



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**8 VAC 20-40 – Regulations Governing Educational Services for Gifted Students**  
**Department of Education**  
September 27, 2007

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### **Summary of the Proposed Amendments to Regulation**

The Board of Education (Board) proposes to: 1) no longer require that school divisions submit their plan for the education of gifted students to the Department of Education (Department) for approval, 2) require that school divisions post their plan for the education of gifted students on their website and have printed copies of the plan available for citizens who do not have online access, 3) require that the identification and placement committee determine the eligibility status of each student referred for the division's gifted education program and notify the parent or guardian of its decision within 60 business days of the receipt of the referral, 4) require that requests filed by parents or legal guardians to appeal any action of the identification and placement committee shall be filed within 10 business days of receipt of notification of the action by the division, 5) reduce the minimum number of criteria used for the identification of gifted students from four to three, 6) explicitly require that gifted services include English, history and social science in place of the current vague requirement for gifted services in humanities, 7) clarify that the appropriately differentiated curriculum and instruction for gifted students be provided "continuously and sequentially," and 8) require that school divisions provide professional development for instructional personnel who deliver services within the gifted education program based on the competencies specified for the gifted education add-on endorsement.

## **Result of Analysis**

The costs likely exceed the benefits for one or more proposed changes. The benefits exceed the costs for one or more other proposed changes.

## **Estimated Economic Impact**

### **Plan for the education of gifted students**

Section § 22.1-18.1 of the Code of Virginia states that “With such funds as may be appropriated for this purpose, the Department of Education shall conduct an annual review of all local gifted education programs, on such date as it may determine, to ensure full implementation and compliance with federal and state laws and regulations governing gifted education. The Department may conduct the review as an on-site observation or require certification of compliance from the division superintendent.” The current regulations require that “Each school division shall submit to the Department of Education for approval a plan for the education of gifted students.”

In practice, the Department of Education (Department) requires that each school division submit their plan for the education of gifted students every fifth year. Department staff invite gifted education coordinators from other school divisions to participate in peer review of the submitted plans. According to the gifted education coordinator for Charlottesville Public Schools, the reviews are very useful in that excellent feedback is received from the Department staff and the other school coordinators. According to Department staff, gifted education coordinators who participate in the reviews consistently state that the reviews are an excellent experience that provides useful information for themselves as well. Approximately 150 hours a year of staff time is spent on the reviews. The Department reimburses gifted education coordinators on average approximately \$4,000 a year for lodging and travel.

The Board proposes to repeal the language stating “Each school division shall submit to the Department of Education for approval a plan for the education of gifted students.” Consequently, plans would no longer be submitted for approval, and there would no longer be state-run peer reviews of plans for the education of gifted students. The Commonwealth would save approximately \$4,000 a year in lodging and travel costs and about 150 hours a year of staff time. Significant though essentially unquantifiable benefits will be lost if Department and peer reviews no longer occur. School division coordinators will learn less about their peer’s

experiences, and will thus be less likely to learn about improved methods of providing gifted services. Implementation of these improved methods could result in improved student learning. Parents will also no longer be able to check with the Department to see if their local school division's plan for the education of gifted students officially complies with the state regulations. Estimating the value of the significant but uncertain potential of gifted education coordinators learning about improved methods of providing gifted services that could result in improved student learning, and parents' ability to check with the Department to see if their local school divisions plan for the education of gifted students officially complies with the state regulations is inherently subjective. Nonetheless, it seems likely that the value exceeds \$4,000 plus 150 hours of staff time. Thus, the ending of state and peer review of school divisions' plan for the education of gifted students will likely produce a net cost for the Commonwealth.

Under the proposed regulations school divisions will still be required to prepare a detailed plan for the education of gifted students. Thus, school division staff time will still be expended preparing the plan. The Board proposes to require that school divisions post their plan for the education of gifted students on their website and have printed copies of the plan available for citizens who do not have online access. Since all school divisions already must produce a plan for the education of gifted students, and all school divisions already have a website, the proposal to require posting the plan on the website will produce minimal cost. The value for the public to have easy access to the plan almost certainly exceeds the cost of posting the plan. Thus, this proposal produces a net benefit for the Commonwealth. The value of school divisions keeping some printed copies of the plan for those who do not have online access also likely exceeds the costs to school divisions of printing and keeping those copies.

