

Virginia Board of Education Agenda Item



Agenda Item: N

Date: January 10, 2013

Title	First Review of Rescission of the Board of Education's Final Adoption of the <i>Regulations Governing Unexcused Absences and Truancy</i> and Adoption of Re-Proposed <i>Regulations Governing Unexcused Absences and Truancy</i>		
Presenter	Dr. Cynthia A. Cave, Director, Office of Student Services		
E-mail	Cynthia.Cave@doe.virginia.gov	Phone	(804) 225-2818

Purpose of Presentation:

Action required by state or federal law or regulation.

Previous Review or Action:

Previous review and action. Specify date and action taken below:

Date: September 17, 2009 and July 22, 2010

Action: Approval of the Notice of Intended Regulatory Action (NOIRA)

Date: January 13, 2011

Action: First Review

Date: March 22, 2012

Action: Public Hearing

Date: July 26, 2012

Action: Second Review

Date: September 27, 2012

Action: Final Review

Date: November 29, 2012

Action: First Review of a Technical Amendment (waived and approved)

Action Requested:

Further review: Action requested at this meeting.

Alignment with Board of Education Goals: Please indicate (X) all that apply:

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners

	Goal 5: Highly Qualified and Effective Educators
X	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
	Other Priority or Initiative. Specify:

Goal 6: The proposed regulations to govern the *Collection and Reporting of Unexcused Absences and Truancy Data and Student Attendance Policies* set forth procedures for the collection of data to identify students at risk of academic failure due to missed days at school and for intervention to resolve school attendance problems. The proposed regulations provide consistency across school divisions in the collection and reporting of school attendance data that are required by the *Code of Virginia* at § 22.1-260.B, as well as guidance on student attendance policies. Due to the strong link between attendance and successful completion of school, consistent monitoring of truancy and intervening with supports for students and families are critical. School divisions can use documented attendance data to examine and evaluate attendance patterns, to address identified problems, to assess the effectiveness of interventions, and to develop policies and practices to promote daily student attendance.

Background Information and Statutory Authority:

Section 22.1-16 of the *Code* establishes the authority of the Board of Education to promulgate regulations as follows:

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.

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. Ten public comments were received during a 21-day public comment period in support of establishing regulations. No comments were received in opposition to establishing regulations. Subsequently, staff worked with a statewide advisory committee of twenty-seven members to discuss attendance issues and to draft proposed regulations. The committee included 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, and Legal Aid Justice Center.

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. On January 13, 2011, the Board of Education reviewed the proposed *Regulations Governing Unexcused Absences and Truancy* and authorized staff to proceed with the remaining steps required by the Administrative Process Act (APA).

During the 2012 General Assembly session, HB 886 (Alexander) was adopted by the General Assembly to require the Board of Education to promulgate regulations addressing truancy as follows:

That the Board of Education shall promulgate regulations by July 1, 2013, to address truancy. In promulgating these regulations, the Board shall address the following: (i) provisions for early intervention at the school level for repeated unexcused absences; (ii) identification of and a plan to address a student's academic, social, familial, and other barriers that impede attendance in school; and (iii) arrangement of conferences that may be necessary between school personnel, students, parents, and community services providers, as appropriate, to address plans and strategies to improve student attendance, including, but not limited to, referrals to family assessment and planning teams.

The Governor vetoed the bill because the Board of Education was in the process of promulgating the proposed *Regulations Governing Unexcused Absences and Truancy*. His veto explanation follows:

While this Section I legislation has a worthy goal, it is not necessary since the Virginia Board of Education is currently in the process of promulgating Regulations Governing Unexcused Absences and Truancy [8 VAC 20 - 730]. These new regulations will govern the collection and reporting of truancy-related data and provide guidance on school attendance policy.

The proposed regulations were initiated in 2010, and are in the final stages of the Administrative Process Act (APA).

As the Board of Education completes the regulatory process, I will ask the Board via letter to address the criteria outlined in HB 886, and consider emphasizing the importance of working with the parents and the community organizations early in the process, before truancy becomes a serious problem for a student.

I am confident the laudable intent of HB 886 can easily be addressed in the truancy regulations currently being promulgated by the Virginia Board of Education. Hence, HB 886 is not necessary.

On March 22, 2012, a public hearing was held to receive comments about the proposed regulations. There were three submittals of public comments received during the continued APA process. Based on comments received and on the proposed HB 886 and the Governor's veto message, the proposed regulations were amended to provide clarity and to increase specificity prior to presentation to the Board of Education for second review.

On July 26, 2012, the amended proposed regulations were presented to the Board of Education for second review. The Board approved additional amendments to the proposed regulations during the July meeting and authorized an additional 30-day public comment period. The Board

wished to receive the suggestions and concerns of educators, parents, students, civic and community leaders, and other interested citizens in addressing truancy issues prior to final approval of the regulations.

Public comment received by the Board subsequent to the July 26 meeting included thirteen additional comments from the Virginia Education Association, individual principals and school social workers, individuals, and the Virginia Association of Secondary School Principals. In summary, the comments encompassed: the importance of accountability by parents and by students for unexcused less than full day attendance; the responsibility of the Board to enforce the *Code* statutes addressing attendance, to include partial day absences; the counting of suspended days as “excused”; the attendance by young children at meetings with school officials during attendance plan development and conferences to plan interventions; the importance of having a division policy for truancy; and the administrative impact of procedures to be followed to intervene and to address continued unexcused absences. Details of all public comments received and the agency responses to them were provided in the Town Hall document.

At the September 27, 2012, meeting of the Board of Education, the proposed regulations were considered and reviewed for final adoption. Amendments to the language associated with the definition of “excused absence” were adopted by the Board at that time. The sentence “*Absences resulting from suspensions shall be considered excused.*” was deleted. The words “*and suspended*” were added to the sentence “*Expelled and suspended students continue to remain under the provisions of compulsory school attendance, Code of Virginia, § 22.1-254.*” Language was added to state: “*An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements.*” The proposed regulations were approved at the meeting.

After the Board meeting, questions were raised about the interpretation of the definition of “excused absence,” as amended at the September 27th meeting. Concerns were raised that there could be unintended consequences with the phrase “unless the parent fails to otherwise adhere to the compulsory school attendance requirements,” which could lead to interpretation by a school division that a suspension or an expulsion cannot be considered an excused absence if the parent fails to adhere to compulsory attendance requirements. This could result in undesirable referrals to juvenile court for truancy when the student is suspended or expelled from school. To provide school divisions with the flexibility to make determinations based on what is best for individual students, the phrase was stricken and the proposed regulations were adopted by the Board of Education at the November 29th meeting.

As a result of executive review and in light of the amendments to the regulations over the last several months, the Superintendent is recommending that in accordance with section 2.2-4007.03 of the *Code*, the Board of Education allow for an additional public comment period by re-proposing the regulations. The additional public comment period during the re-proposed stage will solicit comments on the numerous changes since the original proposed regulations, including the technical amendment made to the definition of “excused absence” by the Board of Education on November 29, 2012.

The Department of Education will send a draft of the agency's summary description of public comment to all public commenters on the re-proposed regulation at least five days before final adoption of the regulation.

Summary of Important Issues:

What follows is a summary of amendments to the proposed regulations since being presented for first review.

