

Board of Education Agenda Item

Item: D.

Date: September 22, 2011

Topic: First Review of Proposed Amendments to the *Regulations Governing Driver Education*
(8 VAC 20-340)

Presenter: Ms. Anne 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 October 28, 2010

Action First Review of the Notice of Intended Regulatory Action (NOIRA)

Background Information: The 1984 General Assembly adopted legislation amending the state's compulsory attendance laws (§ 22.1-254 of the *Code of Virginia*) to allow parents to teach their children at home in lieu of sending them to a public or private school. One of the provisions qualifying parents to home instruct their children permitted them to enroll a child in a correspondence course approved by the Board of Education. (§ 22.1-254.1 of the *Code*) Section 22.1-254.1 of the *Code* was later amended to allow correspondence courses addressing academic subjects to be approved by the Superintendent of Public Instruction. The 1999 General Assembly passed legislation to amend § 22.1-205 of the *Code of Virginia* to permit correspondence courses for driver education.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. (Emphasis added) These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools....

The 2008 General Assembly adopted HB 767, which removed the correspondence course approval requirement in § 22.1-254.1, so that parents who home school may use any correspondence course of their choosing to meet this option (with the exception of driver education), rendering the previous approval requirement moot. As a result of this action, the Regulations Governing the Approval of Correspondence Courses for Home Instruction are no longer necessary and need to be repealed.

However, § 22.1-205 of the *Code* still requires that the Board approve correspondence courses related to driver education. In order to ensure compliance with the requirements in the *Code*, a new section governing the approval of correspondence courses for driver education will be added to the Regulations Governing Driver Education. By adding a new section to the Regulations Governing Driver Education, the process for approval of correspondence courses for driver education will be consolidated in one set of regulations. There are no substantive changes to the requirements. These actions simply streamline the current approval process and provides clarity for users.

Summary of Major Elements: The proposed amendments to the Regulations Governing Driver Education would add a section on the process for approval of correspondence courses for driver education. The proposed amendments would include a definition section, the application and approval process, and the due process provisions if an application is denied or approval is revoked, and the provider wishes to appeal. The amendments require the applicant to submit to the Department as part of the application process an affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the driver education correspondence program.

Broad language in the current regulation allows the Department to ask for this information, but the more specific language in the proposed regulation enables all users to be fully aware of the regulatory expectations. Moreover, the approval criteria have been expanded to add a requirement that the content of each course meets the requirements of the Driver Education Standards of Learning and the Curriculum and Administrative Guide for Driver Education.

Currently, driver education correspondence schools submit to the Department a program using the requirements defined in the Regulations Governing the Approval of Correspondence Courses for Home Instruction. The submission requirements proposed in the Regulations Governing Driver Education mirror those requirements currently in place, and are intended to ensure that parents and students using driver education correspondence courses receive quality instruction aligned with Virginia standards.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed amendments to the Regulations Governing Driver Education.

Impact on Resources: The impact on resources is expected to be minimal.

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

REGULATIONS GOVERNING DRIVER EDUCATION

[8VAC20-340-10](#). Driver education program.

- A. In accordance with provisions of the National Highway Safety Act of 1966 (23 USC § 401 et seq.) and § [46.2-334](#) of the Code of Virginia, local school boards shall determine whether to offer a driver education program, and, if offered, whether it will be elective or required. School divisions offering programs that comply with the standardized program of study and regulations established by the Board of Education and the provisions of § [22.1-205](#) of the Code of Virginia are entitled to participate in the distribution of state funds for driver education.
- B. A state-approved driver education program consists of a minimum of 36 periods of classroom instruction and 14 periods of in-car instruction (laboratory phase). The standardized driver education program established by the Board of Education requires that:
1. Classroom and in-car instruction shall follow the standardized program of study.
 2. Local programs shall have the option that classroom driver education may be taught in lieu of 36 class periods of health education or as an elective course.
 3. Superintendents and heads of private schools must seek program approval from the Department of Education prior to providing instruction and certify that the proposed program meets all state-approved program requirements.
 4. The length of a class period must be a minimum of 50 minutes.
 5. Students must drive a minimum of 50 miles during the in-car phase of instruction.
 6. In-car instruction must be limited to no more than two periods of instruction in any 24-hour period, of which at least one must be actual driving.
 7. No more than four periods of actual driving and four periods of observation on a multiple-car-range can count towards the 14-period in-car requirement.
 8. Combination, on-street, simulation, and multiple-car-range programs must provide at least six periods of on-street driving and observation, four periods of multiple-car-range driving and observation, and eight periods of simulation.
 9. Only fees approved by the Board of Education shall be collected for the laboratory phase of driver education pursuant to the Appropriation Act.
 10. Public or private schools must submit classroom and in-car driver education teachers' driver license information for driver record monitoring as required by § [46.2-340](#) of the Code of Virginia.

