



Virginia Department of Planning and Budget **Economic Impact Analysis**

8 VAC 20-40 Regulations Governing Educational Services for Gifted Students
Department of Education
Town Hall Action/Stage: 5325 / 9104
January 15, 2021

Summary of the Proposed Amendments to Regulation

The Board of Education (Board) proposes amendments to 8 VAC 20-40 *Regulations Governing Educational Services for Gifted Students* including: 1) stating that the administrator supervising gifted education services should have a gifted education endorsement or nationally recognized gifted education micro-credentialing or equivalent, 2) requiring that the annual report on gifted education that school divisions send to the Department of Education (DOE) be shared with school board members and the community, 3) requiring that each school division establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board to review annually the local plan for the education of gifted students, including revisions and determine the extent to which the plan for the previous year was implemented, 4) stating that the procedures for screening, referring, identifying, and serving students who are gifted include students for whom accurate identification may be affected because they are from an underrepresented group, economically disadvantaged, have limited English proficiency, or have a disability, and 5) several changes to the required elements of the comprehensive plan for the education of gifted students that school divisions currently send to DOE every five years.

Background

Chapter 871 of the 2020 Acts of Assembly states that:

... the Board of Education shall consider revisions to the process of screening and identifying students for eligibility for gifted and talented programs and referring students to such programs to improve the identification of student populations that are underrepresented in such programs, including economically disadvantaged students, English language learner students, and students with disabilities. The

Board of Education shall also consider revisions to the data collection requirements of the annual report required by such regulations to better inform equitable screening and identification for and access to gifted and talented programs for student populations that are underrepresented in such programs.

As can be seen, the text in the legislation states that the Board shall consider revisions, but does not mandate any change. There is no other legislation that mandates change to 8 VAC 20-40 *Regulations Governing Educational Services for Gifted Students*. Thus, all proposed amendments are by the discretion of the Board.

Qualification for Administrator Supervising Gifted Education

The current regulation does not specify any requirements for the local school division administrator supervising gifted education services. The Board proposes to state that such individuals “should have a gifted education endorsement or nationally recognized gifted education micro-credentialing or equivalent.” According to DOE, not all local school division administrators supervising gifted education services currently have either such credentials.

Annual Report on Gifted Education

The current regulation includes the following sentence: “Each school division shall submit an annual report to the Department of Education in a format prescribed by the department.” The Board proposes to add: “The information and data/graphs from the annual report shall be shared by school division leadership with school board members and the community.” According to DOE, some school divisions have shared only portions of the annual report with their local board. This change is intended to make it clear that the whole report is to be shared with the local school board and the community.

Local Advisory Committee

The current regulation states the following:

Each school division may establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board. This committee shall reflect the ethnic and geographical composition of the school division. This committee shall have two responsibilities: (i) to review annually the local plan for the education of gifted students, including revisions, and (ii) to determine the extent to which the plan for the previous year was implemented. The findings of the annual program effectiveness and the recommendations of the advisory committee shall be

submitted annually in writing to the division superintendent and the school board (emphasis added).

The Board proposes to change the “may” in the first sentence to “shall.”

Screening, Referral, Identification, and Service

The current regulation includes the following: “Each school division shall establish uniform procedures for screening, referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in general intellectual or specific academic aptitude.” The Board proposes to append to the end of the sentence “including students for whom accurate identification may be affected because they are from an underrepresented group, economically disadvantaged, have limited English proficiency, or have a disability.”

Comprehensive Plan

Each local school board must submit a comprehensive plan for the education of gifted students to DOE for technical review on a schedule determined by the department. According to DOE, the current schedule is once every five years. The current regulation lists 14 required components of the plan. The Board proposes to add three components and makes significant changes to three existing components.

Comprehensive Plan Components: Goals and Objectives

The regulation includes the following as one of the required components of the plan: “A statement of the school division's gifted education program goals and objectives for identification, delivery of services, curriculum and instruction, professional development, equitable representation of students, and parent and community involvement.” The Board proposes to add “Specific language shall be included within the goals, objectives, and strategies that address inequities and underrepresentation of student groups. If the school division is a participating member of an Academic Year Governor's School (AYGS), the division's efforts to support the diversity goals of the AYGS shall be addressed;”

Comprehensive Plan Components: Talent Development Program

The board proposes to introduce the following required component of the plan: “Procedures for a talent development program in the primary grades, kindergarten through second grade, shall be included. Procedures should include (a) plans to expose all students to

advanced learning opportunities, and (b) methods of documenting student progress to demonstrate the need for differentiated instruction and/or future gifted education referral and identification.”

