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Proposed Regulation Agency Background Document

Agency name	Virginia Board of Education (20)
Virginia Administrative Code (VAC) citation	8 VAC 20-660
Regulation title	Re-enrollment in Public Schools of Children in the Custody of the Department of Juvenile Justice
Action title	New regulation for re-enrollment planning
Document preparation date	February 2005

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#excreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (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), and the *Virginia Register Form, Style and Procedure Manual* (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 regulation is new. The regulation provides a structured procedure for re-enrollment of students into the public schools when they have been in the custody of the juvenile justice system and receiving instruction through the Department of Correctional Education. The regulation would provide for the exchange of educational information concerning students among the Departments of Juvenile Justice and Correctional Education and the public school divisions. By establishing a process for exchange of student records, with procedures, responsibilities, and timelines delineated, re-enrollment and planning for the student's continued education can take place on a timely basis prior to a student's release from the juvenile justice system.

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.

Authority from the Code of Virginia:

§ 22.1-17.1. The Board of Education, in cooperation with the Board of Correctional Education, shall promulgate regulations for the re-enrollment in the public school of children who have been in custody of the Department of Juvenile Justice. Such regulations shall include the components required in a re-enrollment plan and shall provide for consistency in the curricula, standards and polices between educational programs required by this title, and those of the Board of Correctional Education.

§ 22.1-343.5. The Board of Correctional Education shall have the following powers and duties: To promulgate regulations, in cooperation with the Board of Education, for the reenrollment in the public schools of students who have been in the custody of the Department of Juvenile Justice. Such regulations shall include the components required in a reenrollment plan and shall provide for consistency in the curricula, standards and policies between the educational programs required by this chapter, and those of the Board of Education

§ 16.1-293. The Department shall notify the school division superintendent in the locality where the juvenile was enrolled of his commitment to a facility. The court services unit shall, in consultation with the Department of Correctional Education, the local school division, and the juvenile correctional counselor, develop a reenrollment plan if the juvenile is of compulsory school attendance age or is eligible for special education services pursuant to § [22.1-213](#). The reenrollment plan shall be in accordance with regulations adopted by the Board of Education pursuant to § [22.1-17.1](#). The superintendent shall provide the juvenile's scholastic records, as defined in § [22.1-289](#), and the terms and conditions of any expulsion which was in effect at the time of commitment or which will be in effect upon release. A court may not order a local school board to reenroll a juvenile who has been expelled in accordance with the procedures set forth in § [22.1-277.06](#). At least fourteen days prior to the juvenile's scheduled release, the Department shall notify the school division superintendent in the locality where the juvenile will reside.

§ 16.1-287. Whenever the court commits a child to the Department of Juvenile Justice, or to any other institution or agency, it shall transmit with the order of commitment copies of the clinical reports, predisposition study and other information it has pertinent to the care and treatment of the child. The Department shall not be responsible for any such committed child until it has received the court order and the information concerning the child. All local school boards shall be required to furnish the Department promptly with any information from their files that the Department deems to be necessary in the classification, evaluation, placement or treatment of any child committed to the Department. The Department shall likewise be required to furnish local school boards academic, and career and technical education and related achievement information promptly from its files that the local school board may deem necessary when children are returned to the community from the Department's care. The Department and other institutions or agencies shall give to the court such information concerning the child as the court at any time requires. All such information shall be treated as confidential.

§ 22.1-289.E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § [16.1-287](#), the Department of Correctional Education, pursuant to § [22.1-344](#) of this title, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or

detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Correctional Education shall transfer the scholastic record of a student who has been discharged from a juvenile correctional center of the Department of Juvenile Justice to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

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.

It is the intent of the Board of Education, through these regulations, to:

- Create a positive impact on the family, the student, court services, school divisions and correctional centers, as they are seeking to continue the student's education upon his or her release from a juvenile correctional center
- Provide for consistency in curricula, standards and policies between all educational programs
- Provide for the timely transfer of information between court services, school divisions and correctional centers
- Provide students with timely involvement in appropriate educational programs, both while in the correctional center and local school divisions upon release from the correctional center
- Encourage dissemination of information about, and increase public knowledge about, these regulations and the re-enrollment procedures overall
- Enhance communication, cooperation, and coordination of services among the public systems required to provide for the educational needs of juvenile parolees

It is the goal of the Board of Education, through these regulations, to identify and define the roles and responsibilities of the participants and the required components of the re-enrollment plan and its implementation. Improving the re-enrollment process should facilitate the attendance and continued educational progress of students.