11. Local school boards must develop written policies concerning initial or continued employment of classroom and in-car teachers who receive excessive demerit points on their driving record.
12. Public and private schools must provide the Department of Education with the previous year's program data to calculate in-car basic aid reimbursement and to monitor program compliance.
13. Classroom and laboratory phases of the program must be offered concurrently at the same school, or allow only a limited amount of time to elapse between classroom completion and laboratory instruction.
14. Students who have not successfully completed the classroom phase at one school cannot begin in-car instruction at another school.
15. Successful completion of a standardized end-of-course road skills assessment must be achieved prior to the school issuing a 90-day provisional license.

[8VAC20-340-20](#). Driver education vehicles.

The school division or school shall:

1. Provide a vehicle in excellent mechanical condition, equipped with dual-control brakes, a roof top sign, dual side mirrors, and safety restraints;
2. Ensure all driver education vehicles are equipped with restraint systems of the type approved by the Department of State Police in accordance with §§ [46.2-1093](#) and [46.2-1095](#) of the Code of Virginia;
3. Provide a vehicle with a current Virginia inspection sticker and license plate;
4. Insure the vehicle above the minimum amount required by state statute for liability and property damage; and
5. Identify the instructional vehicle by displaying "DRIVER EDUCATION VEHICLE" and name of school (or school division) attached to the top of the vehicle. The school name does not have to be on the rooftop sign and may appear in another visible location on the vehicle.

[8VAC20-340-30](#). Teacher requirements.

The standardized driver education program established by the Board of Education requires that teachers:

1. Hold a valid Virginia teaching license with an add-on endorsement or approved program endorsement in driver education; or, for in-car instruction, satisfy the paraprofessional training requirements;
2. Hold a valid Virginia driver's license; or, for teachers with valid out-of-state driver's licenses, provide the Department of Education with a copy of their driving record at the beginning of each

semester, at the beginning of summer school, and when they receive a moving violation;

3. Have a broad background of driving experiences (two years minimum) in cities, rural roadways and highways;
4. Possess sound physical, mental and emotional qualities;
5. Have a satisfactory driving record; teachers who have accumulated six or more demerit points shall be removed from providing behind-the-wheel instruction for a period of 24 months, (no public or private school shall retain its driver education program approval by the Department of Education unless the teacher is removed);
6. Who have had their license suspended or revoked, or who have received a Driving Under the Influence (DUI) arrest or conviction, be immediately removed from any classroom or laboratory driver education teaching assignment;
7. Obtain parent/guardian permission to enroll a student in the laboratory phase of instruction;
8. Make every reasonable effort to protect students from injury;
9. Ensure the proper use of safety restraints by all persons occupying the driver education vehicle;
10. Ensure that the student driver has in his possession a valid Virginia learner's permit when operating a driver education vehicle;
11. Have at least two students, or no more than three students, in the car; however, when it is in the best interest of the student, and with prior written permission from the parents or legal guardians, one student may be scheduled for in-car instruction;
12. Shall not allow the driver education vehicle to be used by any student during on-street instruction without the teacher being in the vehicle providing direct instruction. If the vehicle is parked and students remain in the vehicle, the keys shall be removed by the teacher. In no event should the vehicle's engine remain running with students inside the vehicle without the teacher also being inside the vehicle; and
13. Shall not allow the driver education vehicle to be used during multiple-car range instruction without teacher supervision.

