

# Virginia Board of Education Agenda Item



**Agenda Item:** F

**Date:** November 19, 2015

<b>Title</b>	Final Review of Revisions to the <i>Regulations Governing Pupil Transportation</i> (8VAC20-70) to Conform to General Assembly Legislation (Exempt Action)		
<b>Presenter</b>	Mr. Kent C. Dickey, Deputy Superintendent for Finance and Operations		
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**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:

October 22, 2015: First Review

**Action Requested:**

Final 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
	Goal 6: Sound Policies for Student Success
X	Goal 7: Safe and Secure Schools
	Other Priority or Initiative. Specify:

**Background Information and Statutory Authority:**

Goal 7: The Board of Education establishes *Regulations Governing Pupil Transportation* to support the safe and secure transportation of students to and from Virginia public schools. In promulgating revisions to these regulations, the Board of Education is ensuring that the *Regulations Governing Pupil Transportation* conform to House Bill (HB) 1952 passed by the 2015 General Assembly and signed by the Governor.

HB 1952 allows local school boards to sell or transfer any of its school buses to another school division or purchase a used school bus from another school division or from a school bus dealer as long as the school bus conforms to the Board of Education’s specifications on construction and design in effect on the date of manufacture, has a valid Virginia State Police inspection, and has not reached the end of its useful life according to the school bus replacement schedule utilized by the Department of Education for state funding purposes as required by the appropriation act (i.e., 15-year replacement cycle).

The current *Regulations Governing Pupil Transportation* require school buses and school activity buses to conform to the Board’s specifications on construction and design in effect on the date of purchase, whether at the time of initial purchase as a new bus or at the time of purchase as a used bus. With the passage of HB 1952, the Board’s regulations must be revised to permit local school boards to sell, transfer, or purchase used buses as long as the buses conform to the Board’s specifications effective on the date of original manufacture, along with the other conditions stated in the legislation.

The proposed changes to the Board’s pupil transportation regulations are being filed as an “exempt” regulatory action under the Administrative Process Act (APA), in order to conform to changes in the *Code of Virginia* resulting from HB 1952 where no Board or agency discretion is involved. An exempt action under the APA means that no executive branch review is required and the regulations can become effective 30 days after their publication in *The Virginia Register*.

HB 1952 is shown below:

[HB 1952]  
Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [22.1-177](#) of the Code of Virginia is amended and reenacted as follows:

§ [22.1-177](#). Regulations.

A. The Board may make regulations relating to the construction, design, operation, equipment, and color of public school buses and shall have the authority to issue an order prohibiting the operation on public streets and highways of any public school bus that does not comply with such regulations. Any such order shall be enforced by the Department of State Police.

B. Local school boards may, notwithstanding any regulation to the contrary, display decals depicting the flag of the United States on the sides and rear of school buses as long as any such decal does not obstruct the name of the school division or the number of the school bus and is no larger than 100 square inches. In addition, local school boards may, notwithstanding any regulation to the contrary, display decals relating to school bus safety. Local school divisions shall be responsible for the cost of the decals. Such decal shall not obstruct the name of the school division or the number of the school bus.

C. No regulation of the Board shall unreasonably limit the authority of any local school division to purchase and use school buses using compressed natural gas or other alternative fuels or convert its school buses to use compressed natural gas or other alternative fuels.

*D. Any local school board may, notwithstanding any regulation to the contrary, sell or transfer any of its school buses to another school division or purchase a used school bus from another school division or a school bus dealer as long as the school bus (i) conforms to the specifications relating to construction and design effective in the Commonwealth on the date of manufacture; (ii) has a valid Virginia State Police inspection; and (iii) has not reached the end of its useful life according to the school bus replacement schedule utilized by the Department of Education as required by the general appropriation act.*

### **Summary of Important Issues:**

The *Regulations Governing Pupil Transportation* must be revised to conform to General Assembly legislation, HB 1952, enacted at the 2015 General Assembly Session. The proposed amended language to be incorporated into the regulations and the Virginia Regulatory Town Hall form, *Exempt Action Final Regulation Agency Background Document*, are attached. There are no changes proposed to the revisions presented for first review at the October meeting.

Below is a summary of policies from several southern region states regarding the effective date of specification requirements at the time of purchase or sale of used school buses. These policies are consistent with HB 1952 in that they require used buses to meet specifications effective on the date of manufacture or close to the date of manufacture.

