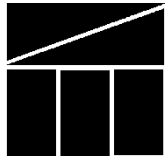


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

8 VAC 20-730 Regulations Governing Unexcused Absences and Truancy
Department of Education
Town Hall Action/Stage: 5282 / 8625
September 19, 2019

Summary of the Proposed Amendments to Regulation

Chapters 713 and 753 of the 2018 Acts of Assembly (legislation) amended § 22.1-258 of the Code of Virginia, relating to a pupil's unexcused absences and conferences concerning those absences. In response, the Board of Education (Board) proposes several amendments to 8 VAC 20-730 *Regulations Governing Unexcused Absences and Truancy* to match the legislation. Additionally, the Board proposes to: 1) expand the number of days a parent has to provide an excuse for an absence from three days to five days, and 2) remove specific data collection requirements from the regulation.

Background

Prior to the legislation, § 22.1-258 indicated that: 1) an attendance conference is to be *scheduled* if the pupil has accrued six unexcused absences from school, and 2) the conference is to be *held* no later than 15 school days after the sixth absence. The legislation amended § 22.1-258 so the attendance conference is to be scheduled after the seventh unexcused absence, and the conference is to be held no later than 10 school days after the seventh absence. The current

¹ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

regulation reflects the pre-legislation rules. The Board proposes to amend the regulation to match the requirements in the current Code of Virginia.

§ 22.1-258 indicates that the school principal or his designee schedule the conference with the pupil, his parent, and school personnel. The legislation added that the conference is to be held “regardless of whether his parent approves of the conference.” To reflect this addition, the Board proposes to add to the regulation:

The principal or principal's designee shall make reasonable efforts to contact the student's parent or parents to attend the attendance conference either in person or via communication technology. If the principal or principal's designee, after reasonable efforts have been made, is unable to contact the student's parent or parents, the conference shall be held regardless of whether the student's parent approves of the conference.

Additionally, the current regulation defines "attendance conference" as including parent(s) and the student. The Board proposes to amend the definition so that it may include the parent(s) and student.

Estimated Benefits and Costs

The current regulation defines “unexcused absence” as:

... an absence where (i) the student misses his scheduled instructional school day in its entirety 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 a reason for the absence that is unacceptable to the school administration.

The Board proposes to give the parent *five* days to notify school staff that he or she is aware and supports the absence. Given busy schedules, this is a reasonable accommodation and would be beneficial for parents and students, without producing an apparent cost for schools.

The current regulation also specifies the following data reporting requirements:

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 was made or if proceedings against the parent or parents were initiated and, if not, the reason.

These data reporting requirements do not match post-legislation § 22.1-258. For example, the statutory requirement for scheduling an attendance conference is now after seven unexcused absences, not six. When there is a conflict between statutory requirements and regulatory requirements, the statute prevails. According to the Department of Education, their Office of Education Information Management has sent guidance to the school divisions to collect and report data so that it matches post-legislation § 22.1-258.

The Board proposes to repeal the language on data collection requirements and instead state that “Data shall be reported to the Virginia Department of Education pursuant to the Code of Virginia §22.1-258 and 8VAC20-730-20.” The Office of Education Information Management would continue to send guidance to the school divisions on how the data is to be collected and sent. This proposal would be beneficial in that the regulation would no longer present misleading information concerning the data to be collected and reported.

Businesses and Other Entities Affected

The proposed amendments affect the 132 local school divisions. No school division is disproportionately affected. The proposed amendments do not appear to impose costs.

Localities² Affected³

The proposed amendments affect all Virginia localities. No locality is particularly affected. The proposed amendments do not appear to introduce costs for local governments. Accordingly, no additional funds would be required.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

² “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

³ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

The proposed amendments do not appear to substantively affect the use and value of private property. The proposed amendments do not affect real estate development costs.

Adverse Effect on Small Businesses⁴:

The proposed amendments do not appear to adversely affect small businesses.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁴ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”