DOCUMENT INCORPORATED BY REFERENCE (8VAC20-340)

Curriculum Guide of Driver Education in Virginia

8VAC 20-340-40. Approval of Correspondence Courses for Driver Education.

A. Definitions.

The following words or terms, when used in these regulations, shall have the following meaning unless the context clearly indicates otherwise:

"Board" means the Virginia Board of Education.

"Correspondence school" means a school, organization, or other entity, no matter how titled, that teaches students by mailing them lessons and exercises which upon completion are returned to the school for grading. Such lessons or exercises also may be transmitted and graded by electronic means.

"Course" means the presentation of an orderly sequence of material dealing with an individual subject area such as driver education.

"Department" means the Virginia Department of Education.

"Home instruction" means the teaching of a child or children by a teaching parent in the home as an alternative to meeting the requirements of compulsory attendance as defined in § 22.1-254 of the Code of Virginia and as a means of complying with § 22.1-254.1 of the Code of Virginia.

"Parent" means any parent, guardian, legal guardian, or other person having control or charge of a child as specified in § 22.1-1 of the Code of Virginia.

"School" means a correspondence school for driver education programs.

B. Required Submissions.

Schools seeking approval to offer the classroom portion of a driver education program to school-age children through a correspondence program or course in Virginia shall submit the following:

1. A signed and completed copy of the Department's Affidavit form.
2. A catalog or other documents containing the following information:
 - a) A statement of ownership or control of the institution;
 - b) Descriptions of the driver education courses offered by the institution;
 - c) A description of the method used to evaluate the students' work;
 - d) A schedule of tuition and fees; including its refund policies; and
 - e) Copies of all application forms and enrollment agreements used by the school.

3. Verification of approval or exemption from regular oversight from the appropriate state or local government agency in the school's state of domicile.
4. Information regarding its accreditation status.
5. The name and publisher of the textbook required.
6. An estimate of the minimum amount of time (in hours) required to complete the course.
7. Such additional information as the Board or Department may deem necessary.

C. All schools must evaluate the students' work at regular intervals specified by the Department and maintain a permanent record of the work.

D. Each school meeting the criteria listed in these regulations is required to submit the required materials for review every year concurrent with the renewal Affidavit.

E. Approval Criteria

Driver education courses offered by schools submitting the materials required by these regulations shall be approved if the following criteria have been met:

1. The school is, in fact, a correspondence school as defined in these regulations;
2. The courses offered are consistent with state or federal laws or regulations;
3. The school evaluates the students' progress at regular intervals specified by the Department and maintains a permanent record of that work; and
4. The content of each course is accurate, rigorous, and meets the requirements of the Curriculum and Administrative Guide for Driver Education which includes the Driver Education Standards of Learning.

The school must provide evidence that at least two subject matter experts have reviewed and validated the accuracy of online content and textbook materials.

F. The Department will consider an application complete when it determines that all required information has been submitted in the form required by the Department. If the Department finds the application incomplete, the applicant will be notified in writing within 45 days of receipt of the incomplete application. If the applicant does not resubmit a complete application within 45 days from the notification, the case file for the request for approval as a provider will be closed. Prior to closure, the applicant may withdraw the request for approval. The applicant may resubmit a complete application at a later time.

G. Approval Process

After a review of the complete application, the Department will notify the applicant of its

decision regarding approval. If the application is approved, the Department will issue a letter of approval with terms of the approval. If the Department denies or revokes the approval for good cause, the Department will issue a letter stating the reasons for revocation and denial including information regarding the applicant's right to appeal this decision.