Part I of the regulations, 8VAC 20-730-10, which provides definitions of terms, has been amended as follows:

- The definition of “attendance plan” was amended to specify participating school representatives, to include resolution of a student’s nonattendance, and to include participation by the student.
- The definition of “attendance conference” was amended to remove “if appropriate” from “attendance of student at the conference” in order to align with the *Code* and to specify the role of community representatives.
- The definition of “court referral” was amended to replace “referral...to intake worker” with “filing a complaint through petition” for clarity. “Records of interventions regarding the student’s unexcused absences” was added to the list of materials provided for specificity.
- The definition of “excused absence” was amended to replace “excuse” with “reason.” The definition was further amended at the September 27 Board of Education meeting to delete “Absences resulting from suspensions shall be considered excused.” The words “and suspended” were added to the sentence “Expelled and suspended students continue to remain under the provisions of compulsory school attendance, *Code of Virginia*, § 22.1-254.” Also, language was added to state: “An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements.” At the November 29 meeting, the Board of Education amended the definition to strike the clause “unless the parent fails to otherwise adhere to the compulsory school attendance requirements.”
- At the July 26 meeting, the Board of Education removed the word “authority” from “school administration authority” to avoid redundancy within the definition of “excused absence.”
- The definition of “multidisciplinary team” was amended to specify the ability of the team to participate in addressing student attendance. A reference to how work is done was deleted.
- The definition of “parent” was amended to align with the *Code*, and “legal custodian(s)” was added.
- The proposed regulations as presented to the Board of Education in July presented an amendment to the definition of “unexcused absence” to delete references to missing “part of

the scheduled instructional school day without permission from an administrator.” School division policies vary on how partial absences from school without acceptable reasons are counted. In some cases, a school division policy is different for how absences are counted in elementary schools (whole days) to how they are counted in high schools (specified hours for block schedules or class periods in high school.) Also, in some cases, records of an unexcused tardy or unexcused early dismissal are kept, and follow up occurs with the family and student; however, for purposes of truancy, unexcused absences are based on full days. To avoid potential complicating of division data reporting systems and overloading of court cases required by the *Code* after seven unexcused absences, the proposed definition has been amended to missing a full day only, with the recognition of the importance and goal of early intervention in attendance problems. This change also aligns the definition of “unexcused absence” with that of the federal Uniform Data Set (UDS) guidelines supporting the No Child Left Behind Act, which references missing an entire school day. The definition of “unexcused absence” was also amended to replace “excuse” with “reason” and to replace school “administrator” with “administration” for consistency. A further amendment was the deletion of “absences resulting from suspensions shall not be considered unexcused” from this definition.

- Note that the proposed definition of truancy is “the act of accruing one or more unexcused absences.” This definition differs from the federal UDS guide supporting NCLB, which defines truancy as “a pattern of repeated unexcused absences from compulsory education.” The reporting requirement from the UDS is that states collect and report data on truancy rates. The “truancy rate” as defined by UDS is “the rate of students who have 10 or more unexcused absences per year per 100 students, with the definition of ‘unexcused’ based on local definition. Prior to the issuance of the federal guidance, the Virginia Department of Education had determined that a report of truancy rates be based on unexcused absences of seven or more. Reporting ten or more unexcused absences, instead of seven, can be easily achieved.

Part II, 8VAC 20-730-20, which provides process and responsibilities for addressing unexcused absences, has been amended as follows:

- At the July 26 meeting, the Board of Education added the following language to Part II, creating new “A” and “B” sections.

“A. Each local school board shall provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.”

“B. Each local school board shall develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.”

- Under the new section C.(1), a sentence was added to state “Early intervention with the student and parent(s) shall take place for repeated unexcused absences.” to reinforce the

timely identification of repeated unexcused absences and early intervention to address nonattendance reasons.

- Under the new section C.(2), “with the student and parent(s)” was added after “attendance plan shall be made” to align with the *Code*.
- Under the new section C.(3), “fifteen” was replaced with “15.”
- Under the new section C.(3), the word “calendar” was replaced by “school” at the July 26 meeting to align with the *Code*.
- Under the new section C.(3), “when applicable” after “student” was deleted to align with the *Code*.
- Under the new section C.(4), the phrase “all records of intervention regarding the student’s unexcused absences, such as” has been added before a list of materials to accompany the petition to Juvenile and Domestic Relations Court for specificity.
- Under the new section C.(4), the phrase “presented to the intake worker” was deleted and replaced with “attached to the petition” for specificity.
- Under the new section C.(4), the sentence “The decision shall be made by the intake worker either to divert the case or to file the petition for presentation before the court.” was deleted because it is unnecessary.
- Under the new section D., the sentence “This record does not become a part of the student’s permanent scholastic record” was deleted for consistency with *Code* requirements for the student record.

Part III, 8VAC 20-730-30, which provides requirements for data collection and reporting, has been amended as follows:

- Under “5,” the phrase “court referral” before “petition” was deleted and “or if proceedings against parents were instituted, and, if not, the reason” added after “petition was filed” for specificity and consistency

The Superintendent of Public Instruction recommends that the Board of Education rescind its final adoption of the regulations, and re-propose the regulations, providing for an additional public comment period. The additional public comment period during the re-proposed stage will solicit comments on the numerous changes since the original proposed regulations, including the technical amendment made to the definition of “excused absence” by the Board of Education on November 29, 2012.

Impact on Fiscal and Human Resources:

The rescission of the Board's final adoption of the regulations and the submission of the regulations as re-proposed will not have a significant impact on fiscal and human resources.

Timetable for Further Review/Action:

The Board will re-propose the regulations, according to the Administrative Process Act, including a public comment period after the executive review process.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education waive first review and (1) rescind its final adoption of the *Regulations Governing Unexcused Absences and Truancy*, and (2) approve the re-proposed *Regulations Governing Unexcused Absences and Truancy* as attached, to include additional public comment, and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act.

Re-Proposed Text

Changes from Proposed to Re-Proposed Shown in [Brackets]

CHAPTER 730

REGULATIONS GOVERNING THE COLLECTION AND REPORTING OF TRUANCY [RELATED DATA AND STUDENT ATTENDANCE POLICIES]

8VAC20-730-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Attendance plan" means ~~action steps~~ a plan] developed [jointly] by a school representative, [such as a school principal or his designee or attendance officer;] parent, and student [(if appropriate)] to [resolve the student's nonattendance and] engage the student in regular school attendance. The plan shall identify [reasons for nonattendance and] academic, social, emotional, and familial barriers that impede daily attendance along with positive strategies to [address them and] support regular attendance. This plan may include school-based activities or suggested referrals to community supports, or both.

"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] participate in resolving issues related to nonattendance and revisions to the current attendance plan if necessary] .

"Court referral" means [referral filing a complaint through petition] to the Juvenile and Domestic Relations Court [intake worker] after the student's seventh unexcused absence. [Copies Records of interventions regarding the student's unexcused absences, such as 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 a reason] acceptable to the school administration that is provided by the parent. If circumstances permit, the parent should provide the school [authority administration] 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. [Expelled and suspended students continue to remain under the provisions of compulsory school attendance, Code of Virginia, §22.1-254. An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements.]

"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 may be convened] to review student records and to [identify an integrated system of care for the student in need, including (i)] participate in] prevention, early intervention, and [provision of] support services [and to address unexcused absences, including] [(ii)] 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 or parents, guardian or guardians [, legal custodian or legal custodians,] or other person or persons having legal control [or charge] of the student.