- Alabama – used school buses purchased for use by a school system must meet all of the legal federal and Alabama requirements for school buses that were in effect on the date the vehicle was manufactured.
- Florida – used school buses purchased or operated by a public school board or charter school must meet or exceed all federal and state requirements for public school buses that were in effect on the date the vehicle was manufactured.
- Georgia – used school buses or school buses from another state purchased to operate in Georgia must meet or exceed all federal and Georgia requirements that were in effect on the date of manufacture of the vehicles.
- Louisiana – the seller of any new or used school bus must verify that the purchased vehicle meets all state and federal school bus specifications applicable at the time of manufacture.
- Tennessee – a used school bus purchased or leased for use in Tennessee by or for a public school district must meet all of the Tennessee specifications requirements that were in effect on the date that the vehicle was manufactured.
- Texas – used school buses purchased or operated by a public school board in Texas must meet or exceed all federal and Texas requirements for public school buses that were in effect on the date the vehicle was ordered by the vendor from the manufacturer.

Compared to 15 years ago, major changes to the Board of Education’s bus specifications include:

- A non-sequential traffic warning light system (system of manually-activated amber signal lights indicating a bus is stopping and red signal lights that activate automatically whenever the entrance doors open)
- Increase in seat back height
- Reflective marking along the body of the bus
- Optional equipment such as cameras

### **Impact on Fiscal and Human Resources:**

The administrative impact required in promulgating these regulations will be absorbed within existing resources.

### **Timetable for Further Review/Action:**

The timetable for further action will be governed by the exempt action requirements of the Administrative Process Act. The Department of Education will notify school divisions of the revisions to the regulations when they become final, pursuant to the requirements of the Administrative Process Act.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education approve the proposed amendments to the *Regulations Governing Pupil Transportation* (exempt action).

**Rationale:**

Approving the proposed revisions to the *Regulations Governing Pupil Transportation* will allow the regulations to conform to changes in the *Code of Virginia* resulting from HB 1952 and for the revised regulations to proceed as an exempt action under the Administrative Process Act.

# **Proposed Amendments to the Regulations Governing Pupil Transportation Virginia Administrative Code (8VAC20-70)**

## **Part IV**

### **General Requirements for School Buses in Virginia**

8VAC20-70-460. Specifications.

It is the intent of the Board of Education to accommodate new equipment and technology that will better facilitate the safe and efficient transportation of students. When a new technology, piece of equipment, or component is desired to be applied to a school bus, it must have the approval of the Department of Education and must meet the following criteria:

1. The technology, equipment, or component shall not compromise the effectiveness or integrity of any major safety system.
2. The technology, equipment, or component shall not diminish the safety of the interior of the bus.
3. The technology, equipment, or component shall not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.
4. The technology, equipment, or component shall not require undue additional activity or responsibility for the driver.
5. The technology, equipment, or component shall generally increase efficiency or safety, or both, of the bus, generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus, or shall generally assist the driver and make his many tasks easier to perform.

School buses and school activity buses purchased new must conform to the specifications relative to construction and design effective on the date of the initial procurement. Any variation from the specifications, in the form of additional equipment or changes in style of equipment, without prior approval of the Department of Education, is prohibited. The Department of Education shall issue specifications and standards for public school buses to reflect desired technology or safety improvements for the then current model year.

Any local school board may sell or transfer any of its school buses or school activity buses to another school division or purchase a used bus from another school division or a school bus dealer as long as the school bus or school activity bus conforms to the specifications relating to construction and design in effect on the date of manufacture. The bus(es) must also have a valid Virginia State Police inspection and may not be older than 15 model years at the time of sale, transfer, or purchase.



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Education
<b>Virginia Administrative Code (VAC) citation(s)</b>	8 VAC 20-70
<b>Regulation title(s)</b>	Regulations Governing Pupil Transportation
<b>Action title</b>	Amend the Regulations Governing Pupil Transportation
<b>Final agency action date</b>	The Virginia Board of Education is expected to take final action on the amendments on November 19, 2015
<b>Date this document prepared</b>	August 24, 2015

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Virginia Board of Education is proposing amendments to these regulations needed to ensure that the regulations comport with legislative changes (HB 1952) enacted at the 2015 General Assembly Session.

HB 1952 allows school divisions to purchase and sell used school buses from or to another school division or from a school bus dealer as long as the buses conform to the Board of Education's construction and design specifications in effect at the time of manufacture, have a valid Virginia State Police inspection, and have not reached the end of their useful life according to the school bus replacement schedule utilized by the Department of Education for state funding purposes (i.e., 15 years).

## Statement of final agency action

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

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Final action of the Board of Education to approve revisions to the *Regulations Governing Pupil Transportation* is anticipated on November 19, 2015.

## Family impact

*Please assess the impact of this 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.*

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The proposal would have no impact on the family or on family stability.