H. Appeal Process for Denial or Revocation

1. Fact-finding conference; notification, appearance, conduct.

- a) Unless emergency circumstances exist that require immediate action, no application shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a fact-finding conference.
- b) If a basis exists for a refusal to approve or a suspension or a revocation of the Department's approval, the Department shall notify, by certified mail or by hand delivery, the interested parties at the address of record maintained by the Department.
- c) Notification shall include the basis for the proposed action and any information in the possession of the Department that can be relied upon in making an adverse decision.
- d) The fact-finding conference shall afford the interested party the opportunity to present written and oral information to the Department that may have a bearing on the proposed action at a fact-finding conference. Such information should include a brief, written statement of errors the party believes were made in the Department's decision.
- e) If no withdrawal occurs, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. A school wishing to waive its right to a conference to proceed directly to a formal hearing shall notify the Department of such at least 14 days before the scheduled conference.
- f) The Department may rely on public data, documents or information in making its decision if all parties are given advance notice of the Department's intent to rely on such data.
- g) If after consideration of information presented during an informal fact-finding conference, a basis for adverse action still exists, the Department shall send to the interested parties a report on the fact-finding conference within 90 days of the conference, via certified or hand-delivered mail, which shall include the decision, a brief and general description of the factual or procedural basis for the decision, and the right to a formal hearing.
- h) Parties may enter into a consent agreement to settle the issues at any time prior to, during or subsequent to an informal fact-finding conference.

2. Hearing; notification, appearance, conduct.

- a) If an interested party intends to request a formal hearing, it shall notify the Department within 30 days of receipt of a report on the fact-finding conference.
- b) Parties shall be given reasonable notice of the (i) time, place, and nature of the hearing, (ii) basic law under which the Department contemplates its possible exercise of authority, and (iii) matters of fact and law asserted or questioned by the Department.
- c) If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in the party's/representative's absence and make a recommendation.
- d) Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.
- e) The burden of proof at such hearings shall be on the party seeking to reverse the decision of the Department.

3. Hearing location. Hearings before a hearing officer shall be held, insofar as practical, in the county or city in which the school is located. Hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, videoconference or similar technology in order to expedite the hearing process. No hearing shall be located outside of the state of Virginia unless it is held by electronic means as specified in the Code of Virginia.

4. Hearing decisions.

- a) Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or basis for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.
- b) The Superintendent of Public Instruction shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.
- c) The Superintendent's decision regarding the school's approval shall be delivered to the concerned parties within 5 days of the decision and include a brief statement of the conclusions, the basis of the conclusions, the basic law upon which the Department relies, the recommendation of the hearing officer.

5. Agency representation. The Superintendent's designee may represent the Department in an informal conference or at a hearing.

I. Determination of Continued Compliance

Approval of the academic courses shall be renewed annually on or before August 1, provided the school verifies that it continues to meet the requirements of these regulations. Forms for this purpose shall be provided by the Department.

J. Disclaimer

The Board of Education's approval of a correspondence course is not an endorsement of the program as a substitute for public school programs nor is it an endorsement of the educational or operational philosophy of the school. Additionally, the approval of courses is not intended as an endorsement of the quality of the courses nor is it a conclusion that these courses meet the educational needs of the student or the assessment required by § 22.1-254.1 of the Code of Virginia.

Parents who choose to educate their children at home through a driver education correspondence course are directly responsible for the educational progress of their children and the adequacy of instruction. The Board of Education assumes no liability for damages or financial loss to parents using any of the approved driver education correspondence courses.

K. Restrictions

No school whose courses are approved as a driver education program shall advertise in any way that the courses have the endorsement, recommendation, accreditation, recognition, or any other similar term, of the Board, the Department, or the Commonwealth of Virginia.

L. Transmitting the Affidavit, Documents and Other Materials

The Affidavit, related letters, forms, and other required application materials, must be submitted to the Division of Instruction at the Virginia Department of Education by e-mail to the Driver Education Specialist, whose contact information may be found at <http://www.doe.virginia.gov/directories/index.shtml#vdoe>

DOCUMENT INCORPORATED BY REFERENCE (8VAC20-340)

Curriculum and Administrative Guide for Driver Education which includes the Driver Education Standards of Learning



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-340
Regulation title	<i>Regulations Governing Driver Education</i>
Action title	This action adds a new section to 8 VAC 20-340, <i>Regulations Governing Driver Education</i> , which regulates driver education correspondence courses that are programs primarily used by students who are homeschooled.
Date this document prepared	August 25, 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

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.

