

Board of Education Agenda Item

Item: E.

Date: January 13, 2011

Topic: First Review of the Proposed Regulations Governing Unexcused Absences and Truancy

Presenter: Dr. Cynthia A. Cave, Director, Office of Student Services

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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 September 17, 2009 and July 22, 2010
action Approval of the Notice of Intended Regulatory Action (NOIRA)

Background Information:

The proposed regulations to govern the *Collection and Reporting of Unexcused Absences and Truancy Data and Student Attendance Policies, 8 VAC 20-730-10*, are new. The purpose of the regulations is to provide consistency in the collection and reporting of school attendance data as well as guidance on student attendance policies. Due to the strong link between truancy and dropout rates, it is critical to address attendance issues early and effectively. School divisions can use documented attendance data to examine and evaluate attendance patterns, to intervene early with identified problems, and to develop policies and practices to promote daily student attendance.

The proposed regulations will also provide the necessary definitions and attendance data to be collected in order to report consistent and accurate data to the United States Department of Education (USED). The Virginia Department of Education (VDOE) collects the number of days a student is present, and in 2008 began collecting the number of unexcused absences as part of the Student Record Collection to comply with the reporting requirements for federal regulations, Section 4112 of the No Child Left Behind Act (NCLB). Currently, unexcused absence data

reported to the VDOE are based on the definition declared individually by the 132 school divisions. Data are unreliable and inconsistent, and do not provide valid information for accurate reporting, evaluation or analysis. These regulations would support consistency in data reporting and enable VDOE to report more accurate information to USED.

Based on a citizen petition, on September 17, 2009, the Board of Education authorized a Notice of Intended Regulatory Action (NOIRA) to add new regulations governing reporting of student nonattendance and any concomitant policies and procedures. The VDOE published the petition in the *Register of Regulations in the Regulatory Town Hall*, as required by the Administrative Process Act. Public comments were received during a 21-day public comment period. Ten comments were received in support of establishing regulations. No comments were received in opposition to establishing regulations. Subsequently, staff worked with an advisory committee to draft the regulations.

The statewide advisory committee of twenty-seven members met on November 16, 2009, to discuss attendance issues and areas of concern. The committee includes a parent, attendance and school resource officers, alternative education program administrators, one elementary and one secondary school principal, student support administrators, school social workers, and representatives from the Department of Behavioral Health and Developmental Services, Department of Criminal Justice Services, Virginia Commission on Youth, Project Hope (VDOE's homeless student program), Virginia Association of School Social Workers, Legal Aid Justice Center, and the VDOE. Committee members discussed the need for attendance definitions and reliable data collection, as well as early identification of student attendance problems, intervention, and supports. A subcommittee drafted regulations to address needs for review. Subsequent revisions in response to the comments of reviewers produced the proposed regulations.

On June 29, 2010, Executive Order 14 was issued, requiring that proposed regulations go forward by 180 days from the posting of the NOIRA on the Regulatory Town Hall. The NOIRA was resubmitted and approved by the Board on July 22, 2010, in order to comply with the new timeline of the Executive Order. One public comment in favor of the proposed regulations was submitted through the Town Hall Web site during the new NOIRA period.

Summary of Major Elements

The proposed regulations offer attendance definitions for implementing an intervention process and reporting data. The regulations will produce more consistent data and support effective practices that will assist school divisions' continuous improvement of daily school attendance. A summary of the proposed new regulations by section follows.

The Foreword, which explains their purpose and goals:

- To provide for consistency in the collection and reporting of school attendance data and to provide guidance on student attendance policy
- To correlate with the procedures required in § 22.1-258 of the *Code of Virginia*. This data collection is necessary to construct a valid representation of nonattendance issues.

The data should be used to evaluate and analyze student attendance patterns and issues at the school division and state levels. The resulting information should be used to strengthen efforts to engage students in daily school attendance.

Part I, 8 VAC 20-730-10, defines terms, such as “attendance plan,” “excused absence,” “truancy,” and “unexcused absence,” used in these regulations.

Part II, 8 VAC 20-730-20, articulates the procedures and responsibilities for intervening with nonattendance behavior, in accordance with § 22.1-258 of the *Code of Virginia*.