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

"Unexcused absence" means an absence where (i) [either] the student misses his scheduled instructional school day in its entirety [or misses part of the scheduled instructional school day without permission from an

~~administrator] and (ii) 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 a reason] that is unacceptable to the school administration. [An administrator The school administration] may change an unexcused absence to an excused absence when [it determines that] the parent has provided an acceptable [excuse reason meeting criteria] for the student's absence or there are extenuating circumstances. [Absences resulting from suspensions shall not be considered unexcused.]~~

8VAC20-730-20. Unexcused absences intervention process and responsibilities.

A. [Each local school board shall provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.

B. Each local school board shall develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.

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

1. 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, or 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." [Early intervention with the student and parent or parents shall take place for repeated unexcused absences.]

2. 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), reasons for nonattendance shall be documented and the consequences of nonattendance explained. An attendance plan shall be made [with the student and parent or parents] 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.

3. The school principal or designee or the attendance officer shall schedule a face-to-face attendance conference within 10 school days from the date of the student's sixth unexcused absence for the school year. The attendance conference must be held within 15 [school] 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 or representatives from the multi-disciplinary team) and may include community service providers.

4. The school principal or designee shall notify the attendance officer or division 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 of the Code of Virginia, [all records of intervention regarding the student's unexcused absences, such as] copies of the conference meeting notes, attendance plan, and supports provided prior to filing the petition shall be [presented to the intake worker attached to the petition] . [The decision shall be made by the intake worker either to divert the case or to file the petition for presentation before the court.]

[~~BD~~] . 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.]

8VAC20-730-30. Data collection and reporting.

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 in

a manner] 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:

1. All excused and unexcused absences as defined in this chapter for each individual student shall be collected.
2. For each student with five unexcused absences, whether an attendance plan was developed, and if not, the reason.
3. For each student with six unexcused absences, whether an attendance conference was scheduled, and if not, the reason.
4. For each student with six unexcused absences, whether an attendance conference was actually held, and if not, the reason.
5. For each student with seven unexcused absences, whether a [~~court referral or~~] petition was filed [or if proceedings against the parent or parents were initiated, and, if not, the reason] .



Re-Proposed Regulation Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-730-10
Regulation title	Regulations Governing Unexcused Absences and Truancy
Action title	Procedures for the collection of truancy data and unexcused/non-verified absence intervention process and responsibilities .
Date this document prepared	January 2, 2013

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.

The re-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 consistency in data collection and reporting among school divisions and to the Virginia Department of Education (VDOE). Attendance data can be used to establish and revise school attendance policies and best practices to engage students in daily attendance and to promote early intervention for repeated unexcused absences. 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.

In response to review and public comment during the proposed stage, the regulations as initially proposed have been amended and re-proposed.

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 citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

§ 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 therefore, 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 postsecondary 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 re-proposed regulations are organized according to the following sections:

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 nonattendance 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 petitions made to court or proceedings against parents.

On January 13, 2011, the Board of Education reviewed the original proposed *Regulations Governing Unexcused Absences and Truancy* and authorized staff to proceed with the remaining steps required by the Administrative Process Act (APA).

During the 2012 General Assembly session, HB 886 (Alexander) was adopted by the General Assembly to require the Board of Education to promulgate regulations addressing truancy as follows:

That the Board of Education shall promulgate regulations by July 1, 2013, to address truancy. In promulgating these regulations, the Board shall address the following: (i) provisions for early intervention at the school level for repeated unexcused absences; (ii) identification of and a plan to address a student's academic, social, familial, and other barriers that impede attendance in school; and (iii) arrangement of conferences that may be necessary between school personnel, students, parents, and community services providers, as appropriate, to address plans and strategies to improve student attendance, including, but not limited to, referrals to family assessment and planning teams.

The Governor vetoed the bill because the Board of Education was in the process of promulgating the proposed *Regulations Governing Unexcused Absences and Truancy*. His veto explanation follows:

While this Section I legislation has a worthy goal, it is not necessary since the Virginia Board of Education is currently in the process of promulgating Regulations Governing Unexcused Absences and Truancy [8 VAC 20 - 730]. These new regulations will govern the collection and reporting of truancy-related data and provide guidance on school attendance policy.

The proposed regulations were initiated in 2010, and are in the final stages of the Administrative Process Act (APA).

As the Board of Education completes the regulatory process, I will ask the Board via letter to address the criteria outlined in HB 886, and consider emphasizing the importance of working with the parents and the community organizations early in the process, before truancy becomes a serious problem for a student.

I am confident the laudable intent of HB 886 can easily be addressed in the truancy regulations currently being promulgated by the Virginia Board of Education. Hence, HB 886 is not necessary.

On March 22, 2012, a public hearing was held to receive comments about the proposed regulations. There were three submittals of public comments received during the continued APA process. Based on comments received and on the proposed HB 886 and the Governor's veto message, the proposed regulations were amended to provide clarity and to increase specificity prior to presentation to the Board of Education for second review.

On July 26, 2012, the amended proposed regulations were presented to the Board of Education for second review. The Board approved additional amendments to the proposed regulations during the July meeting and authorized an additional 30-day public comment period. The Board wished to receive the suggestions and concerns of educators, parents, students, civic and community leaders, and other interested citizens in addressing truancy issues prior to final approval of the regulations.

Public comment received by the Board subsequent to the July 26 meeting included thirteen additional comments from the Virginia Education Association, individual principals and school social workers,

individuals, and the Virginia Association of Secondary School Principals. In summary, the comments encompassed: the importance of accountability by parents and by students for unexcused less than full day attendance; the responsibility of the Board to enforce the Code statutes addressing attendance, to include partial day absences; the counting of suspended days as “excused”; the attendance by young children at meetings with school officials during attendance plan development and conferences to plan interventions; the importance of having a division policy for truancy; and the administrative impact of procedures to be followed to intervene and to address continued unexcused absences. Details of all public comments received and the agency responses to them were provided in the Town Hall document.

At the September 27, 2012, meeting of the Board of Education, the proposed regulations were considered and reviewed for final adoption. Amendments to the language associated with the definition of “excused absence” were adopted by the Board at that time. The sentence “*Absences resulting from suspensions shall be considered excused.*” was deleted. The words “*and suspended*” were added to the sentence “*Expelled and suspended students continue to remain under the provisions of compulsory school attendance, Code of Virginia, § 22.1-254.*” Language was added to state: “*An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements.*” The proposed regulations were approved at the meeting.

After the Board meeting, questions were raised about the interpretation of the definition of “excused absence,” as amended at the September 27th meeting. Concerns were raised that there could be unintended consequences with the phrase “unless the parent fails to otherwise adhere to the compulsory school attendance requirements,” which could lead to interpretation by a school division that a suspension or an expulsion cannot be considered an excused absence if the parent fails to adhere to compulsory attendance requirements. This could result in undesirable referrals to juvenile court for truancy when the student is suspended or expelled from school. To provide school divisions with the flexibility to make determinations based on what is best for individual students, the phrase was stricken and the proposed regulations were adopted by the Board of Education at the November 29th meeting.

As a result of executive review and in light of the amendments to the regulations over the last several months, in accordance with section 2.2-4007.03 of the Code, the Board of Education will allow for an additional public comment period by re-proposing the regulations. The additional public comment period during the re-proposed stage will solicit comments on the numerous changes since the original proposed regulations, including the technical amendment made to the definition of “excused absence” by the Board of Education on November 29, 2012.

At the January 10, 2013, Board of Education meeting, the Board will consider rescission of its final adoption of the *Regulations Governing Unexcused Absences and Truancy* and adoption of re-proposed *Regulations Governing Unexcused Absences and Truancy*.