In 1984, the Virginia General Assembly adopted legislation amending the state’s compulsory attendance laws (§ [22.1-254](#) of the *Code of Virginia*) to allow parents to teach their children at home in lieu of sending them to a public or private school. One of the provisions qualifying parents to home instruct their children permitted them to enroll a child in a correspondence course approved by the Board of Education. (§ [22.1-254.1](#) of the *Code*) In 1999, the General Assembly amended § [22.1-205](#) of the *Code* to permit the Board to approve correspondence courses in the classroom portion of driver education for parents who home-school their children.

The 2008 General Assembly adopted [HB 767](#) which removed the correspondence course approval requirements in § [22.1-254.1](#) so that parents who home instruct can use any correspondence course of their choosing to meet this option rendering the previous approval requirement moot. As a result of this action, the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#) is no longer necessary and is being repealed. However, the requirement for the approval of correspondence courses for driver education by this

Department remains. In order to ensure continued compliance with this requirement, a new section governing the approval of correspondence courses for driver education by this Department will be added to the [Regulations Governing Driver Education](#); thus, consolidating the process for approval of correspondence courses for driver education in one set of regulations. This streamlines the current approval process and provides clarity for users.

The proposed new section of the revised regulation, the [Regulations Governing Driver Education](#), includes the definition section from the repealed regulation with minor revisions and also adds a definition for the term “parent.” In addition, the revised regulation requires the applicant to submit to the Department as part of the application process an Affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the correspondence program. Broad language in the current regulation allows the Department to ask for this information, but the more specific language in the proposed regulation enables all users to be fully aware of the regulatory expectations. Moreover, the approval criteria have been expanded to add a requirement that the content of each course meets the requirements of the [Driver Education Standards of Learning](#) and the [Curriculum and Administrative Guide for Driver Education](#). An appeals process has also been added to clarify the applicant’s right to due process.

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.

All technical terms used in the document are defined in the “Definition” section of the revised regulation.

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.

Section [22.1-16](#) of the *Code of Virginia* vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. In addition, § [22.1-205](#) of the *Code* provides the Board with the authority to approve correspondence courses for the classroom training component of driver education.

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.

The proposed regulatory action is essential to protect the health, safety, and welfare of citizens in that it will ensure that courses offered by correspondence schools in driver education will meet state requirements for such programs. It will also help ensure that young aspiring drivers receive adequate instruction prior to seeking a driver's license.

A new section regarding approval of correspondence courses for driver education will be added to the [Regulations Governing Driver Education](#); thus, consolidating the process for approval of correspondence courses for driver education in one set of regulations. This will streamline the current process and delete an obsolete set of regulations, [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#).

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 change will repeal an outdated regulation (the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#)) initially adopted by the Board of Education in 1985 and revise a current regulation (the [Regulations Governing Driver Education](#)) directed specifically at approving driver education courses offered as correspondence programs. The need for a separate set of regulations was eliminated by an amendment to § [22.1-254.1](#) of the *Code of Virginia* by the 2008 General Assembly.

The proposed new section of the revised regulation, the [Regulations Governing Driver Education](#), includes the definition section from the repealed regulations with minor revisions and also adds a definition for the term "parent." In addition, the revised regulation requires the applicant to submit to the Department as part of the application process an Affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the correspondence program. All of the revisions are proposed to protect the parents and students who use these programs. Moreover, the approval criteria have been expanded to add a requirement that the content of each course meet the requirements of the [Driver Education Standards of Learning](#) and the [Curriculum and Administrative Guide for Driver Education](#). An appeals process has also been added to clarify the applicant's right to due process.

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 indicate.

This proposal will ensure that courses approved by the Board of Education and offered by driver education correspondence programs will meet the minimal requirements for such programs offered in public schools. It will also help ensure that young aspiring drivers receive adequate instruction prior to seeking a driver's license. This should ensure better drivers and a safer public. In addition, the proposed revisions will protect the parents and students who use these programs.

This regulatory action does not pose a disadvantage to the public or to the Commonwealth in any way.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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 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.

There is no disproportionately significant impact on any locality.

