginia will be conducted. The regulations will be examined in their entirety, including the requirements for general provisions, administration of career and technical education programs, and operation of career and technical education programs.

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.

The proposed action is to amend existing regulations. The current regulations should be revised for clarity and to ensure that there are no conflicts with existing Board of Education regulations and state and federal laws. There are no viable alternatives.

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 comments may do so at the public hearing or by mail, e-mail, or fax to Elizabeth M. Russell, Office of Career and Technical Education, Virginia Department of Education, P.O. Box 2120, Richmond, Virginia 23218-2120, 804-225-2847 (phone), 804-371-2456 (fax), or Elizabeth.Russell@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 will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall Web site (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

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 will use the participatory approach in the development of the proposal and plans to secure input from the instructional staff, the Advisory Committee for Career and Technical Education, a CTE administrator from each of the Superintendents' regions (8), and the president of the Virginia Association for Career and Technical Education and Virginia Association for Career and Technical Education Administrators.

The revised regulations will also be based on public comment.

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 revisions will not have any measurable impact on the institution of the family or family stability.