

# Board of Education Agenda Item

Item: E.

Date: June 23, 2011

**Topic:** First Review of Proposed Repeal of the Rules Governing Film Circulation from State and Regional Audiovisual Services, 8 VAC 20-300, Under the Fast Track Provisions of the Administrative Process Act

**Presenter:** Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

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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: \_\_\_\_\_

**Previous Review/Action:**

No previous board review/action  
 Previous review/action  
date \_\_\_\_\_  
action \_\_\_\_\_

**Background Information:** The Administrative Process Act, in § 2.2-4012.1 of the *Code of Virginia*, provides for expedited rulemaking for regulatory actions that are expected to be non-controversial. The "fast track" process specifies that after the proposed action is reviewed and approved by the Governor, a notice that an agency proposes to amend or repeal a regulation using the fast track process will be published in the Virginia Register and will appear on the Virginia Regulatory Town Hall (the electronic site for all state agency regulations).

The publication of the notice will be followed by a public comment period of at least 60 days. If an objection to the proposed regulatory change is received during the public comment period, the proposed rulemaking is continued using the usual APA process. If, however, there are no objections, the proposed regulation or repeal will become effective 15 days after the close of the public comment period, unless the regulation is withdrawn or a later effective date is specified by the Board of Education.

**Summary of Major Elements:** The purpose of this agenda item is to recommend the repeal of the *Rules Governing Film Circulation from State and Regional Audiovisual Services*, 8 VAC 20-300-10 et seq. This regulation was adopted in 1980 and is now obsolete and unnecessary. It has two sections, one prescribing eligibility requirements for the general circulation of films, videotapes and audiotapes, slides, transparencies, and filmstrips from state and regional audiovisual service and the other prescribing requirements for ordering these items. This service is no longer provided, making the regulation obsolete. The text of the regulation is attached along with the Proposed Regulation Agency Background Document summarizing the major elements of this project.

In keeping with the Board of Education's efforts to update, consolidate, or eliminate those regulations that are out-of-date, this regulation is recommended for repeal.

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve the proposal to repeal this regulation.

**Impact on Resources:** The administrative impact for the repeal of this regulation is not expected to be burdensome on the Department of Education and is expected to have no fiscal or administrative impact on the local school divisions.

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

## CHAPTER 300

### **RULES GOVERNING FILM CIRCULATION FROM STATE AND REGIONAL AUDIOVISUAL SERVICES**

#### **8 VAC 20-300-10. Eligibility.**

~~General circulation of films, videotapes and audiotapes, slides, transparencies, and filmstrips from the state and regional audiovisual services is restricted to Virginia public schools and state-supported colleges for use in regularly scheduled classes under the direction of teachers with certain exceptions given below. However, these materials also may be used in the schools under the teachers' direction for club activities, etc., where the club or organization is sponsored by the school, for adult education where the program is a part of the school or division educational program and is directed or supervised by the school or the school division and for educational programs such as those conducted by parent teacher associations, or parent study groups in connection with or sponsored by the school. These materials also may be used for educational programs conducted by state agencies.~~

~~Exceptions to the above are as follows:~~

- ~~1. Private colleges. Certain private degree colleges engaged in training teachers may obtain, through a special contract, films from state and regional audiovisual services.~~
- ~~2. Health agencies. Through special agreement with the state Department of Health, films are circulated to county health officials, hospitals conducting nurses training, and to camps conducting educational programs sponsored and approved by the Department of Health.~~
- ~~3. Noncommercial ETV stations. Noncommercial educational television stations may obtain education motion pictures from state and regional audiovisual services under the same conditions that apply to Virginia public schools and state-supported colleges. These stations shall be responsible for obtaining from the producer clearance for the use of any state-owned film for broadcasting purposes and shall be responsible for the payment of any charges assessed by the producer for the use of the film.~~

#### **8 VAC 20-300-20. Ordering.**

~~Orders from schools or other state agencies should be placed through one authorized representative on forms provided by the Audiovisual Services of the Department of Education.~~



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Education
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20-300-10 et seq.
<b>Regulation title</b>	Rules Governing Film Circulation from State and Regional Audiovisual Services
<b>Action title</b>	Repeal regulation
<b>Date this document prepared</b>	June 2, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

This proposal is to repeal the *Rules Governing Film Circulation from State and Regional Audiovisual Services*, 8 VAC 20-300. This regulation was approved by the Board of Education, became effective on or about September 1, 1980, and has two sections. The first prescribes the eligibility for the general circulation of films, videotapes and audiotapes, slides, transparencies, and filmstrips from state and regional audio visual services and the second prescribes the ordering process. The regulation has never been updated or amended to reflect any changes in the eligibility for circulation or the process to order such items. The lending program has been discontinued and is no longer in existence, making the regulation obsolete.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

The Board of Education is expected to approve the repeal of the *Rules Governing Film Circulation from State and Regional Audiovisual Services* at its June 23, 2011, meeting.

### 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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

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The purpose of this regulatory action is not to promulgate regulations, but rather to repeal a regulation that was approved by the Board of Education and became effective on or about September 1, 1980 in accordance with § 22.1-16 of the *Code of Virginia*. Therefore, a legal basis for the promulgation of a regulation is not required here.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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This proposal does not apply to a new or amended regulation. It concerns the proposed repeal of an existing regulation. The rationale or justification for repealing the regulation is that it was approved by the Board of Education and became effective on or about September 1, 1980. It has never been updated or amended. Since the program has been discontinued and no longer exists, the regulation is now obsolete and unnecessary. In the interest of efficiency and effective management, a regulation governing a non-existent program should be repealed.

### Rationale for using fast track process

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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Since the Board is repealing a regulation that is obsolete, the fast track process is most appropriate for this action. The repeal of this regulation will not be controversial because the regulation was adopted more than 30 years ago and has never been amended. It is obsolete in that the program it governs no longer exists.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

There are no new substantive provisions. This regulation is being repealed.

### 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 there are no disadvantages to the public or the Commonwealth, please indicate.*

There are no disadvantages to the public or the Commonwealth. The regulation is obsolete and its repeal will have no effect on the Commonwealth or on the public. Rather, it will decrease the number of regulations issued by the Board of Education.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is 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.*

This regulation is being repealed. Therefore, there are no applicable federal requirements or requirements that exceed applicable federal requirements.

### 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.*

Localities are not affected. The regulation that is being repealed applies to a film circulation program that no longer exists.

### 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.

The only alternative is to leave this regulation in place even though it is over 30 years old and has become obsolete.

**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.

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	None
<b>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</b>	None
<b>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</b>	None
<b>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.</b> 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.	None
<b>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 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.</b>	None
<b>Beneficial impact the regulation is designed</b>	Elimination of a regulation that is obsolete.

to produce.	
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**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.*

Retain the obsolete regulation. The best alternative is to repeal the regulation.

**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 repeal of this regulation will have no impact on the institution of the family or family stability.

**Detail of changes**

*Please list 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 in each section. Please describe 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.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10	None	Eligibility	Repeal of this regulation because it is obsolete. The program it governs no longer exists.

20	None	Ordering	Repeal of this regulation because it is obsolete. The program it governs no longer exists.
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For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

Enter any other statement here