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 is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the 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 Town Hall Web site, www.townhall.virginia.gov, or The Policy Office, Att: Comments on Proposed Revision to Driver Education Regulations, P.O. Box 2120, Richmond, VA 23218-2120, by phone number at 804-225-2092, by fax number at 804-530-4502, or by e-mail at POLICY@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 public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

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 requirements create 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 minimal cost to the state to implement the proposed revision of the regulation. Existing allocations should be sufficient to fund the state’s responsibilities.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>There should be no cost to localities, as these regulations do not directly affect localities.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>The Virginia Department of Education, some parents who home school, some students who are home-schooled, and correspondence programs which provide driver education in Virginia will be affected by the new regulation.</p>
<p>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.</p>	<p>Currently there are four approved driver education correspondence programs in Virginia.</p>
<p>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.</p>	<p>Any additional costs created by the proposed changes should be insignificant.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>This proposal consolidates two sets of regulations already in place. All of the revisions are proposed to protect the parents and students who use these programs. Moreover, the approval criteria have been expanded to add a requirement that the</p>

	content of each course meets the requirements of the Driver Education Standards of Learning and the Curriculum and Administrative Guide for Driver Education and an appeals process has also been added to clarify the applicant's right to due process.
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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.

The alternative considered was to maintain an obsolete set of regulations intended for another purpose and earlier time and continue to approve driver education correspondence courses under these regulations. However, this change is the most efficient and cost-effective manner to approve these courses.

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.

During the development of the proposed regulations, this Department has made efforts to minimize the number of regulations that will impact the driver education correspondence programs while maintaining the minimum requirements that will assure the safety of citizens and students in the Commonwealth.

Public comment

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

Commenter	Comment	Agency response
Matty	Fiscally responsible? I'm not sure this is the most fiscally responsible route to take. How can we propose alternative	This proposal has a minimal fiscal impact. Any proposals for alternative measures may be submitted to the Board of Education at Policy@doe.virginia.gov

	measures? -Matty from Mini Trampoline Headquarters	
Alex	Fiscal reforms I think that fiscal reforms are a MUST, but we should hire real professionals to implement them... a fiscal measure requires more feasibility studies... Thanks, Alex Cursuri Dezvoltare Personala	This proposal does not address fiscal reforms or feasibility studies.
Frederik Friis	Many Regulations Is Needed I think to make good condition and good rule.need to make regulations.i agree with this regulation and i suggestion to this regulations.thanks <u>Makeityourring Diamond Engagement Rings</u>	No response necessary.

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.

There is no potential additional impact on the family. In fact, the repeal of obsolete regulations and the revisions to the existing driver education regulations is expected to benefit families because the proposed regulatory revisions ensure that families using correspondence courses can find all pertinent information related to the correspondence course approval process in one set of regulations rather than two.

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 if implemented 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

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
<p>8 VAC 20-340- 40</p>	<p>The proposed change will repeal an outdated regulation revise a current regulation (the Regulations Governing Driver Education) directed specifically at approving driver education courses offered as correspondence programs. These programs are currently being regulated under an obsolete set of regulations (the Regulations Governing the Approval of Correspondence Courses for Home Instruction) initially adopted by the Board of Education in 1985. The need for a separate set of regulations was eliminated by an amendment to § 22.1-254.1 of the <i>Code of Virginia</i> by the 2008 General Assembly.</p> <p>The proposed new section of the revised regulation, the Regulations Governing Driver Education, includes the definition section from the repealed regulations with minor revisions and also adds a definition for the term “parent.” In addition, the revised regulation requires the applicant to submit to the Department as part of the application process an Affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the correspondence program. All of the revisions are proposed to protect the parents and students who use these programs.</p> <p>Moreover, the approval criteria have been expanded to add a requirement that the content of</p>	<p>§ 22.1-205 of the <i>Code of Virginia</i></p>	<p>This proposal will ensure that courses approved by the Board of Education and offered by correspondence programs in driver education will meet or exceed requirements for such programs offered in public schools. It will also help ensure that young aspiring drivers who are homeschooled will receive adequate instruction prior to seeking a driver’s license.</p>

	<p>each course meets the requirements of the <u>Driver Education Standards of Learning</u> and the <u>Curriculum and Administrative Guide for Driver Education</u>. An appeals process has also been added to clarify the applicant's right to due process.</p>		
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