The Department of Education will send a draft of the agency's summary description of public comment to all public commenters on the re-proposed regulation at least five days before final adoption of the regulation.

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.

The re-proposed regulations pose no disadvantage to the public or the Commonwealth. The 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. The procedures in the re-proposed regulations align with the *Code of Virginia* and reflect those requirements.

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 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 requirements more restrictive than 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.

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 Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Dr. Cindy Cave, Department of Education, Office of Student Services, PO Box Richmond VA 23218, 804-225-2818, or

Cynthia.Cave@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

The Department of Education will send a draft of the agency's summary description of public comment to all public commenters on the re-proposed regulation at least five days before final adoption of the regulation.

Economic impact

Please identify the anticipated economic impact of the re-proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements 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 <i>new regulations or changes to existing regulations</i> 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>
<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>School divisions and juvenile and domestic relations courts.</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>There are 132 school divisions in the Commonwealth. Each school division has a school board with varying numbers of members and a superintendent.</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>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.</p>

<p>Beneficial impact the regulation is designed to produce.</p>	<p>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 postsecondary education.</p>
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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 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 re- 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 the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
<p>Dr. Kitty Boitnott Virginia Education Association</p>	<p>Comments of support</p> <ul style="list-style-type: none"> • “The VEA supports these proposed regulations.” • In the “best interest of students and schools to collect and track information related to truancy” • “Early, effective intervention at the school level is crucial to student success...” • “...any efforts to coordinate and systematize these interventions is a positive step.” 	<p>None required</p>
<p>Crystal Shin Attorney JustChildren Charlottesville, VA</p>	<p>Letter of support to the Board of Education</p> <ul style="list-style-type: none"> • “The proposed ...regulations ...establish a strong starting point for overcoming Virginia’s school dropout problem.” • “The Virginia Department of Education has found that students were more likely to drop out of school if they repeated grades, attended multiple schools, or were frequently absent.” • “The Virginia Commission on Youth 2010 Study of Truancy and School Dropout Prevention reported that unexcused absences, chronic truancy, and school dropout were all interconnected.” • “By creating an internally consistent analytical framework with uniform definitions of the variables that are being measured, these...regulations give 	<p>None required</p>

	<p>meaning to the data and enable policymakers and school administrators to make decisions based on valid findings.”</p> <ul style="list-style-type: none"> • “The amended regulations should be adopted in order to provide reliable and valid data to school divisions and state-level policymakers.” 	
<p>Mr. John Butcher</p>	<p>Written comments provided to the Department of Education dated February 2, 2012.</p> <ul style="list-style-type: none"> • “The <i>Code</i> requires the Board to enforce the truancy statute.” • “The Board is ...attending to its duty...if it is to meet its statutory duty, the Board must repair the draft regulations and adopt it forthwith.” • The definition of attendance plan “<u>must</u> be developed ‘to resolve the pupil’s nonattendance’.” • The regulation should specify the plan elements that would embody parent/guardian, or whole family involvement, a continuum of supports, collaboration among community actors, performance goals and good record keeping • “The definition of ‘attendance conference’ does not comport with the statute...§ 22.1-258 explicitly provides that the attendance officer shall schedule the conference “with the pupil.” “...<u>the statute</u> provides that the conference is ‘to resolve issues related to the pupil’s nonattendance.’” • “The definitions of ‘excused absence’ and ‘unexcused absence’ are inconsistent and 	<p>None required</p> <p>None required</p> <p>The definition of “attendance” plan has been amended to specify participating school representatives, and to include resolution of a student’s nonattendance.</p> <p>The definition of the “attendance plan” has been amended to specify the joint participation in its development by parents and students. The definition includes a reference to community supports. Part II A.(3) of the regulations specifically references the involvement of community service providers. Part II B. references the maintenance of a record including the attendance plan, what has occurred, and follow-up steps.</p> <p>The words “if appropriate,” deleted from the definition of “attendance conference.” Language added to the definition of “attendance conference” to specify resolution of issues related to nonattendance.</p> <p>The definition of “unexcused absence” has been amended for consistency and specificity to establish the authority of the school to</p>

	<p>defective...The proposed definition of 'excused absence' is straightforward and sensible, albeit it does not deal with absence for only part of the school day...The 'excused' definition implicitly gives the 'school authority' the task of deciding whether a particular absence shall be excused. The 'unexcused' definition, in contrast, gives that task variously to 'an administrator' and to the 'school administration.....As written, the "unexcused absence" definition is not clear that the school, not the parent, shall decide whether an absence shall be unexcused...the Board should expand the definition of 'excused absence' to include part-day absences, to specify what part of the day the student must miss in order to be absent, and to state explicitly who shall make the decision whether a particular absence is to be 'excused'."</p> <ul style="list-style-type: none"> • The "multidisciplinary team" is a "new layer of bureaucracy with nebulous duties and no clear goals and no accountability...The regulation should instead require that each division identify... schools that have a percentage of students with five unexcused absences that is half or more of the state average percentage of students with five unexcused absences...and require that each school ...prepare...a detailed, written program with an explicit chain of accountability to respond to every unexcused absence with an intervention." Evaluation of the effectiveness of the interventions should be through an "annual conference in each division of the Superintendent and the principals", and annual performance evaluations of superintendents and principals, 	<p>determine excused and unexcused absences. To allow for local circumstances, the definition does not address part-day absences. Part II, sections A and B, require local school board action to provide guidance on what would constitute an excused absence and to address absences less than a full day.</p> <p>The definition of "multidisciplinary team" has been amended to clarify and specify that it may be convened to participate in prevention, early intervention, and provision of support services to address unexcused absences. The language of the definition as proposed specifies the members of the team, who are school personnel with specific expertise who may meet as needed. The determination of divisionwide and school plans to address specific cases and circumstances of unexcused absences, and the development of performance evaluations, are the jurisdiction of the local school officials.</p>
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	<p>“published by the Department.”</p> <ul style="list-style-type: none"> • “The statute defines ‘court referral.’” The regulations should reflect the filing process as set out in the <i>Code</i>. “The regulation should require that <u>all</u> records of interventions regarding the student’s unexcused absences be attached as exhibits to the petition.” • The definition of “parent” should reflect the provided in the <i>Code</i> at § 22.1-1. • “The definition of “truancy’ is unnecessary.” • The process in 8 VAC 20-730-20 A.(4) referring the decision of the intake worker to divert the case or to file the petition for presentation before the court is beyond the Board’s authority and may be inconsistent with § 22.1-258. • “The Board should require that records (of truancy) be preserved...and forwarded to a new school s part of the student’s permanent record.” • “8VAC 20-730-30 contains an ambiguous clause...if “data are to be furnished in the manner prescribed by the Department, (the regulations) should be modified to say so explicitly.” • 8VAC 20-730-30.(5) does not require reasons for the choice between CHINS and misdemeanors. • “The regulation should require the Department to collate the truancy data and publish them on the Web.” 	<p>The definition of “court referral” has been amended to align with the <i>Code</i> and to specify that records of interventions regarding the student’s unexcused absences will be provided.</p> <p>The definition of “parent’ in the regulations has been amended to reflect the <i>Code</i>.</p> <p>The regulations as proposed provide a standard definition of “truancy” not previously available.</p> <p>The sentence directing the court intake worker has been deleted.</p> <p>The proposed language remains the same. If necessary, records of attendance can be requested from one school division to another.</p> <p>The regulations have been amended to replace “as prescribed” with “in a manner prescribed.”</p> <p>The regulations have been amended to specify the choice between a petition or proceedings against parents, and to provide the reasons for the choice taken.</p> <p>The regulations provide for the collection of the data and the maintenance and reporting of information. They do not specify reporting options or formats. The Virginia Department of Education currently meets the Student Record Collection requirements for federal regulations. Attendance rates are reported on the School</p>
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	<p>“The regulation should create a clear path to enforcement...by the Board considering...requiring the local divisions to adopt and comply with policies that mirror this regulation. Any failure to adopt or adhere to such a policy would then be actionable directly under <i>Code</i> §§ 22.1-253.13:7 and 253.13:8.”</p> <ul style="list-style-type: none"> • “The regulation should require every principal to identify a single individual at the school who is responsible for performing the actions required by 8VAC 20-730-20 and a single individual at the school who is responsible for collecting and reporting the data required by 8VAC 20-730-20.” Annual evaluations of these individuals should be based on performance of these duties. • 8VAC 20-730-30 should be clarified and expanded to “require reporting of the contents of each attendance plan, the results of the plan, the response to any further unexcused absence, the minutes of each conference, the outcome of each conference, and the basis for each decision whether to file a CHINS petition or initiate a prosecution, with a summary for each student. 	<p>Report Card, and average daily attendance on the Superintendent’s <u>Annual Report</u>.</p> <p>The regulations do not encompass this suggestion.</p> <p>The proposed regulations do not specify designation of individuals, or requirements for annual performance evaluations, which can be determined by local officials.</p> <p>The proposed regulations have been amended to require the basis for the decisions to file a CHINS petition or initiate a prosecution, for consistency within the section. Contents of required attendance plans, responses to continued unexcused absences, and minutes of conferences and plan reviews are kept at the school division level.</p>
<p>Mr. John Butcher</p>	<p>Written comments received in response to Board of Education’s public comment period.</p> <ul style="list-style-type: none"> • “The amended definitions of ‘excused absence’ and ‘unexcused absence’ render the regulations unlawful. <i>Code</i> § 22.1-254 contains the compulsory attendance provision of Virginia law” that requires parents and guardians of school aged children to send their children 	<p>The proposed regulations are consistent with § 22.1-258 of the <i>Code</i>, which specifies actions to be followed by school personnel when “any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil’s parent is aware of and supports the pupil’s absence” and further requires school personnel action: to develop an attendance plan after failure to report to school for “ a total</p>