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.)

The proposed regulations are organized into five sections:

- The Foreword, which explains its purpose and goals

- Part I, which provides definitions of terms, such as “re-enrollment plan,” “re-enrollment team,” “scholastic record,” and “transition team”
- Part II, which presents the minimum components of the re-enrollment plan, including educational status of the student, recommendations for academic programs and student supports, re-entry goals, and timelines for: (1) notification of scheduled release or court review to the Department of Correctional Education and the receiving school division; (2) for re-enrollment; and (3) for school placement
- Part III, which delineates the re-enrollment process, procedures, and responsibilities of participating agencies, the re-enrollment and transition teams, and school divisions. The procedures include the notification and convening of teams, the development of the final re-enrollment plan, and the process of re-enrollment
- Part IV, which provides the procedures for the maintenance and transfer of the scholastic record

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 proposed regulations pose no disadvantage to the public or to the Commonwealth. The proposed regulations will specify the procedures for a smooth uninterrupted transition back into the public school system for students who have been in juvenile correctional centers and been receiving education from the Department of Correctional Education.

Enrollment of these students can be delayed and the completion of an academic program jeopardized if complete information about grades, courses, academic goals, needed support services, and other aspects of the student’s experience with the Department of Correctional Education are not received within a time frame that would allow collaborative re-entry planning. Lack of planning can result in the failure of a student to receive the appropriate educational services in the public school. It is crucial that students are involved in an appropriate educational program while in correctional centers and upon release. The incidence of recidivism becomes greater when enrollment is not available soon after release. Improving the re-enrollment process should facilitate the attendance and continued educational progress of students.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>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</p>	<p>Enforcement of the regulation can be undertaken within existing agency budgets.</p>
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Projected cost of the regulation on localities	Minimal
Description of the individuals, businesses or other entities likely to be affected by the regulation	Students in the juvenile justice system and their families or legal guardians School divisions and school personnel Departments of Juvenile Justice, Education, and Correctional Education
Agency's best estimate of the number of such entities that will be affected	All 132 school divisions and their schools could be affected by the proposed regulations. The regulations most likely will impact middle and high schools, and alternative schools, more than elementary schools. There are 305 middle schools and 293 high schools in the commonwealth. There are 16 alternative schools. During FY 2004, 669, or 61 percent, of the 1,091 juveniles released from juvenile correctional centers were under the age of 18.
Projected cost of the regulation for affected individuals, businesses, or other entities	Minimal

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.

The alternative is to ignore the law as provided in Code § 22.1-17.1, which is not appropriate.

Public comment

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

A Task Force on Re-enrollment comprised of 16 members was convened and met to discuss re-enrollment and potential areas of concern on October 25, 2004. The members include a parent, an involved citizen, an advocate from JustChildren, a principal from the public schools, a principal from an alternative school, an administrator for student conduct (handles transition in the school division), a principal in a juvenile correctional center high school, parole officers, and representatives from the Department of Correctional Education (DCE), the Department of Juvenile Justice (DJJ), and the Department of Education (DOE).

The task force discussed the requirements of the Code, the work on re-enrollment planning and coordination that had been completed thus far, and the procedures that are currently in place for re-enrollment. Each person provided commentary about problems and issues from his or her perspective. The issues that affect the success of transitioning from the school division to the juvenile justice system and back into the school system in terms of continuity for the student's education included the following:

Parent involvement

Timeliness of transfers of information and need for more planning time for both the schools and DJJ

Consistency in school enrollment procedures, and designated and qualified personnel

Maintenance of student academic records by school divisions

Assignment of staff and designation of accountability for receiving the release packet and working with the student

Interagency communication, provision of access to records, and the agency Memorandum of Understanding

Overcoming enrollment barriers

Diagnosis and planning for placement based on facts not reactions

Commenter	Comment	Agency response
Task Force on Re-Enrollment (See above.)		Using the issues identified by the task force as a framework, a representative subcommittee of the full task force drafted the regulations, which were then circulated for review and comment to task force members. The proposed regulations reflect the consensus of the task force.