Comprehensive Plan Components: Differentiated Curriculum

Another required component of the plan is “A description of the school division's program of differentiated curriculum and instruction demonstrating accelerated and advanced content.” The Board proposes to add “Options for additional advanced courses for middle school and options for dual enrollment and additional advanced courses for high school students shall be included;”

Comprehensive Plan Components: Early Entrance into Kindergarten and/or First Grade

The Board proposes to require a component on early entrance into kindergarten and/or first grade. Specifically,

Policies and procedures that allow for early entrance into kindergarten and/or first grade. These procedures shall include multiple measures of a child's readiness for school. Multiple measures may include but are not limited to the following:

- a) a common kindergarten/first grade readiness assessment,
- b) a comprehensive evaluation that uses multiple valid and reliable instruments,
- c) an assessment of cognitive, social, and emotional development domains, and
- d) a supervised transition period with consideration to the transition points all children experience;

Comprehensive Plan Components: Whole-grade and Single-subject Acceleration

The Board proposes to require a component on whole-grade and single-subject acceleration. Specifically,

Policies and procedures for whole-grade and single-subject acceleration shall be included. These procedures shall include:

- a) a referral and screening process,
- b) an assessment and placement process,
- c) a supervised transition period with consideration to the transition points all children experience, and
- d) professional development regarding current research on acceleration practices;

Comprehensive Plan Components: Annual Review of Effectiveness

The current regulation includes a required component of the plan on the procedures for the annual review of the effectiveness of the school division's gifted education program. The text on the component states that the review shall be based on multiple criteria and shall include multiple sources of information, but does not specify types of criteria. The Board proposes to add the following:

Multiple criteria should include but is not limited to:

- a) differentiated product-based assessments,
- b) differentiated pre- and post- performance assessments,
- c) multiple indicators that measure mastery of content,
- d) higher level thinking skills,
- e) achievement in specific program areas,
- f) affective growth,
- g) off-level standardized assessments, and
- h) gifted annual report data.

Estimated Benefits and Costs*Qualification for Administrator Supervising Gifted Education*

The Board proposes to state that the “administrator supervising gifted education services should have a gifted education endorsement or nationally recognized gifted education micro-credentialing or equivalent (emphasis added).” To the extent that the proposed language increases the prevalence of such administrators having this training, it would be beneficial in that it would provide increased assurance that the person responsible for implementing gifted education programs throughout a school division understands the attributes of successful gifted education.

Earning a nationally recognized gifted education micro-credentialing can be substantially less expensive and time consuming than a gifted education endorsement. DOE recognizes the National Association for Gifted Children (NAGC) Giftedness Knows No Boundaries Micro-Credentials Program.¹ The NAGC program consists of four online modules. Each module is

¹ See <https://www.nagc.org/professional-learning/nagc-micro-credentials>

structured to take 12 weeks, but as they are self-directed can be completed substantially more rapidly. According to DOE staff, it is not unusual to complete the modules in six weeks. The cost per module is \$120.²

For the endorsement in gifted education, the individual must 1) have earned a baccalaureate degree from a regionally accredited college or university and hold a license issued by the Board with a teaching endorsement in a teaching area, 2) complete 12 semester hours (four courses) of graduate-level coursework in gifted education distributed in specified areas, and 3) complete a practicum of at least 45 instructional hours.