	<p>to school ‘during the period of each year the public schools are in session and for the same number of days <u>and hours per day</u> as the public schools.’ <i>Code</i> § 22.1-98.B.1 sets out the length of the school term of at least 180 teaching days or 990 teaching hours in a school year and does not include part day absences in its list of exceptions. “In short, the law requires attendance for the full school day and the full school year.” <i>Code</i> § 22.1-269 speaks to the Board of Education’s authority and its duty for the enforcement of §§ 22.1-254 through 269.1 of the <i>Code</i>. “[T]his Board has the authority <u>and duty</u> to enforce § 22.1-254 and -258, not to create loopholes in those statutes...[T]he Board’s amendments to the proposed regulation would excuse an absence that is shorter than the full school day by even a moment and would except that absence from the mandatory enforcement procedures of §§ 22.1-258 <i>et.al.</i>” ...Perhaps the Board could make an exception for an occasional <i>de minimis</i> instance where a student is tardy or otherwise misses a few minutes of class. But the wholesale exception of any absence less than a full class day, as now proposed, is baldly unlawful.” Staff’s interpretation of the second and third paragraphs of § 22.1-258 of the <i>Code</i> is too narrow and “overlooks the fourth paragraph which requires a conference” for a sixth absence and court referral on the next absence “without mentioning failure to ‘report’...” “Read literally, these provisions would never invoke the enforcement mechanisms of § 22.12-258 for long as the student reported in at any time</p>	<p>of five scheduled school days for the school year;” hold a conference with the pupil and parent after an absence of “an additional day;” and file a complaint in the juvenile and domestic relations court or institute proceedings against the parent “upon the next absence.”</p>
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	<p>during the school day, regardless of whether the student then departed immediately.”</p> <ul style="list-style-type: none"> • “The new § 8 VAC 20-730-20 invites up to 132 separate definitions of ‘excused absence.’ In providing for each school board to provide ‘guidance’ on ‘what would constitute an excused absence’ ...the Board unlawfully delegates its own authority and invites [a] spectrum of definitions that would render the data collected under the regulation meaningless. • “8 VAC 20-730-30.E still does not require reasons for the choice between CHINS and misdemeanors.” The proposed regulations do not require a “system of accountability” to “measure the performance of a school system and its employees.” 	<p>Local school boards currently have the authority under the powers and duties provided in the <i>Code</i>, Chapter 7, to define the criteria for an excused absence. Section A. under 8 VAC 20-730-20 would require that school boards inform the public and parents of their criteria.</p> <p>The proposed regulations do not encompass this suggestion.</p>
<p>Virginia Education Association President, Meg Gruber</p>	<p>Written comments received in response to Board of Education’s public comment period.</p> <p>VEA is concerned about the removal of partial days from the definition of “unexcused absence.”</p> <ul style="list-style-type: none"> • Frequent tardiness in elementary school results in “students missing important components of the instructional day and has a negative effect on student achievement.” Frequent tardiness or class skipping in higher grades “can result in students missing all of the instruction for a given content area”...[causing] “a significant impact” on the likelihood of graduation, the ability to pass required assessments, and 	<p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards to “develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.”</p>

	<p>growth in a given area.</p> <ul style="list-style-type: none"> In addition, VEA is concerned that there could be an impact on teacher evaluations, which are tied to student achievement, “if local policies are not developed concurrently that would require schools to monitor and provide interventions for students who demonstrate a pattern of partial day absences,” which is strongly encouraged. 	
<p>Sherry Q. Scott Student Assistance Specialist Chair of Roanoke Region Visiting Teacher/School Social Worker Association</p>	<p>Written comments to the Board provided to express “several serious concerns.”</p> <ul style="list-style-type: none"> By defining excused and unexcused absence as missing a scheduled instructional day in its entirety, the regulations do not establish accountability for parents and students for late check ins and early check outs. “...parents could check their child in at noon every day with no legal recourse...a high school student could come to one class a day and not be considered truant...” “By listing examples of excused absences [the regulations] are taking away the authority for the division to determine what should be considered excused...By allowing [parents] to write unlimited parental notes excusing absences, we are opening a door for problems...chronic absences are always a symptom of other problems...Schools do not have the ‘manpower’ to determine whether parent notes are legitimate or not. There is no way that larger districts can police this.” “There needs to be clear guidelines in the COV when defining truancy. There is a 	<p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards to “develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.”</p> <p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards “to provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.” The examples of unexcused absences within the proposed regulations are not inclusive and suggestive in nature. The proposed regulations do not state that a parent note excuses an absence.</p> <p>The proposed regulations are aligned with the current <i>Code</i> provisions.</p>