Family impact

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

The regulations should have a positive impact on the family since they address the continuance of the education of a child upon release from a juvenile correctional center to the public school system. The regulations speak specifically to parental involvement in re-enrollment planning, and should strengthen the rights of parents to participate and achieve objectives for the continuation of educational opportunities for their children upon release.

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

The regulations are new.

The first section of the proposed regulations provides the legal authority for the Board of Education, in cooperation with the Board of Correctional Education, to promulgate the regulations. The section also provides the goals for the regulations and purpose. (See above.)

Part I of the proposed regulations provides the definitions of words and terms used in the regulations. The definition section is meant to provide clarity and explanations of the terms used. The definitions as presented follow.

“Educational programs” means educational programs that are designed to provide educational services to students who are subject to compulsory school attendance and are receiving such services in school divisions, juvenile correctional centers, jails, juvenile detention homes, or state operated programs.

“Final re-enrollment plan” means the written documentation developed by the receiving school division that addresses the student’s education program, placement, and support services upon re-enrollment.

“Preliminary re-enrollment plan” means the written documentation for a person to be released from Department of Juvenile Justice custody who is of compulsory school attendance age or is eligible for special education services pursuant to § [22.1-213](#) of the Code of Virginia. The plan describes the student’s educational history while in the custody of the Department of Juvenile Justice, current status, identification of school placement upon release, recommendations for an education program following re-enrollment, and recommendations for student supports, such as counseling services.

“Receiving school division” means the school division or state operated program where a student will enroll upon release from the custody of the Department of Juvenile Justice.

“Re-enrollment coordinator” means the school division or state operated program staff person designated to work with the parole officer, the Department of Correctional Education, the transition team, and the re-enrollment team to coordinate the development of the re-enrollment plan.

“Re-enrollment team” means the group convened by the division superintendent or designee of the receiving school division to prepare for and implement the re-enrollment of the student. The re-enrollment team shall include, at a minimum, the guidance counselor, the special education director as appropriate, the principal or assistant principal if designated, the re-enrollment coordinator, and the parole officer. The student’s parent(s) or legal guardians(s) and the school social worker or psychologist shall be invited to participate in meetings of the re-enrollment team.

“Scholastic record” means records that are directly related to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, the high school transcript, student disciplinary records, achievement and test data, cumulative health records to include immunization records, reports of assessment for eligibility for special education services, and Individualized Education Programs (IEPs).

The term “scholastic record” does not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Also, in accordance with § 22.1-289 of the Code of Virginia, a notice of adjudication or conviction received by a superintendent relating to an incident that did not occur on school property or during a school-sponsored activity shall not be part of a student’s scholastic record.

“Transition team” means the Department of Correctional Education (DCE) principal or assistant principal, the DCE counselor, the DCE transition specialist, the Juvenile Correctional Center counselor, and the student’s parole officer. This team assembles the student’s scholastic record and other relevant documents, develops the preliminary re-enrollment plan, and provides information and the preliminary plan to the receiving school division. Transition team members may also include the school division of origin for the student, if different from the receiving school division, and the re-enrollment coordinator. Transition team members may also be part of the re-enrollment team.

Part II of the proposed re-enrollment regulations names the required components of the plan to ensure consistency. These components include, but are not limited to:

1. Educational status and recommendations at commitment
2. Educational status and recommendations of the Department of Correctional Education during the student’s stay at the Reception and Diagnostic Center
3. Educational status and recommendations while in the custody of the Department of Juvenile Justice
4. Educational and re-entry goals for the student
5. Other student supports needed to promote the student’s successful re-entry to public school, such as counseling services
6. Anticipated dates and timelines for scheduled release to the receiving school division or for court review of the case, and for re-enrollment
7. Establishment of school placement upon release

Part III of the proposed regulations prescribes the responsibilities of the participating parties in the transition of the student from the juvenile correctional system to the public schools and the process to be followed, including timelines. The section is necessary to ensure that the re-enrollment plan is developed on a timely basis with comprehensive information as the basis. The section also addresses the necessary communication that should take place between the participating agencies and school divisions, including the provision of records and collaboration on the development of the re-enrollment plan.