Part III, 8 VAC 20-730-30, describes data collection and reporting requirements. Each school division shall provide student level attendance data for each student, that includes the number of unexcused absences, as prescribed by the Virginia Department of Education. The following data shall be collected and reported to the Virginia Department of Education:

- All excused and unexcused absences as defined in these regulations for each individual student
- For each student with five unexcused absences, whether an attendance plan was developed, and if not, the reason
- For each student with six unexcused absences, whether an attendance conference was scheduled, and if not, the reason
- For each student with six unexcused absences, whether an attendance conference was actually held, and if not, the reason
- For each student with seven unexcused absences, whether a court referral/petition was filed

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

Impact on Resources: There may be an administrative impact on some school divisions, depending upon current practice and available fiscal resources.

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

Title of Regulations: Regulations Governing the Collection and Reporting of Truancy

Related Data and Student Attendance Policies

Foreword

The Virginia Board of Education is setting forth procedures for the collection and use of data to identify students at risk of academic failure due to missed days at school and to promote early intervention to improve school attendance. Students who attend school daily, kindergarten through twelfth grade, are more likely to graduate. Students who do not attend school regularly are more likely to drop out of school and experience crime and violence, unemployment, substance abuse, adult criminality and incarceration, unwanted pregnancy and social isolation. Due to the strong link between missing school and these negative consequences, it is critical to address attendance issues early and effectively. School divisions can use documented attendance data to examine and evaluate attendance patterns, and to develop policies and practices to promote student daily attendance.

The primary goal of the Virginia Board of Education, through these regulations, is to set forth definitions with data collection requirements and procedures to address nonattendance issues. The intent of the regulations is to promote consistent and accurate data collection and reporting and to improve attendance related policies.

The regulations offer definitions for the collection of data at the school building level. These regulations define data that shall be collected on students with five, six and seven unexcused absences at each interval. The data collection correlates with the requirements in § 22.1-258 of the *Code of Virginia*. Data should be used to evaluate and analyze student attendance patterns at

the school division and state levels. These regulations will generate more consistent data and effective practices that will assist continuous improvement of daily school attendance.

PART I

DEFINITIONS

8 VAC 20-730-10 Definitions.

The following words and terms, when used in this chapter, shall have the following meaning, unless the text clearly indicates otherwise:

“Attendance plan” means action steps developed by a school representative (s), parent and student (if appropriate) to engage the student in regular school attendance. The plan shall identify academic, social, emotional and familial barriers that impede daily attendance along with positive strategies to support regular attendance. This plan may include school-based activities and/or suggested referrals to community supports.

“Attendance conference” means a face-to-face meeting, at a minimum, after the sixth unexcused absence among school staff, parents and student (if appropriate). The conference may include, if necessary, community representatives to discuss the current attendance plan and make modifications to support regular school attendance.

“Court referral” means referral to the Juvenile and Domestic Relations Court intake worker after the student’s seventh unexcused absence. Copies of the attendance plan and documentation of conference meetings will be provided to the intake worker.

“Excused absence” means an absence of an entire assigned instructional school day with an excuse acceptable to the school administration that is provided by the parent. If circumstances

permit, the parent should provide the school authority with the reason for the nonattendance prior to the absence. Examples of an excused absence may include, but are not limited to, the following reasons: funeral, illness (including mental health and substance abuse illnesses), injury, legal obligations, medical procedures, suspensions, religious observances and military obligation.

“Instructional school day” means the length of a regularly scheduled school day for an individual student.

“Multi-disciplinary team” means a school-based team that convenes on a regular basis to review student records and to identify an integrated system of care for the student in need, including prevention, early intervention, and support services, and school-based case management. These services should address academic, social, emotional, and familial issues in order to improve regular school attendance. Members of the team meet confidentially with the parent and the student (if appropriate) to develop, evaluate, and update action steps and supports. Team members may include, but are not limited to, the following: an administrator, school counselor, social worker or psychologist, student assistance specialist, special education and regular education teacher, and attendance officer.

“Parent” means the parent(s), guardian(s), or other person(s) having legal control of the student.

“Truancy” means the act of accruing one or more unexcused absences.

“Unexcused absence” is an absence where the student misses his/her scheduled instructional

school day in its entirety, and no indication has been received by school personnel, within three days of the absence, that the student's parent is aware and supports the absence, or the parent provides an excuse that is unacceptable to the school administration. An administrator may change an unexcused absence to an excused absence when the parent has provided an acceptable excuse for the student's absence. If the student leaves the school building or surrounding grounds without permission from an administrator, it shall be considered the same as an unexcused absence for the entire day, unless there are acceptable circumstances as determined by an administrator. Absences resulting from suspensions shall not be considered unexcused.