	<p>great deal of confusion between CHINS criteria ‘that the parent is not aware of and does not support’ the absences and compulsory school attendance, which allow the court to hold parents accountable for not sending their child to school.</p>	
<p>Bob Martin Principal Woodlawn Middle School Carroll County</p>	<p>Written comment to the Board expressing lack of support for the proposed policy that absences resulting from suspension shall not be considered unexcused. “If children who [have] a truancy problem discover that they may be counted as excused during a suspension; I believe that this will be a green flag to promote ‘suspension’ behavior for children with poor attendance.”</p>	<p>The definition has been amended to delete “Absences resulting from suspensions shall be considered excused.” The words “and suspended” have been added to the sentence “Expelled <u>and suspended</u> students continue to remain under the provisions of compulsory school attendance, <i>Code of Virginia</i>, § 22.1-254.” Also, language has been added to state: “An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements.”</p>
<p>Jan S. Nichols Principal Glen Cove Elementary Roanoke</p>	<p>Written comment to the Board suggests that the regulations state “that a student must attend at least half of a school day in order to be counted present for that day.” Many parents bring their children to school “when they are sick or when they are taking a trip” so as not lose perfect attendance; however “many times the children are in school for an hour or less.”</p>	<p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards “to provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.” The Board of Education has also added language in Part II of the proposed regulations, which requires local school boards to “develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.”</p>
<p>Mark A. Burnette Ed. D. Director of Middle and Secondary Instruction Carroll County Public Schools</p>	<p>The language under 8VAC 20-730-10, in the definition of “excused absence;” specifically the sentence “Absences resulting from suspensions shall be considered excused.” is of concern. “[T]he language seems to condone suspensions for misbehavior as being a valid excuse for missing school. This statement seems to send the message that if I am suspended from school those days missed are considered free days that do not carry any other consequence. I am in support of</p>	<p>The definition has been amended to delete “Absences resulting from suspensions shall be considered excused.” The words “and suspended” have been added to the sentence “Expelled <u>and suspended</u> students continue to remain under the provisions of compulsory school attendance, <i>Code of Virginia</i>, § 22.1-254.” Language has been added to state: “An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements.”</p>

	<p>alternatives to school suspension, however there are times when no other option is available. I do feel that there should be some flexibility in the definition. I would support language that stated “Absences resulting from suspensions may be considered excused by the local school board if extenuating circumstances exist.”</p>	
<p>Cynthia D. Smith, MSW</p>	<p>Written comments to the Board</p> <ul style="list-style-type: none"> • Interventions mandated in Part II, [former] Section A addressing actions after the 5th, 6th, and 7th unexcused absences “do not allow for the intended implementation of ‘early interventions.’ This number of unexcused absences is often accrued within a short interval, which does not allow enough time for the required responses. Revise the timeframe to be more practical. Hold the face-to-face attendance plan meeting after the 5th unexcused absence. If additional unexcused absences occur following the development of the plan, schedule a school conference within a timeframe that allows “for interventions to be implemented.” If additional unexcused absences occur after the conference, file a petition with the courts. • The definitions of “attendance plan” and “attendance conference” should not include participation by the student, since younger children could not be expected to participate in such meetings. “If appropriate” should remain in these proposed definitions. • In the definition of “unexcused absences” less than three days should be granted to the parent to contact the school authority in cases of unexplained absences. 	<p>The proposed regulations track the procedures and timeframes of the <i>Code</i>, which calls for a plan after the fifth unexcused absence and an attendance conference within 15 school days from the sixth unexcused absence, and filing a petition after the seventh unexcused absence. Current section C.(1) of the proposed regulations requires “early intervention with the student and parent(s)...for repeated unexcused absences.” Such interventions can take place prior to the 5th unexcused absence.</p> <p>The language of these definitions in the proposed regulations aligns with the <i>Code</i>, which specifies participation by the student.</p> <p>A shorter timeframe could also lead to unnecessary actions if taken prior to making contact with the parent to determine whether the absence was excused or unexcused.</p>

	<p>Twenty-four hours would be more appropriate in order to intervene efficiently and to avoid taking unnecessary actions, such as filing a court petition, if the parent provides an acceptable reason.</p> <ul style="list-style-type: none"> • Under Part II, [former] section A. (1), the sentence “Early intervention with the student and parent(s) shall take place for repeated unexcused absences.” should be deleted because an interpretation of “early intervention” would be needed at this level (student fails to report to school and no information has been received). • Under Part II, [former] section A.(3) change “fifteen calendar days” to “fifteen school days.” References to the attendance conference should add attendance of the student “when appropriate.” 	<p>The statement in the proposed regulations emphasizes the importance of tracking attendance and the best practice of addressing repeated unexcused absences on an early and ongoing basis, prior to the accumulation of five, six, or seven, when intervention must be undertaken according to the <i>Code</i>. HB 886 (Alexander) called for the Board of Education to address “provisions for early intervention at the school level for repeated unexcused absences.” The Governor, via letter to the Board, asked for to address criteria outlined in HB 886 in it regulations, including “working with the parent and the community organizations early in the process, before truancy becomes a serious problem for a student.”</p> <p>The change from “calendar” to “school” days has been made. Participants in the attendance conference include the student to align with the <i>Code</i>.</p>
<p>Kara K. Wilson School Social Worker Henrico</p>	<p>Written comments to the Board.</p> <p>Interventions mandated in Part II, [former] Section A addressing actions after the 5th, 6th, and 7th unexcused absences do not allow for the implementation of early interventions. “This timeframe does not allow enough time for school social workers to meet with families and to access services.” After services have been accessed, time needs to be allowed to monitor the impact of the interventions and services. “If further unexcused absences accrue the social worker should have the opportunity to meet with the family again to revise the plan and review effectiveness. If interventions are not successful and the family fails to comply with the compulsory attendance law, a petition will be filed.”</p>	<p>The proposed regulations emphasize the importance of tracking attendance and the best practice of addressing repeated unexcused absences on an early and ongoing basis, prior to the accumulation of five, six, or seven, when intervention must be undertaken according to the <i>Code</i>. HB 886 (Alexander) called for the Board of Education to address “provisions for early intervention at the school level for repeated unexcused absences.” The Governor, via letter to the Board, asked that it address criteria outlined in HB 886 in its regulations, including “working with the parent and the community organizations early in the process, before truancy becomes a serious problem for a student.” The proposed regulations track the procedures and timeframes of the <i>Code</i>, which calls for a plan after the fifth unexcused absence and an attendance conference within 15 school days from the sixth unexcused absence. Current</p>

		<p>section C.(1) of the proposed regulations requires “early intervention with the student and parent(s)...for repeated unexcused absences.” Such interventions can take place prior to the 5th unexcused absence.</p>
<p>Anne Marshall School Social Worker</p>	<p>Written comments provided to the Board.</p> <ul style="list-style-type: none"> • Interventions required after the fifth, sixth, and seventh unexcused absences do not allow enough time for implementation of “early intervention. These unexcused absences are often accrued with a very short period of time. The procedures do not allow time for implementation of interventions prior to submitting CHINS petition. • A suggested procedure follows: A plan to resolve nonattendance is developed at a meeting with the attendance officer, student and parent within a set number of days after the 5th unexcused absence. A conference is scheduled within ten school days and held within fifteen school days with the occurrence of the 6th unexcused absence. Following the school conference, if the student accrues a further unexcused absence, a CHINS petition shall be filed with the Court. • The definitions of “attendance plan” and “attendance conference: should keep the words “if appropriate” for elementary students through Fifth Grade, or allow inclusion in the development of the plan and in the attendance conference by secondary 	<p>The proposed regulations emphasize the importance of tracking attendance and the best practice of addressing repeated unexcused absences on an early and ongoing basis, prior to the accumulation of five, six, or seven, when intervention must be undertaken according to the Code. HB 886 (Alexander) called for the Board of Education to address “provisions for early intervention at the school level for repeated unexcused absences.” The Governor, via letter to the Board, asked for to address criteria outlined in HB 886 in it regulations, including “working with the parent and the community organizations early in the process, before truancy becomes a serious problem for a student.”</p> <p>The suggested procedure is already reflected in the proposed regulations. The proposed regulations call for the development of an attendance plan with the parent and the student to resolve nonattendance issues after the 5th unexcused absence. A multidisciplinary team may provide assistance. After the 6th unexcused absence, an attendance conference must be scheduled within ten school days and held within 15 school days. Upon the seventh unexcused absence a CHINS petition is filed or proceedings begin against a parent.</p> <p>The language of these definitions in the proposed regulations aligns with the Code, which specifies participation by the student.</p>