### **Time limits**

The current regulations do not specify any time limit for gifted identification and placement committees to determine the eligibility status of each student referred for the division's gifted education program. The Board proposes to require that the identification and placement committee determine the eligibility status of each student referred for the division's gifted education program and notify the parent or guardian of its decision within 60 business days of the receipt of the referral. Providing a time limit is beneficial in that it allows families to plan and helps insure that students do not spend unnecessary time in suboptimal educational

settings. Generally, school division staff have not objected to there being a time limit, but some have objected to the specific time limit of 60 business days. Some school officials have argued for 60 class days or 90 business days instead. Short time limits could potentially force school staff to delay other useful activities; while long time limits dilute the value of having time limits. Thus, while it is not within the scope of this analysis to determine the precise appropriate time limit, it can be said that the value of introducing a feasible time limit likely exceeds the cost.

The current regulations do not specify any time limit for parents or guardians to appeal decisions of gifted identification and placement committees. The Board proposes to require that requests filed by parents or legal guardians to appeal any action of the identification and placement committee shall be filed within 10 business days of receipt of notification of the action by the division. Providing a time limit for appeals is potentially beneficial in that staff time can be saved from expenditure on a process that may provide little benefit. After a period of time families can reapply for gifted services based on new evidence; so appealing old decisions can produce administrative costs that are best not spent. On the other hand, if the time limit is set too short reasonable families may be shut out of the process. For example, notice may be sent while the family is on vacation. Families do on occasion go on vacation for two weeks; so a ten business day time limit may be less than ideal. Overall, setting a reasonable time limit for parents or legal guardians to appeal actions of the gifted identification and placement committee will likely produce a net benefit; but the net benefit would likely be greater if the limit was longer than 10 days.

### **Criteria for identification**

The current regulations require the school divisions use at least four criteria from the following list for gifted screening and identification:

1. Assessment of appropriate student products, performance, or portfolio;
2. Record of observation of in-classroom behavior;
3. Appropriate rating scales, checklists, or questionnaires;
4. Individual interview;
5. Individual or group aptitude tests;
6. Individual or group achievement tests;

7. Record of previous accomplishments (such as awards, honors, grades, etc.);
8. Additional valid and reliable measures or procedures.

The Board proposes to remove “Individual or group aptitude tests” and “Individual or group achievement tests” from the list of criteria, and add “Individually-administered or group-administered, norm-referenced aptitude tests” in their place. According to the Department, this proposed change was made to ensure that only tests that are designed to measure aptitude are used, while tests such as the Standards of Learning examinations that are not intended to distinguish gifted students from reasonably successful students who are not gifted are excluded. To the extent that the probability that inappropriate tests are used for gifted screening and identification is reduced, this proposed change will create a net benefit.

The Board also proposes to reduce the minimum number of criteria used for the screening and identification of gifted students from four to three. This provides school divisions with some additional flexibility which should be beneficial from their point of view. It may also provide for some moderate cost savings. As long as no school division drops a criterion from their screening and identification process that would have accurately identified students as gifted who will not be identified as gifted without that criterion, the proposal will not introduce costs. The probability of this happening is unknown, but it seems likely that school divisions could produce accurate identifications with three criteria.

### **Nature of services**

The current regulations specify that “If the school division elects to identify students with specific academic aptitudes, they shall include procedures for identification and service in mathematics, science, and humanities.” The board proposes to replace “humanities” with “English, history and social science.” According to the Department “humanities” has been interpreted differently by different school divisions. Not all school divisions have interpreted humanities to include English, history and social science and have thus not provided identification and service in all three of those disciplines. To the extent that school divisions that are not currently providing identification and service in English, history or social science choose

to comply with this proposed change, there will be significant impact.<sup>1</sup> Students who are capable of handling gifted level instruction in the newly introduced disciplines would likely benefit by receiving such instruction. On the other hand, by newly spending resources on identification and service in new disciplines the school divisions will necessarily reduce resource expenditure elsewhere or otherwise raise additional revenue. By having chosen to not provide identification and service in these disciplines previously, local decision makers have implicitly shown that they believe that the costs of providing these services exceed the benefits (if they must use their own resources).

