



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Education
VAC Chapter Number:	VAC 20-350-10
Regulation Title:	Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits
Action Title:	NOIRA
Date:	March 27, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The definition of a proprietary school is a privately owned and operated institution or organization, no matter how titled, maintaining or conducting classes for the purpose of offering instruction for consideration, profit, or tuition, designed to prepare an individual for entry level positions in occupations, including but not limited to business, industry, skilled trades, or service occupations, or to upgrade an individual in previously acquired occupational-related skills.

The *Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits* were last amended in 1994 and offer language for private proprietary schools and schools for students with disabilities. First, this action proposes to amend these regulations to remove the language dealing with proprietary schools for the disabled. A draft of new regulations specific to proprietary schools for students with disabilities will be proposed. Second, this action proposes to (1) revise the regulations for proprietary schools to make them current and responsive to the needs of the schools, (2) bring them into compliance with the *Code of Virginia*, and (3) remove excess regulatory language not required in the *Code of Virginia*.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The legal authority to promulgate changes to VAC 20-350-10 et seq. is found in the *Code of Virginia* §22.1-319 through 355. The *Code of Virginia* provides discretion to the Board of Education in establishing regulations for the management and conduct of schools and fees, with methods of collecting such fees for schools as it deems necessary to carry out the oversight responsibility of proprietary schools. The Internet Web site for the *Code of Virginia* may be accessed at <http://leg1.state.va.us/cgi-in/legp504.exe?000+cod+TOC2201000001600000000000>.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The *Code of Virginia* provides discretion to the Board of Education in establishing regulations for the management and conduct of schools and fees, with methods of collecting such fees as it deems necessary to carry out the oversight responsibility of proprietary schools. The *Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits* were last amended in 1994.

There are several reasons that the 1994 regulations should be reviewed. A revised set of regulations is intended to address current issues, including the following:

1. The language dealing with schools for the disabled in the current (1994) version of the regulations has been a source of confusion for proprietary school owners throughout the Commonwealth of Virginia. Removing this specialized language should be considered in order to promote a better understanding and readability of the requirements and standards proprietary schools must meet and maintain.
2. As the technology for distance learning has become more accessible, an increasing number of proprietary schools have initiated measures to offer distance-learning programs to their clientele, thereby raising questions the current regulations do not address. Distance learning programs are expected to increase. Language should be incorporated into the

regulations that addresses distance learning programs and other technological advances in program delivery. Specific information related to distance learning could possibly encourage new distance learning opportunities that would be accessible to citizens of the commonwealth who live in rural or remote locations.

3. The *Code of Virginia* provides discretion to the Board of Education in establishing regulations for the management and conduct of schools and fees, with methods for collecting such fees as the board deems necessary to carry out the oversight responsibility of the Department of Education. The Department of Education collects fees based on the fee schedule included in the 1994 regulations. A revision of the regulations will seek to increase the fee structure in order to support the operating costs of administering the program as required in the *Code of Virginia*. It is the intent of the Department of Education to recommend to the Board of Education that the fee structure and the fee amount be included in the text of the proposed regulation and in the text of the final regulation, and that such fee structure and amount be subject to the full APA process for public participation and comment.
4. The regulations presently require a scheduled monitoring visit to each proprietary school at least once every two years. For most schools, monitoring visits do not need to be frequent. When a school has operating problems or a student has filed a complaint, the Department of Education will arrange a technical assistance visit. In order to reduce the regulatory burden on proprietary schools, consideration will be given to reducing the frequency of monitoring visits to once every three years.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The proprietary schools advisory council will play an active role in recommending language modification during each phase of the revision process.

Family Impact Statement

Please provide a preliminary analysis of the potential 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.

1. This action will not affect the authority and rights of parents in the education, nurturing, and supervision of their children.

2. This action will continue to encourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents.
3. This action will strengthen the marital commitment by providing training possibilities for career development to provide family stability and security.
4. This action will provide a vehicle to increase disposable family income via new career opportunities.