PART II

UNEXCUSED ABSENCES INTERVENTION PROCESS AND RESPONSIBILITIES

8 VAC 20-730-20. Unexcused Absences Intervention Process and Responsibilities.

The following intervention steps shall be implemented to respond to unexcused absences from school and to engage students in regular school attendance.

Whenever a student fails to report to school on a regularly scheduled school day and no information has been received by school personnel that the student's parent is aware of and supports the absence, the school principal or designee, attendance officer, other school personnel or volunteer will notify the parent by phone or e-mail or any other electronic means to obtain an explanation. The school staff shall record the student's absence for each day as "excused" or "unexcused."

When a student has received five unexcused absences, the school principal or designee, or the attendance officer, shall make a reasonable effort to ensure that direct contact is made with the parent. The parent shall be contacted either in a face-to-face conference or by telephone. During the direct contact with the parent and the student (if appropriate), reason(s) for nonattendance shall be documented and the consequences of nonattendance explained. An attendance plan shall be made to resolve the nonattendance issues. The student and parent may be referred to a school based multi-disciplinary team for assistance implementing the attendance plan and case management.

The school principal or designee, or the attendance officer, shall schedule a face-to-face attendance conference within ten school days from the date of the student's sixth unexcused absence for the school year. The attendance conference must be held within fifteen days from the date of the sixth unexcused absence. The conference shall include the parent, student (when applicable), and school personnel (which may be a representative(s) from the multi-disciplinary team) and may include community service providers.

The principal or designee shall notify the attendance officer or superintendent of the student's seventh unexcused absence for the school year. The division superintendent or designee shall contact the Juvenile and Domestic Relations Court intake to file a Child In Need of Supervision (CHINSup) petition or begin proceedings against the parent. In addition to documentation of compliance with the notice provisions of § 22.1-258 the *Code of Virginia*, copies of the conference meeting notes, attendance plan and supports provided prior to filing the petition shall be presented to the intake worker. The decision shall be made by the intake worker either to divert the case or to file the petition for presentation before the court.

A record shall be maintained of each meeting that includes the attendance plan, the name of individuals in attendance at each conference meeting (including telephone or electronic devices), the location and date of the conference, a summary of what occurred and follow-up steps. This record does not become a part of the student's permanent scholastic record.

PART III

DATA COLLECTION AND REPORTING

8 VAC 20-730-30 Data Collection and Reporting.

This data collection shall begin on the first day students attend for the school year. Each school division shall provide student level attendance data for each student that includes the number of unexcused absences, as prescribed by the Virginia Department of Education. A student's attendance is cumulative and begins on the first official day of the school year or the first day the student is officially enrolled. All nonattendance days are cumulative and begin with the first absence. For purposes of this data collection, truancy shall start with the first unexcused absence and will be cumulative.

Excused and unexcused absences shall be counted for each individual student and shall be reported to the Virginia Department of Education as follows:

- (A) All excused and unexcused absences as defined in these regulations for each individual student shall be collected.
- (B) For each student with five unexcused absences, whether an attendance plan was developed, and if not, the reason.
- (C) For each student with six unexcused absences, whether an attendance conference was scheduled, and if not, the reason.
- (D) For each student with six unexcused absences, whether an attendance conference was actually held, and if not, the reason.
- (E) For each student with seven unexcused absences, if a court referral/petition was filed.



Proposed Regulation
Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20 -730-10
Regulation title	Regulations Governing the Collection and Reporting of Truancy Related Data and Student Attendance Policies
Action title	Procedures for the collection of truancy data and unexcused/non-verified absence intervention process and responsibilities .
Date this document prepared	December 10, 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

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The proposed regulations are new. The regulations set criteria for truancy data collection and a procedure for intervening with a student who has unexcused absences. The regulations provide definitions to promote consistent data collection and reporting among school divisions and to the Virginia Department of Education (VDOE). Attendance data will be used to establish and revise school attendance policies and best practices to engage students in daily attendance. Procedures and responsibilities are defined for providing intervention and support services to increase school attendance and attachment. Finally, the regulations direct a referral to court services when a student is noncompliant with compulsory attendance law.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

There are no acronyms or technical terms that are not also defined in the definitions section of the regulations.

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., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ 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.”

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

A summation of the compulsory attendance code relevant to this regulation is as follows:

“Any child five years old on or before September 30 of each school year and who has not reached eighteen years of age shall be enrolled and attend a public, private, denominational, or parochial school, or be home schooled in accordance with state regulations. A local school board may excuse a youth from attendance under certain circumstances as described in subsection B and C of § 22.1-254.”