Dollar Cost Comparison³

Micro-credentialing: four modules	\$480
Endorsement: 12 semester hours of graduate-level coursework in gifted education, all taken in the same semester	\$7,600
Endorsement: 12 semester hours of graduate-level coursework in gifted education, taken over two semesters (two courses per semester)	\$9,660

Time Comparison

Micro-credentialing	Six to 12 weeks for each of four modules; can be taken simultaneously
Endorsement	Typically 15 weeks for each of four courses; can be taken simultaneously

Annual Report on Gifted Education

The current regulation includes the following sentence: “Each school division shall submit an annual report to the Department of Education in a format prescribed by the department.” The Board proposes to add: “The information and data/graphs from the annual

² Source: email correspondence with NAGC staff

³ The dollar costs for the graduate-level coursework are from the Virginia Commonwealth University School of Education tuition and fees listed for in-state students, accessed at the following website on January 15, 2021: <https://soe.vcu.edu/admission/tuition--fees/>

report shall be shared by school division leadership with school board members and the community.” Requiring that the full annual report be shared with the local school board members and the community would not likely create substantial cost. It could just be posted to the school division’s website. The proposed requirement would be beneficial in that the board and community could become better informed concerning the school division’s gifted education program.

Local Advisory Committee

The proposal to change “Each school division may establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board (emphasis added)” to “Each school division shall establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board (emphasis added)” would newly require those school divisions that do not currently have a local advisory committee to create one. It would be beneficial in that there would be greater community input in: 1) annually reviewing the local plan for the education of gifted students, including revisions, and 2) determining the extent to which the plan for the previous year was implemented. Conversely, it would likely lengthen the time taken to complete the two tasks versus only having school division staff performing the work.

Screening, Referral, Identification, and Service

The Board proposes to specify that the “uniform procedures for screening, referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in general intellectual or specific academic aptitude” include “students for whom accurate identification may be affected because they are from an underrepresented group, economically disadvantaged, have limited English proficiency, or have a disability.” This proposed amendment may be beneficial to the extent that it may help encourage school divisions to alter their procedures to better identify such students who may benefit from gifted education.

Comprehensive Plan Components: Goals and Objectives

The Board proposes to add to the required components of the comprehensive plan specific language “within the goals, objectives, and strategies that address inequities and underrepresentation of student groups.” DOE provided the following as examples of strategies

that a school division could implement that would address inequities and underrepresentation of student groups: 1) monitoring referrals and identification numbers from individual schools within the division on a regular basis would be the first strategy used to determine if/where there might be inequities, and 2) structuring a talent development program in the younger grades for finding underrepresented populations of students. Similar to the proposal to require that uniform procedures include identifying “students for whom accurate identification may be affected because they are from an underrepresented group, economically disadvantaged, have limited English proficiency, or have a disability,” the proposal to require that the comprehensive plan have language “within the goals, objectives, and strategies that address inequities and underrepresentation of student groups” may be beneficial to the extent that it may help students in underrepresented groups who may benefit from gifted education to receive it.

Comprehensive Plan Components: Talent Development Program

The proposed required talent development program in kindergarten through second grade is intended to better identify and serve students who may benefit from gifted education earlier within their educational experience. As referred to above, it is considered an effective way to help find underrepresented populations of students in particular. According to DOE, several larger school divisions already have talent development programs.⁴ Further, the agency plans to create a guidance document to assist divisions with structuring their talent development programs.

According to DOE, additional staff would not likely be needed for the talent development programs. Typically, the administrator supervising gifted education services would provide existing teachers with worksheets and/or other relevant materials.

Comprehensive Plan Components: Differentiated Curriculum

For school divisions that are not already meeting the proposed requirement that there be “Options for additional advanced courses for middle school and options for dual enrollment and additional advanced courses for high school students . . .,” the division may use Virtual Virginia (VVA).⁵ VVA is a DOE program that offers such advanced courses online. VVA provides free

⁴ For example, the following URL describes Fairfax County Public Schools’ talent development program: <https://www.fcps.edu/academics/elementary-school-academics/k-6advanced-academics/young-scholars-k-12>

⁵ See <https://www.virtualvirginia.org/>

enrollments in K–12 courses taught by a VVA teacher of record, up to a statewide cap of 12,000 students. Once the statewide cap has been reached, additional enrollments can be served for a fee according to the division's Local Composite Index (LCI).⁶ For LCIs from .0001 to .4999, it would be \$175 per student. For LCIs from .5000 to .8000, it would be \$275 per student.⁷ The cap of 12,000 has been reached for the current academic year.