	<p>students only.</p> <ul style="list-style-type: none"> • Within the definition of “unexcused absences, it is suggested “that 24-hours would be a more appropriate timeframe [for notification by a parent to the school division of the reason for the student’s absence than three days.] “...The 5,-6-7 timelines outlined in the current law may already be in motion in a three day period, affecting efficacy of interventions or CHINS referral. • Under Part II, [former] section A. (1), the sentence “Early intervention with the student and parent(s) shall take place for repeated unexcused absences.” should be deleted because an interpretation of “early intervention” would be needed at this level (student fails to report to school and no information has been received). • Under Part II, [former] section A.(2) should continue to include “if appropriate” for student participation in conversations concerning reasons for nonattendance with the school division and the parents and students when direct contact has been made by the school division. 	<p>A shorter timeframe could also lead to unnecessary actions if taken prior to making contact with the parent to determine whether the absence was excused or unexcused.</p> <p>The statement in the proposed regulations emphasizes the importance of tracking attendance and the best practice of addressing repeated unexcused absences on an early and ongoing basis, prior to the accumulation of five, six, or seven, when intervention must be undertaken according to the <i>Code</i>. HB 886 (Alexander) called for the Board of Education to address “provisions for early intervention at the school level for repeated unexcused absences.” The Governor, via letter to the Board, asked for to address criteria outlined in HB 886 in it regulations, including “working with the parent and the community organizations early in the process, before truancy becomes a serious problem for a student.”</p> <p>The language in the proposed regulations aligns with the <i>Code</i>, which specifies participations by the student.</p>
<p>Gilliam A. Aikin, MSW School Social Worker Highland Springs High School</p>	<p>Written comments provided to the Board</p> <ul style="list-style-type: none"> • Suggested changing of wording in Part II “to be something like—after the first meeting where an attendance plan was developed a conference will held after the 	<p>The proposed regulations call for the development of an attendance plan with the parent and the student to resolve nonattendance issues after the 5th unexcused absence. A multidisciplinary team may provide assistance. After the 6th unexcused absence, an attendance conference must be scheduled</p>

	<p>next unexcused absence. It would...be better ... [if there were] a time period (maybe three weeks) for us to wait before filing to see if some of the interventions are working. We are going to be in a bind with many students if we have to file at 7 [unexcused absences] but they have hit 7 or more before we meet with them the first time. To ensure that we get to students in a timely manner the wording could be—after the student has missed five unexcused absences a plan will be developed within five days...Also—wording should say that the student should be present, if appropriate.”</p>	<p>within ten school days and held within 15 school days. Upon the seventh unexcused absence a CHINS petition is filed or proceedings begin against a parent. If interventions are underway as a result of the attendance plan and the conference, the court can be informed and provided information. However, the proposed regulations emphasize the importance of tracking attendance and the best practice of addressing repeated unexcused absences on an early and ongoing basis, prior to the accumulation of five, six, or seven, when intervention must be undertaken according to the <i>Code</i>. HB 886 (Alexander) called for the Board of Education to address “provisions for early intervention at the school level for repeated unexcused absences.” The Governor, via letter to the Board, asked that it address criteria outlined in HB 886 in its regulations, including “working with the parent and the community organizations early in the process, before truancy becomes a serious problem for a student.” The proposed regulations track the procedures and timeframes of the <i>Code</i>, which calls for a plan after the fifth unexcused absence and an attendance conference within 15 school days from the sixth unexcused absence. Current section C.(1) of the proposed regulations requires “early intervention with the student and parent(s)...for repeated unexcused absences.” Such interventions can take place prior to the 5th unexcused absence.</p>
<p>Samantha Strong School Social Worker Franklin County High School</p>	<p>Written comments provided to the Board</p> <ul style="list-style-type: none"> • “By defining both excused and unexcused as a scheduled day in its entirety, we are greatly inhibiting our ability to hold parents and students accountable for getting to school on time.” Students miss instructional time, and are not being prepared for the ‘real world’ when part of the day is lost. “In the past, our school district was able to equate five late check-ins/early check out’s to one [unexcused] absence...thereby enabling us to enforce the attendance policy as stated in the <i>Code</i>...” 	<p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards to “develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.”</p>

	<ul style="list-style-type: none"> • “By listing excused and unexcused absences, the local school divisions no longer have the authority to determine what absences should be excused...If we were to allow parents to write notes excusing their children, we would very quickly ...feel the consequences...Truancy is very rarely the only issue...” • “Parents need to be held accountable and students need the opportunity to learn...There are numerous research documents illustrating a direct correlation between student attendance and achievement.” 	<p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards “to provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.”</p> <p>The examples of unexcused absences within the proposed regulations are not inclusive and suggestive in nature (“may” is used in the provision of the list of examples). The proposed regulations do not state that a parent note excuses an absence.</p>
<p>Elizabeth Neale, Director of Government Relations Virginia Association of Secondary School Principals</p>	<p>VASSP Response</p> <ul style="list-style-type: none"> • The major theme of responses received from VASSP Board members was that “the proposed changes would have ‘administrative impact’ ...[T]he additional/revised regulations would most certainly add to the growing list of duties of principals and APs at a time when state and local funding streams are diminishing and responsibilities are increasing..[A]lthough responsibilities and expectations have increased, there has been no movement toward funding the legislation proposed by the Board and enacted several years ago by the General Assembly.” • “... [T]ruancy is a ‘major task’ involving clerical and administrative staff, and additional interventions are encouraged; but...more manpower is essential if we are to accomplish these types of goals.’ 	<p>The proposed regulations in Part II align with and reflect the required procedures outlined in the <i>Code</i> for addressing continued nonattendance by a student without an explanation acceptable to the school principal or designee or attendance officer. Section 22.1-258 of the <i>Code</i> states that upon repeated nonattendance for five scheduled school days without an acceptable reason, “[t]he school principal or his designee or at the attendance officer, the pupil, and the pupil’s parent shall jointly develop a plan to resolve the pupil’s nonattendance...[with] documentation of the reasons for the pupil’s nonattendance.” The proposed regulations emphasize the importance of tracking attendance and the best practice of addressing repeated unexcused absences on an early and ongoing basis, prior to the accumulation of five, six, or seven, when intervention must be undertaken according to the <i>Code</i>. HB 886 (Alexander) called for the Board of Education to address “provisions for early intervention at the school level for repeated unexcused absences.” The Governor, via letter to the Board, asked that it address criteria outlined in HB 886 in its regulations, including “working with the parent and the community organizations early in the process, before truancy becomes a serious problem for a student.” Current section C.(1) of the proposed regulations requires “early intervention with the student and parent(s)...for repeated unexcused absences.” Such</p>