Section § 22.1-253.13:1 of the Code of Virginia (Standard 1 of the Standards of Quality) states that local school boards shall implement “Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.” The current regulations define appropriately differentiated curricula as follows:

"Appropriately differentiated curricula" for gifted students refer to curricula designed in response to their cognitive and effective needs. Such curricula provide emphasis on both accelerative and enrichment opportunities for (i) advanced content and pacing of instruction, (ii) original research or production, (iii) problem finding and solving, (iv) higher level thinking that leads to the generation of products, and (v) a focus on issues, themes, and ideas within and across areas of study.

The Board proposes wording changes to the definition, including emphasizing that appropriately differentiated curriculum and instruction are offered “continuously and sequentially.” According to the Department, some school divisions provide appropriately differentiated instruction one or two days a week, but do not on the other days of the week. For example, students gifted in English receive appropriately differentiated instruction on Mondays, but receive basic grade-

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<sup>1</sup> The proposed end to required submittal of plans for the education of gifted students for state approval and end to peer review of plans will result in the Commonwealth no longer regularly determining compliance with the regulations. Thus, the public will no longer be able to check with the Department to see if their local school division is officially complying with the regulations. This may result in less public pressure for school divisions to comply with these regulations. On the other hand, energetic and knowledgeable parents will be able to view the school division plan for the education of gifted students on their local school division website and compare it to the requirements in these regulations.

level English instruction on Tuesdays through Fridays. Continuous and sequential instruction would essentially require that the appropriately differentiated instruction be provided every day the subject is taught. Gifted students would likely benefit significantly if aptitude-appropriate instruction is provided more often. For a school division to go from providing appropriately differentiated instruction one day a week to five days a week would require additional resources, though. These resources would come from either reducing expenditure elsewhere or otherwise raising additional revenue. To the extent that school divisions that are not currently providing appropriately differentiated curriculum and instruction continuously and sequentially do provide such instruction to comply with this proposed amendment, there will be significant impact.<sup>2</sup>

### **Professional development**

The Board proposes to require that school divisions provide professional development for instructional personnel who deliver services within the gifted education program based on the competencies specified in 8VAC 20-542-310 for the gifted education add-on endorsement. There would be definite value in having personnel who deliver services within the gifted education program be trained in best practices and advances in the field as they develop. The proposed requirement does not specify a minimum amount of professional development to be dedicated toward gifted education competencies; thus, the proposal does not create a particularly costly burden. Thus, the benefits of this proposal likely exceed the costs.

### **Businesses and Entities Affected**

All 132 school divisions in the Commonwealth are affected by the proposed amendments. School staff and families involved in gifted education will be particularly affected.

### **Localities Particularly Affected**

All localities are affected.

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<sup>2</sup> As noted earlier, the proposed end to required submittal of plans for the education of gifted students for state approval and end to peer review of plans may result in less public pressure for school divisions to comply with these regulations.

## **Projected Impact on Employment**

To the extent that: 1) school divisions that are not currently providing gifted identification and service in English, history or social science choose to provide these services and 2) school divisions that are not currently providing appropriately differentiated instruction every day begin to do so due to the proposed amendments, there may be increased employment for those teachers trained to provide gifted education.

## **Effects on the Use and Value of Private Property**

The proposed amendments to these regulations are not likely to significantly affect the use and value of private property in the short run. To the extent that the quality of gifted instruction is improved due to changes, there may be some positive impact on the value of property produced by current gifted students in the long run.

## **Small Businesses: Costs and Other Effects**

The proposed amendments do not directly affect small businesses.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not directly affect small businesses.

## **Real Estate Development Costs**

The proposed amendments do not directly affect real estate development costs.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small



businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.