



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	<u>8 VAC20-40-10</u> et seq.
Regulation title	Regulations Governing Educational Services for Gifted Students
Action title	Revision of regulations to which school divisions must adhere in their gifted education programs, K - 12
Date this document prepared	September 27, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The *Regulations Governing Educational Services for Gifted Students* were last approved in 1993, with an effective date of February 1995. Those regulations specify which gifted education services school divisions in the Commonwealth of Virginia shall provide students from kindergarten through high school graduation. The regulations speak to the area(s) of giftedness to be served, the identification of students in the selected area(s) of service, the criteria for screening and identification, the components of local plan that each division must have approved by the Department of Education, the assurances the school division must provide to the department regarding elements within the local plan, and provisions of use of state funds designated for division-wide gifted education services. The proposed revisions will allow the Virginia Board of Education to consider contemporary research and best practices in the field that have occurred in the last decade and to ensure that Virginia's regulations are consistent with that information.

Legal basis

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

Section 22.1-16 of the Code of Virginia vests the Board of Education with the authority to 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 Title 22.1.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

Identification and programs for gifted students are required within the *Standards of Quality*. School divisions are provided general funds based on a student membership formula to identify and service students whom the divisions recognize as gifted based on guidance provided through the *Regulations Governing Educational Services for Gifted Students*. Revisions of the regulations allows the Department of Education to provide school divisions with expectations for identification and program services based on current research and best practices in the field.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

A preliminary list of issues that will be addressed concerning changes to the *Regulations Governing Educational Services for Gifted Students* include the following items:

1. Revisions to definitions to assist school divisions in program design and evaluation.
2. Language related to 8VAC20-40-60. Local Plan. To assist divisions in developing and evaluating their service options, instructional approaches, settings, and staffing.
3. Language related to the selection, evaluation, and training of gifted education teachers.
4. Language regarding local program evaluation.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

The proposed action is to amend existing regulations. The current regulations should be revised for clarity and to ensure that there are no conflicts with existing Board of Education regulations and state law. There are no viable alternatives.

The regulations have served well for more than ten years and have been supplemented through information presented in the *Virginia Plan for the Gifted* and the *Reference Guide for the Development and Evaluation of Local Plans for the Education of the Gifted*. Both documents demonstrate that the regulations need to be revised.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail to Dr. Barbara McGonagill, Office of Middle/High School Instruction, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120; by phone to 804-225-2884; by fax to 804-786-1597; or by e-mail to Barbara.McGonagill@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall Web site (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The revisions to the *Regulations Governing Educational Services for Gifted Students* will be guided by comments and recommendations received from the Virginia Advisory Committee for the Education for the Gifted; by an advisory group representing a broad spectrum of educators and parents selected to represent the geographic regions of the commonwealth; and through public comment.

Family impact

Assess 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.

There will be minimal impact on the institution of the family or family stability.