§ 22.1-269. Board to enforce.

The *Code of Virginia* authorizes and requires the Board of Education to enforce Virginia's compulsory school attendance statutes as follows:

“The Board of Education shall have the authority and it shall be its duty to see that provisions of this article are properly enforced throughout the Commonwealth.”

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school.

In summary, the *Code of Virginia* requires each school division to create an attendance plan for any student with five unexcused absences and to schedule a conference with parents after the sixth unexcused absence ... upon the next unexcused absence by such pupil, the school attendance officer shall enforce compulsory attendance by “(i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-288 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262....”

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.

“...It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases on nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.”

§ 22.1-267. Proceedings against habitually absent child.

“Any child permitted by any parent, guardian, or other person having control thereof to be habitually absent from school contrary to the provisions of this article may be proceeded against as a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.”

§ 22.1-262. Complaint to court when parent fails to comply with law.

“...If the parent (i) fails to comply with the provisions of § 22.1-261 within the time specified in the notice; or (ii) fails to comply with the provisions of § 22.1-254; or

(iii) refuses to participate in the development of the plan to resolve the student's nonattendance or in the conference provided for in § 22.1-258, the attendance officer is to provide documentation to the court regarding the school division's compliance with § 22.1-258. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1."

§ 22.1-265. Inducing children to absent themselves.

"Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 3 misdemeanor and willfully violated the provisions of this section ... having been convicted previously of a violation of this section, ... shall be guilty of a Class 2 misdemeanor."

§ 22.1-263. Violation constitutes misdemeanor.

"Any person violating the provisions of either § 22.1-254, except for clause (ii) of subsection A, §§ 22.1-255,22.1-258,22.1-267, or the parental responsibility provisions relating to compulsory school attendance included in § 22.1-279.3, shall be guilty of a Class 3 misdemeanor that such person has been convicted previously of a violation of any provision of § 22.1-254, except for clause (ii) of subsection A, or any provision of §§ 22.1-255, 22.1-258 or § 22.1-267, such person shall be guilty of a Class 2 misdemeanor."

§ 22.1-266. Law-enforcement officers and truant children.

"A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer ... or any attendance officer may pick up any child who (i) is reported to be truant from public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program... and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law...."

§ 22.1-260.B – Reports of children enrolled and not enrolled; nonattendance; social security numbers required.

"At the end of each school year, each public school principal shall report to the division superintendent the number of students by grade level for whom a conference was scheduled as required by § 22.1-258. The division superintendent shall compile such grade level information for the division and provide such information to the Superintendent of Public Instruction annually."

Federal regulations, Section 4112 of the No Child Left Behind Act (NCLB), mandate truancy data to be collected at the local level by each school and be reported to the State Department of Education. Data for each individual school will be made public. The aggregated state data results will be reported to the United States Department of Education (USED).

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

It is the primary goal of the Virginia Board of Education, through these regulations, to set forth definitions for data collection, and procedures and responsibilities of the participants to address nonattendance issues. Enacting these regulations should enhance daily school attendance and decrease referrals to court services for truancy.

It is the intent of the Virginia Board of Education, through these regulations, to:

- Provide for consistent and accurate data collection and reporting
- Improve attendance related policies, procedures and evidence-based prevention and intervention practices
- Enhance school staff's capability to early identify students with nonattendance issues and to intervene and provide support and to case manage and monitor progress
- Create a positive impact on the family, the student, school divisions and court services in their efforts to improve school attendance
- Increase a student's opportunity to benefit from a quality education in preparation for a career or post-secondary education
- Create a climate for improving communication, cooperation, and coordination of services among community service agencies and public systems to address issues manifested in truancy behavior
- Encourage dissemination of information to increase public knowledge of the importance of regular school attendance and these regulations.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

The proposed regulations are organized according to the following four sections:

The first section identified as the "Foreword," which explains the regulations' purpose and goals.

Part I, which provides the definition of terms, such as "attendance plan," "excused absence," and "unexcused absence."

Part II, which articulates the procedures and responsibilities for early identification and intervention with nonattendance behavior and the issues that manifest truancy. It delineates processes for assisting the student and family in preventing non-attendance and defines the steps to intercede.