	<ul style="list-style-type: none"> • ‘Proper documentation would help to put ‘teeth’ into truancy, ...administrators should be encouraged to properly maintain and document truancy records.’ • ‘...the issue has been...that there is no real penalty for failure to adhere to truancy laws.’ 	<p>interventions can take place prior to the 5th unexcused absence.</p> <p>The proposed regulations in Part III provide a consistent approach for data collection and reporting concerning attendance and documentation of procedures to address unexcused absences.</p> <p>A <i>Code</i> revision would be required to create penalties for noncompliance.</p>
<p>Kandise Lucas Advocate</p>	<p>Written comments</p> <ul style="list-style-type: none"> • “I have witnessed school districts...exploit and misapply the truancy laws ...to coerce parents with special needs students into complying with the district’s proposed IEP...Numerous families ...in the midst of challenging IEP’s proposed by school districts ...have no other option but to keep their students at home for their own safety, to avoid being bullied, and even to avoid being abused by schools staff; and, as [a] result, the students are considered ‘truant’ when the parent has clearly communicated the reason for the absence and the school is fully aware of the reason that the parent is acting in the manner in which they have.” • “Unexcused status should NEVER be left up to one individual, like a principal. It should be a clearly defined issue that is not up for debate.” 	<p>The Board of Education has added language in Part II of the proposed regulations, which requires local school boards “to provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.”</p>

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 re-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 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. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre-emergency** regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.

If a new regulation is being promulgated, 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	§ 22.1-261. Attendance Officer to make list of children not enrolled; duties of attendance officer. § 22.1-262. Complaint to court when parent fails to comply with law.	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

		<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>	
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

Changes made since the proposed stage

Please describe all changes made to the text of the re-proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
Part I, 8VAC 20-730-10	Provides meaning of words and terms used in the regulations	<p>Definition of “attendance plan” amended to specify participating school representatives, to include resolution of a student’s nonattendance, and to include participation by the student</p> <p>Definition of “attendance conference” amended to remove “if appropriate” from attendance of student at the conference and to specify role of community representatives</p> <p>Definition of “court referral” amended to replace “referral...to intake worker” with “filing a complaint through petition.”</p> <p>“Records of interventions regarding the student’s unexcused absences” added to list of materials provided</p>	<p>For clarity, and in response to public comment</p> <p>To align with <i>Code</i> and to provide clarity, and in response to public comment</p> <p>For specificity in response to public comment</p>

		<p>Definition of “excused absence” amended to replace “excuse” with “reason” and to remove the word “authority” after “school administration.” The sentence “Absences resulting from suspensions shall be considered excused” has been deleted. The words “and suspended” have been added to the sentence “Expelled <u>and suspended</u> students continue to remain under the provisions of compulsory school attendance, <i>Code of Virginia</i>, § 22.1-254.” The sentence “An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of the suspension or expulsion.” added.</p> <p>As first approved by the Board on September 27, 2012, the definition of "excused absence" included the sentence "An absence from school attendance resulting from a suspension or expulsion may be considered excused for the period of suspension or expulsion unless the parent fails to otherwise adhere to the compulsory school attendance requirements."</p> <p>However, questions were raised about the phrase in the last sentence in the definition: “unless the parent fails to otherwise adhere to the compulsory school attendance requirements.” The concern was that the phrase could be interpreted to mean that a division cannot consider a suspension or expulsion as an excused absence if the parent fails to adhere to compulsory attendance requirements. This could have unintended consequences, which could include undesirable referrals to juvenile court for truancy when the student is suspended or expelled from school.</p> <p>The Board reconsidered and adopted the definition on November 29, 2012, as "Excused absence"</p>	<p>For consistency and clarity</p> <p>To avoid unintended consequences.</p>
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		<p>means an absence of an entire assigned instructional school day with a reason acceptable to the school administration that is provided by the parent. If circumstances permit, the parent should provide the school administration 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. Expelled and suspended students continue to remain under the provisions of compulsory school attendance, Code of Virginia, § 22.1-254. An absence from school attendance resulting from a suspension of expulsion may be considered excused for the period of suspension or expulsion."</p> <p>Definition of "multidisciplinary team" amended to specify ability to participate in addressing students' attendance. Reference to how work is done deleted</p> <p>Definition of "parent" amended to align with <i>Code</i>, "legal custodian(s)" added</p> <p>Definition of "unexcused absence" amended to replace "excuse" with "reason," to remove the word "authority" from "school administration," and school "administrator" replaced with "administration"</p> <p>Definition of "unexcused absence" amended to delete references to missing "part of the scheduled instructional school day without permission from an administrator" as an unexcused absence. "Absences resulting from suspensions shall not be considered unexcused." deleted.</p>	<p>For clarity and to provide objectives, not process. In response to public comment</p> <p>To align with the definition of "parent" in <i>Code</i> Section 22.1-1</p> <p>For consistency</p> <p>To avoid potential complicating of division data reporting systems and overloading of court cases required by the <i>Code</i> after seven unexcused absences</p>
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<p>Part II 8VAC 20-730- 20</p>	<p>Provides unexcused absences intervention process and responsibilities of school divisions</p>	<p>A new section “A” has been added to state: “Each local school board shall provide guidance regarding what would constitute an excused absence in order to address when the explanation provided by the parent will be determined to be reasonable and acceptable.”</p> <p>A new section “B” has been added to state: “Each local school board shall develop procedures to ensure that appropriate interventions will be implemented when a student engages in a pattern of absences less than a full day, the explanation for which, if it were a full-day absence, would not be deemed an excused absence.”</p> <p>Subsequent sections have been renamed “C” and “D” accordingly.</p> <p>Under C.(1), sentence added to state “Early intervention with the student and parent(s) shall take place for repeated unexcused absences.”</p> <p>Under C.(2), “with the student and parent(s)” has been added after “attendance plan shall be made”</p> <p>Under C.(3), “fifteen” replaced with “15”</p> <p>Under C.(3), the word “calendar” deleted and replaced with “school” before “days”</p> <p>Under C.(3), “when applicable” after “student” deleted</p> <p>Under C.(4), addition of “all records of intervention regarding the student’s unexcused absences, such as” added before list of materials to accompany petition to Juvenile and Domestic Relations Court</p>	<p>For clarity and specificity that local school board determines criteria for excused and unexcused absences and that the criteria is available to parents</p> <p>To address less than full day absences according to local school board determined procedures.</p> <p>To reinforce the timely identification of repeated unexcused absences and early intervention to address nonattendance reasons</p> <p>To reinforce the development of the attendance plan with the student and parent(s) as required by the <i>Code</i></p> <p>Style edit</p> <p>For specificity and to align with <i>Code</i></p> <p>To align with the <i>Code</i> and in response to public comment</p> <p>For specificity</p>
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		<p>Under C.(4), the phrase “presented to the intake worker” deleted and replaced with “attached to the petition”</p> <p>Under C.(4), deletion of “The decision shall be made by the intake worker either to divert the case or to file the petition for presentation before the court.”</p> <p>Under D., the phrase “This record does not become a part of the student’s permanent scholastic record.” deleted</p>	<p>For specificity</p> <p>Unnecessary inclusion of court proceedings</p> <p>For consistency with <i>Code</i> requirements for the student record</p>
Part III 8VAC 20-730- 30	Provides data collection and reporting requirements	<p>The word “as” replaced with “in a manner”</p> <p>Under “5,” the phrase “court referral” before “petition” deleted and “or if proceedings against parents were instituted, and, if not, the reason” added after “petition was filed”</p>	<p>Style edit</p> <p>For specificity and consistency in response to public comment</p>