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## Proposed Regulation Agency Background Document

<b>Agency name</b>	20
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20 -690
<b>Regulation title</b>	Regulations for Scoliosis Screening Program
<b>Action title</b>	Promulgate new regulations to comport with Code
<b>Document preparation date</b>	11/19/2003

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The proposed *Regulations for Scoliosis Screening Program* are new regulations that are being promulgated to implement the requirements of House Bill 1834 enacted by the 2003 General Assembly, and codified in § 22.1-273.1 of the Code of Virginia. Section 22.1-273.1 requires all local school boards to implement a Scoliosis screening program that requires either the provision of parent educational information on Scoliosis or the provision of regular Scoliosis screenings for students in grades five through ten. The proposed regulations would provide school boards with the requirements that they must adhere to in order to fulfill the code's mandate. Prior to the enactment of § 22.1-273.1 individual school boards had the discretion to decide whether to provide a Scoliosis screening program for students. The Board of Education provided guidelines for Scoliosis screening for local school boards that voluntarily provided screenings to students.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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The Virginia Board of Education is the promulgating entity. Section 22.1-273.1 of the Code of Virginia mandates that local school boards implement a Scoliosis screening program. School boards are required to implement a program consisting of the provision of parent educational information on Scoliosis or the provision of regular Scoliosis screenings for students in grades five through ten. The Code requires the Board of Education to promulgate regulations for the implementation of such screenings, which shall address, but shall not be limited to, requirements and training for school personnel and volunteers who may conduct such screenings; procedures for the notification of parents when evidence of scoliosis is detected; and such other provisions as the Board deems necessary. Compliance is mandatory.

## 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 and the problems the proposal is intended to solve.*

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This regulatory action is essential to protect the health, safety, and welfare of public school students in the commonwealth. Educators, and health care professionals recognize that the health of students impacts their ability to learn and achieve in the academic setting. The purpose of a Scoliosis screening program is to identify students with spinal deformities that may cause impairment of the body's range of motion and endurance, and in advanced stages, may cause back pain and impair functions of other parts of the body. With early identification and intervention, Scoliosis may be prevented from progressing so that it does not interfere with mobility, activity, or comfort. The goal of the proposal is to ensure that parents are provided educational information on Scoliosis or that regular screenings of students for Scoliosis occur to assist with early identification of students with abnormal spinal curvatures, and to provide interventions to prevent further structural deformity and resulting secondary problems.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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The proposed regulations' substantive provisions include a definitions section, a provision requiring a Scoliosis program, sections addressing the provision of parent educational information and the provision of regular Scoliosis screenings, and a provision requiring training of school division personnel and volunteers necessary for implementation of screening program.

**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 so indicate.*

The advantages of implementing the new regulations include:

- Protecting the health and welfare of public school students by identifying students with spinal deformities that may cause impairment of the body's range of motion and endurance, cause back pain, or impair functions of other parts of the body
- Providing parents with educational information on Scoliosis that emphasizes and makes them aware of the importance of early identification and the need for treatment, and that helps to allay fears of the screening procedure
- Providing parents with educational information on Scoliosis that may assist them in the observation and screening of their children
- Identifying students that may not normally be screened due to lack of health care insurance
- Ensuring a healthier school age population, which can enhance academic success

A disadvantage associated with the Scoliosis program may be the minimal fiscal impact it may have on local school divisions.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	None
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<b>Projected cost of the regulation on localities</b>	A minimum fiscal impact on school divisions is projected
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	All local school divisions in Virginia will be affected; however, some local divisions already have on-going scoliosis screening programs and would, therefore, be minimally impacted.
<b>Agency's best estimate of the number of such entities that will be affected</b>	132 school divisions
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	The cost would be minimal. Depending upon the type of screening program the division implements (printed material to parents or physical screening), the cost will vary by division.

**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.*

There were no viable alternatives to the proposal identified by the Board of Education. Section 22.2-273.1 of the Code requires the board to promulgate regulations governing a Scoliosis program in the local school divisions. The regulations place minimum requirements necessary to meet the statutory mandate on local school boards.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Alice M. Farling, Ed.D, Assistant Superintendent Fairfax Co. Public Schools	That the Board's regulations make it clear that local school boards are not required to implement regular scoliosis screening programs for students in grades five through ten. That local school boards may choose to provide parent educational information regarding scoliosis screening instead of choosing to implement scoliosis screenings.	This request was included in the proposed regulations as it was stated in the 22.1-273.1

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

The proposed regulations will have a positive impact on families. The provision of educational information to parents on the need to screen and early identify students who may have spinal curvatures will create better awareness among parents. The provision of free screenings may help to identify students who may not normally be screened for Scoliosis due to lack of health care insurance. Assisting families in identifying the health needs of students will help to ensure that there are healthy students in classrooms whose ability to learn is not being impaired by an unidentified condition.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

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

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
N/A	10		This section informs the public and school boards of pertinent definitions necessary to implement a Scoliosis program.
N/A	20		This section sets forth the requirement that all local school boards must implement. Consistent with the Code, the provision gives the following: <ol style="list-style-type: none"> <li>1) Maximum flexibility to local divisions as to whether they provide parent educational information on Scoliosis for students in grades five through ten or the implementation of a program of regular screening for scoliosis for students in grades five through ten.</li> <li>2) Parents the authority to opt their child out of any screening program or to not screen a child who has already been screened within the specified period of time.</li> <li>3) Protect the privacy rights of the child and his family.</li> </ol>

N/A	30		<p>Parent educational information mandates that parents receive education information describing the purposes and need for Scoliosis screening.</p> <p>This section specifies that such information must be provided to the parents of students in grades five through ten within sixty business days after the opening of school each year.</p>
N/A	40		<p>Scoliosis screening requires school boards conducting Scoliosis screenings to adhere to certain procedures and requirements.</p> <p>School boards implementing a Scoliosis program of regularly screening students in grades five through ten must provide written notice to parents a minimum of ten business days prior to screening. The content of the notice is specified, also.</p>
N/A	50		<p>Training mandates training of school personnel and volunteers in acceptable screening procedures. Requires training by qualified medical practitioners.</p>