Part III, which identifies the attendance data to be reported to VDOE that includes for each individual student: (1) all excused and unexcused absences; (2) students with five, six or more unexcused absences; (3) the number of attendance plans developed and conferences scheduled and held; and (4) the number of court referrals.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The proposed regulations pose no disadvantage to the public or the Commonwealth. The proposed regulations will serve to more accurately collect daily school attendance and nonattendance data and guide early identification and intervention processes to remove barriers that disengage a student from school, thus improving school attendance.

Students who attend school daily, kindergarten through twelfth grade, are more likely to graduate. Students who do not attend school regularly are more likely to experience academic failure, school dropout, criminal and violent acts, unemployment, substance abuse, adult criminality and incarceration, unwanted pregnancy and social isolation. Due to the strong link between truancy and these negative consequences, it is critical to address attendance issues early and effectively.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements more restrictive than applicable federal requirements.

The proposed regulations provide the necessary definitions and attendance data in order to report consistent and accurate data to the United States Department of Education (USED). In 2008, the Virginia Department of Education (VDOE) began collecting the number of unexcused absences as part of the Student Record Collection to comply with the reporting requirements for federal regulations, Section 4112 of the No Child Left Behind Act of 2001. The regulations mandate truancy data be collected at the local level by each school and be reported to the State Department of Education. Data for each individual school will be made public. The aggregate state data results will be reported to the USED.

An “unexcused absence” is defined by the USED Uniform Data Set of the Uniform Management Information and Reporting System (UMIRS) as a school division’s definition for a student’s unexcused absence for one day. No federal or state criteria are applied to the definition. These regulations will enable VDOE to receive more accurate and consistent attendance data from school divisions to be reported to USED.

Section 22.1-258 of the *Code of Virginia* addresses school attendance issues. It requires schools to make a reasonable effort to notify parents when a student fails to report to school. This section also requires each school division to create a plan for any student with five unexcused absences and to schedule a conference with parents after the sixth unexcused absence. This section further addresses the procedure for enforcement of attendance requirements. In the proposed regulations, data will be collected that correlates to this section of the *Code of*

Virginia, which is not a federal requirement. This data collection is necessary to evaluate and analyze student attendance patterns and issues at the school division and state levels. The resulting information will be used to strengthen efforts to engage students in daily school attendance.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The regulations will affect all school divisions but none will be materially impacted disproportionately.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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 via the Regulatory Townhall Web site, www.townhall.virginia.gov, or by mail to Nancy Campbell, Virginia Department of Education, Office of Student Services, PO Box 2120, Richmond, VA 23218-2120, phone number 804-225-2910, fax number 804-786-9769 or e-mail at nancy.campbell@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 date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>There is a minimal cost to the state to implement and enforce the proposed regulations. However, existing budgets should be sufficient since most of these activities and practices already exist.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>It is not possible to estimate whether there will be an increased cost due to the varying nature of the 132 school divisions. However, it is doubtful that there will be an increased cost, since many of the activities and practices proposed in the regulations exist in school divisions.</p>

Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	School divisions and juvenile and domestic relations courts.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are 132 school divisions in the Commonwealth. Each school division has a school board with varying numbers of members and a superintendent.
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	It is not possible to estimate the cost of the regulations due to the varying nature of the 132 school divisions. However, any cost should be minimal since the staff to execute the scope of work proposed in these regulations already exists within school divisions. The cost should be minimal, if any, since the regulations do not impose additional requirements on small businesses, individuals or other entities.
Beneficial impact the regulation is designed to produce.	These new attendance regulations will enhance accurate and consistent data collection and reporting, and evaluation and analysis, to strengthen practices to improve student attendance. Students who attend school daily are more likely to graduate from high school and be prepared for the world of work or post-secondary education.

Alternatives

Please describe any viable 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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The alternative to these regulations is to continue with the current practice of the Virginia Department of Education (VDOE) providing only technical assistance. Unexcused absence data reported to the VDOE is based on the definition declared individually by each of the 132 school divisions. This data is unreliable and inconsistent and does not provide valid information for accurate reporting, evaluation or analysis. The regulations enhance consistency in data reporting and practice, which provides a foundation for evaluation and analysis.

The proposed regulations offer attendance definitions for reporting data and implementing an early identification and intervention process. The regulations offer a process for utilizing individual student data at the school building level in order to intervene and provide support services to prevent the damaging consequences of continued absences from school. The regulations will produce more consistent data and effective practices that will assist school divisions' continuous improvement of daily school attendance.

