



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	20
VAC Chapter Number:	110
Regulation Title:	Regulations Governing Pupil Accounting Records
Action Title:	Amendment
Date:	3/6/00

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Board of Education seeks to amend the Regulations Governing Pupil Accounting Records. The proposed amendments to Virginia's pupil accounting regulations will eliminate the requirement that school divisions either maintain paper records (i.e. Virginia Teacher's Register) of student enrollment and attendance data or implement equivalent centralized (automated) systems. School divisions will be permitted to maintain student information in ways best suited to their local needs and procure automated systems without costly software customization. Additionally, the amendments will clarify the authority of school boards to approve student participation in activities and events away from school and count students as "present" (e.g. service as a General Assembly Page).

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Statutory Authority: §§22.1-16, 22.1-20, and Chapter 14 of Title 22.1 of the Code of Virginia, full citations follow:

§ 22.1-16 Bylaws and regulations generally

The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

§ 22.1-20 Retention of pupil personnel records

The Board of Education is authorized to promulgate regulations governing the retention of pupil personnel records in public schools.

§ 22.1-259 Teachers to keep daily attendance records

Every teacher in every school in the Commonwealth shall keep an accurate daily record of attendance of all children in accordance with regulations prescribed by the Board of Education. Such record shall, at all times, be open to any officer authorized to enforce the provisions of this article who may inspect or copy the same and shall be admissible in evidence in any prosecution for a violation of this article as prima facie evidence of the facts stated therein.

Web site address for locating the text of the cited authority: <http://leg1.state.va.us/000/src.htm>

The Office of the Attorney General has been asked to certify that the agency has the statutory authority to promulgate the proposed amendments and that it comports with applicable state and/or federal law.

The Board of Education is obligated under terms of § 22.1-259 to prescribe regulations pertinent to the keeping of student attendance. These regulations apply to Virginia school divisions only and address public school enrollment, withdrawal, and attendance.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

Regulations governing Virginia's pupil accounting system have not been significantly modified in many years. These regulations have their origins in the days when all record keeping systems were paper forms, and major state funding was based on records of pupil attendance. Today, major state funding is based on student membership and most schools have automated their membership and attendance record keeping.

Historically, state and local officials have interpreted the existing regulations to require that computer systems produce the equivalent of the Virginia Teacher's Register and its associated forms. Following introduction of micro-computer technology in the early 1980s, the state procured a customized software product which replicated the Virginia Teacher's Register. This product is aging and many school divisions need to replace the product with more modern software that will function properly in their own network environments.

One purpose of these amendments is to make clear that school divisions may automate their pupil accounting systems without the need for costly modification of such automated systems to provide output equivalent to the Virginia Teacher's Register. The proposed amendments will permit school divisions to consider purchase of less expensive off-the-shelf software products and systems and make their selections based on locally determined needs and system requirements.

Another problem with the existing regulations is that they may be interpreted to require schools to drop students from enrollment (after 15 days of absence) who serve as General Assembly Pages, since such an activity is neither a "field trip" nor "school sponsored." These amendments will clearly give local school boards the authority to approve students for participation in activities and events that are not school-sponsored.

Today, school divisions have greater needs for maintaining information about the circumstances under which students enter and leave school. Some students, for instance, withdraw from public schools to be taught at home in an approved program of home instruction. School divisions have the need to maintain information about such programs and students within their geographic boundaries. Extremely limited choices for indicating student enrollment circumstances and reasons for withdrawal from school are contained in the Virginia Teacher's Register instructions. These amendments are intended to make clear that the Virginia Teacher's Register is optional and that school divisions may implement systems containing expanded definitions of the circumstances surrounding student enrollment and withdrawal.

In summary, the purpose of the proposed amendments is to give school boards greater authority in approving student participation in extra-school activities and events and to give school divisions the flexibility they need in the selection and application of automated student

information systems. These amendments should improve data collection generally and reduce unnecessary paperwork and expense for Virginia schools.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

These amendments will result in the following substantive changes:

1. Use of the Virginia Teacher's Register and its associated report forms will be clearly optional,
2. School boards will permitted to establish their own record review policies and procedures,
3. The Superintendent of Public Instruction will be authorized to provide guidance to local school boards when needed or necessary,
4. School boards may approve student participation in activities and events other than "school sponsored" activities and may count students "present" in school when participating in such approved activities (e.g. serving as a Page during legislative sessions), and
5. School divisions will be permitted to use computer systems and software for recording student membership and attendance data without the necessity that software be modified to replicate the Virginia Teacher's Register and its associated report forms.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantages associated with the proposed amendments include:

1. Greater flexibility in modifying data collection systems to adapt to changing information needs;
2. Greater flexibility in procuring and implementing systems to automate collection and maintenance of student information to meet local needs;
3. Elimination of unnecessary and burdensome paperwork;

4. Greater control of local school divisions over the education of their students (i.e. the authority to approve student participation in non school-sponsored activities and events); and
5. Elimination of costs associated with statewide software customization.

There are no foreseen disadvantages to the public or the Commonwealth.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

While it is not possible to project the cost savings that will accrue to the Commonwealth of Virginia as a result of these amendments, it is clear that dollars will be saved, or put to better use. It will no longer be necessary for local school divisions to purchase customized systems, or pay for costly modifications to existing systems to make student information systems equivalent to the Virginia Teacher's Register and its associated forms and instructions.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

The proposed amendments include the following major changes:

1. Use of the Virginia Teacher's Register and its associated report forms will be clearly optional,
2. School boards will permitted to establish their own record review policies and procedures,
3. The Superintendent of Public Instruction will be authorized to provide guidance to local school boards when needed or necessary,
4. School boards may approve student participation in activities and events other than "school sponsored" activities and may count students "present" in school when participating in such approved activities, and

5. School divisions will be permitted to use computer systems and software for recording student membership and attendance data without the necessity that software be modified to replicate the Virginia Teacher's Register and its associated report forms.

Alternatives

Please describe the specific 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.

Alternatives to the proposed regulatory amendments included interpreting the existing regulations to permit school divisions the flexibility to maintain data as they determined most appropriate. Because of the confusion associated with such an interpretation, the Board of Education chose to proceed with regulatory amendments.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No public comments were received during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency, through examination of the regulation and relevant public comments, has determined that the amendments are clearly written and easily understandable by the entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Board of Education is obligated under §22.1-259 to promulgate regulations pertinent to taking of student attendance. Accordingly, continuation of the regulation may be assumed and termination of the regulation is unlikely without an amendment to §22.1-259. The amendments have been drafted with the intention that periodic guidance will be provided to school boards and

school divisions in the form of guidelines. The Superintendent of Public Instruction expects to provide such guidelines annually and modify the same when appropriate or necessary.

The review of the regulation will take place by 7/1/03.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

While the extent of impact is unknown at this time, these amendments should serve to strengthen the authority of parents in the education of their children. Passage of these amendments will shift authority from the state to local school boards in determining when a child may be approved for participation in extra-school activities and not be counted as "absent" from school.