Gifted students in school divisions that do not currently make available such advanced courses would benefit from the opportunity to take courses more appropriate for their abilities. There would likely be increased costs for such divisions commensurate with the costs described above for VVA-provided courses.

Comprehensive Plan Components: Early Entrance into Kindergarten and/or First Grade

The Board proposes to require a new component of the comprehensive plan on policies and procedures that allow for early entrance into kindergarten and/or first grade. The proposal states that the procedures shall include multiple measures of a child's readiness for school that may include but are not limited to: 1) a common kindergarten/first grade readiness assessment, 2) a comprehensive evaluation that uses multiple valid and reliable instruments, 3) an assessment of cognitive, social, and emotional development domains, and 4) a supervised transition period with consideration to the transition points all children experience. To the extent that this proposed requirement encourages school divisions to use measures that better reflect the appropriateness of allowing for early entrance into kindergarten and/or first grade, it may be beneficial.

Comprehensive Plan Components: Whole-grade and Single-subject Acceleration

The Board proposes to also require a new component on policies and procedures for whole-grade and single-subject acceleration. The proposal states that the procedures shall include: 1) a referral and screening process, 2) an assessment and placement process, 3) a supervised transition period with consideration to the transition points all children experience, and 4) professional development regarding current research on acceleration practices. To the extent that this proposed new required component of the comprehensive plan increases the

⁶ School divisions' LCI can be found here:

https://www.doe.virginia.gov/school_finance/budget/compositeindex_local_abilitypay/

⁷ See <https://www.virtualvirginia.org/counselors/expanded/>

likelihood that students receive whole-grade or single-subject acceleration that is most appropriate for them, it would be beneficial.

Comprehensive Plan Components: Annual Review of Effectiveness

The current regulation already includes a required component of the comprehensive plan on the procedures for the annual review of the effectiveness of the school division's gifted education program. The text on the component states that the review shall be based on multiple criteria and shall include multiple sources of information, but does not specify types of criteria. The Board proposes to specify several types of criteria that should be included (described above in the Background section). To the extent that listing specific types of criteria that should be included better enables school divisions to more accurately determine the effectiveness of their gifted education program, this proposed amendment would be beneficial.

Businesses and Other Entities Affected

The proposed amendments affect the 132 local school divisions in the Commonwealth, schools, administrators, teachers, and students. School divisions that do not already: 1) have an administrator supervising gifted education services with a gifted education endorsement or nationally recognized gifted education micro-credentialing or equivalent, 2) share the full annual report with school board members and the community, 3) have a local advisory committee, 4) address inequities and underrepresentation of student groups, 5) have a talent development program in kindergarten through second grade, 6) provide options for additional advanced courses for middle school and options for dual enrollment and additional advanced courses for high school students, 7) have policies and procedures that allow for early entrance into kindergarten and/or first grade, 8) have policies and procedures for whole-grade and single-subject acceleration, or 9) use the type of criteria the Board proposes to specify should be used in the annual review of the effectiveness of the school division's gifted education program, would be particularly affected.

Small Businesses⁸ Affected:

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

⁸ 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.”

Localities⁹ Affected¹⁰

The proposal affects all Virginia localities because all have public schools. Localities where the school divisions do not already: 1) have an administrator supervising gifted education services with a gifted education endorsement or nationally recognized gifted education micro-credentialing or equivalent, 2) share the full annual report with school board members and the community, 3) have a local advisory committee, 4) address inequities and underrepresentation of student groups, 5) have a talent development program in kindergarten through second grade, 6) provide options for additional advanced courses for middle school and options for dual enrollment and additional advanced courses for high school students, 7) have policies and procedures that allow for early entrance into kindergarten and/or first grade, 8) have policies and procedures for whole-grade and single-subject acceleration, or 9) use the type of criteria the Board proposes to specify should be used in the annual review of the effectiveness of the school division's gifted education program, would be particularly affected. The proposal would not likely substantively increase costs for local governments. Localities where the school division does not already provide options for additional advanced courses for middle school and options for dual enrollment and additional advanced courses for high school students would likely incur costs to provide such options.

Projected Impact on Employment

The proposed amendments do not appear to substantively affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments would not likely have a substantive effect on the use and value of private property.

⁹ "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.

¹⁰ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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.