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.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Following the receipt of a citizen petition for rulemaking, the VDOE published the petition in the Register of Regulations in the Regulatory Town Hall as required by the Administrative Process Act in July 2010 and November 2010. Public comments were received during two 21-day public comment periods. Twelve comments were received from eleven individuals in support of the proposed regulations. No comments were received in opposition to the proposed regulations.

Commenter	Comment	Agency response
Alice Morgan-Brown, Ph.D.	“Please promulgate regulations to require more specific reporting of truancy and truancy intervention efforts.”	The proposed regulations include reporting and early identification and intervention guidance.
John Butcher	Supports the promulgation of the regulation to collect the following information: students with five or more unexcused absences; number of attendance plan developed; number of conference scheduled and held; students with more unexcused absences following the conference and the number of students referred to court services and the outcome, and make it available to the public.	The proposed regulations include the collection of this information.
Tichi Pinkney Eppes, Virginia Heroes	“I support this petition.”	None required.
Sarah Geddes, JustChildren, a program of Legal Aid Justice Center	Strongly supports specific reporting of truancy and truancy intervention efforts. “This data will help the state tackle truancy by setting sound policies and targeting resources where they are most needed to help improve attendance and graduation rate. Please grant the petitioner’s request and draft these critical regulations.”	The proposed regulations include the collection of this information.
Sue Ella Kobak	Supports the promulgation of the regulation and reporting unexcused absences and engaging and	The proposed regulations include the reporting of unexcused absences and provide a process for engaging and encouraging student and

	encouraging parents and students in classroom instruction.	parental involvement.
Christa Pierpont, Restorative Community Foundation	"I strongly support the changes which would require schools to report to the DOE the number of students who miss more than five days of school annually. Can this information be divided into excused and unexcused absence? This information gets at many issues which need to be immediately addressed on a prevention level and monitored for concerns regarding school climate."	The proposed regulations include this recommendation.
Christine Reppucci	"Please do all you can to press for regulations to require schools to report and keep clear records of truancy. These regulations will help to keep more children in school and reduce one of the major risk factors in youth truancy, school dropout, teen pregnancy, and ultimately a downward slide toward an unproductive adulthood."	The proposed regulations include this recommendation.
Liane Rozzell, Families & Allies of Virginia's Youth	Supports the Petition to Promulgate Regulations governing more specific reporting of truancy and truancy intervention efforts.	The proposed regulations include this recommendation.
John Edward Whitfield	Supports the Petition to Promulgate Regulations governing more specific reporting of truancy and truancy intervention.	The proposed regulations include this recommendation.
Brandon Wright	"I strongly support the Petition to Promulgate Regulations governing more specific reporting of truancy and truancy intervention efforts."	The proposed regulations include this recommendation.
Carrie Welch State Farm	"I think it is important we address truancy and ensure our students and their parents are held accountable for their actions. Thank you for the information."	The proposed regulations include this recommendation.

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.

The proposed regulations are expected to have a positive impact on the institution of the family and family stability. The intervention process is intended to: (1) empower parental authority and rights in the education of the students as well as support parents in nurturing and supervising the student; (2) engage the student in daily school

attendance in order to increase the likelihood of taking responsibility for oneself to graduate from high school to become economically self-sufficient.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

This is a new regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
20-730-10	Provides definition of terms	§ 22.1-16. Bylaws and regulations generally. § 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article. § 22.1-258 Appointment of attendance officers; notification when pupil fails to report to school.	To assist readers in understanding regulations and provide for consistent implementation by school divisions

20-730-20	Provides an intervention process for increasing student attendance and making a court referral when necessary	<p>§ 22.1-261. Attendance Officer to make list of children not enrolled; duties of attendance officer.</p> <p>§ 22.1-262. Complaint to court when parent fails to comply with law.</p> <p>§22.1-263 Violation constitutes misdemeanor.</p> <p>§ 22.1-265. Inducing children to absent themselves.</p> <p>§ 22.1-266. Law-enforcement officers and truant children.</p> <p>§ 22.1-267. Proceedings against habitually absent child.</p>	To establish consistent and effective practices for engaging students in daily school attendance; to decrease court referrals and student dropout rates and increase graduation rates
20-730-30	Provides direction for collecting and reporting attendance data to VDOE	<p>§ 22.1-269. Board to enforce.</p> <p>§ 22.1-260. Reports of children enrolled and not enrolled; nonattendance; social security numbers required.</p>	To assist school divisions in being more consistent and accurate in reporting attendance data

Enter any other statement here

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