The proposed process and responsibilities are as follows:

A. Notification and Convening of Teams.

1. The Department of Juvenile Justice, through the Juvenile Correctional Center’s counselor, shall provide written notification to the Department of Correctional Education principal or designated educational authority at least 30 calendar days prior to the scheduled release of a student or a scheduled case review in court.
2. Upon notification, the transition team shall prepare and assemble the documents and scholastic record that support the development of the re-enrollment plan. Also upon notification, the Department of Correctional Education will provide a letter of pending release

and an informative outline of the re-enrollment process within five business days to the re-enrollment coordinator for the receiving school division and the student's parent(s) or guardian(s). The school division shall confirm receipt of notification with the Department of Correctional Education within five business days.

3. At least 25 calendar days prior to the court review or pending release of a student, and after review with the student, the Department of Correctional Education shall forward the student scholastic record and a preliminary re-enrollment plan to the school division re-enrollment coordinator.
4. Within 10 business days of receipt of the materials, the re-enrollment coordinator shall convene the re-enrollment team to review the preliminary re-enrollment plan and develop the final plan. The student's parent(s) or legal guardian(s) shall be invited by the re-enrollment coordinator to attend a meeting where the final re-enrollment plan will be developed. The parent(s) or legal guardian(s) may designate a member of the transition team, or someone else, to represent him or her at the meeting.
5. Notice of the scheduled meeting to develop the re-enrollment plan will be given to all potential participants by the receiving school division a minimum of one week prior to the meeting.
6. Other individuals who have knowledge or expertise regarding the student may participate, at the discretion of the members of the re-enrollment team or parent(s) or legal guardian(s), or if the student is of majority age and eligible for special education services, at the discretion of the student.

B. Development of Final Re-Enrollment Plan.

1. The re-enrollment team shall develop a final re-enrollment plan that clearly states:
 - a. The educational placement of the student and timeframe for placement
 - b. The names of persons with responsibility and authority for prompt enrollment and their contact information
 - c. The student's scheduled academic program and other supportive activities or services as appropriate
 - d. The names of the members of transition and re-enrollment teams
 - e. Any other required components
2. Copies of the final plan shall be provided to the student, parent(s) or legal guardian(s), and to all transition and re-enrollment plan members no later than 10 calendar days prior to release.

C. Re-enrollment.

1. The re-enrollment plan shall make it possible for the student to enroll and receive instruction in the receiving school district within two school days of release.
2. After the Department of Juvenile Justice gives notice of a student's scheduled release, the student may not be suspended or expelled from school programs for the offenses for which he or she was committed.
3. Placement of students in alternative education programs shall be in accordance with § 22.1-277.2 of the Code of Virginia.

Part IV of the proposed regulations provides the requirements for the maintenance and transfer of the student's scholastic record. This section ensures that the student's record will be readily available when release of a student is pending, and that it will be transferred among agencies and school divisions according to federal and state law. Maintenance of the record by the school division in which the student was last enrolled will ensure the documentation of progress of the student while instructed within the Department of Correctional Education schools. Timely transfer of records is critical to determining the academic program of the student, both when he or she enters the juvenile justice system and when the student is released back to a public school.

The requirements for maintenance and transfer of the student record are:

- A. Within two business days of the court's order of commitment to the Department of Juvenile Justice, the student's probation/parole officer will request the scholastic record from the school division where the student was last enrolled.
- B. The re-enrollment coordinator for that school division will provide the record and any other requested information to the Reception and Diagnostic Center to the attention of the Department of Correctional Education within five business days of receipt of the probation officer's request.
- C. The school division where the student was last enrolled ("sending school division") will maintain the student's scholastic record during the period that the student is in the custody of the Department of Juvenile Justice. The Department of Correctional Education will provide copies of year-end transcripts to the re-enrollment coordinator of the sending school division at the same time the transcripts are sent to parent or legal guardians.
- D. The transfer and management of scholastic records between educational programs shall be in accordance with the Code of Virginia and the Family Educational Rights and Privacy Act.
- E. School divisions shall provide current contact information for re-enrollment coordinators to the Departments of Education and Correctional Education that shall be made available to the public.