



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-440-10 et seq.
Regulation title	<i>Regulations Governing the Employment of Professional Personnel</i>
Action title	Revise the <i>Regulations Governing the Employment of Professional Personnel</i>
Date this document prepared	September 11, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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 the Employment of Professional Personnel* became effective April 20, 1994, and were amended effective March 28, 2003.

The 2012 Virginia General Assembly approved House Bill [76](#) and Senate Bill [278](#) to amend and re-enact § [22.1-304](#) of the *Code of Virginia*. These bills changed the date of notification of contracts from April 15 to June 15.

A comprehensive review of the regulations will be conducted. The regulations in their entirety will be examined. These regulations will be repealed, and new regulations are to be promulgated.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

The *Constitution of Virginia* grants the Board of Education authority for the general supervision of the public school system and Section 22.1-16 of the *Code of Virginia* authorizes the Board to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

Constitution of Virginia ([Article VIII, Section 4](#)): “The general supervision of the public school system shall be vested in a Board of Education....”

Code of Virginia, Section [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.

The 2012 Virginia General Assembly approved House Bill [76](#) and Senate Bill [278](#) to amend and re-enact § [22.1-304](#) of the *Code of Virginia*, as follows. Senate Bill [278](#) bill is identical to [HB 76](#).

CHAPTER 687

An Act to amend and re-enact § [22.1-304](#) of the Code of Virginia, relating to teachers without continuing contract status.

[H 76]

Be it enacted by the General Assembly of Virginia:

1. That § [22.1-304](#) of the Code of Virginia is amended and reenacted as follows:
§ [22.1-304](#). Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.
A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within 15 days of receipt of such notice. Except as provided in § [22.1-305](#) and except in the case of a reduction in force as provided in subsection F, written notice of nonrenewal of the contract must be given by the school board on or before ~~April~~ *June* 15 of each year. If no such notice is given a teacher by ~~April~~ *June* 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.
B. Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service and prior to the age at which they are eligible or required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by either party must be given by ~~April~~ *June* 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.
C. A teacher may resign after ~~April~~ *June* 15 of any school year with the approval of the local school board or, upon authorization by the school board, with the approval of the division superintendent. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

If the division superintendent has been authorized to approve resignations, a teacher may, within one week, withdraw a request to resign. Upon the expiration of the one-week period, the division superintendent shall notify the school board of his decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the division superintendent.

In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

D. As soon after ~~April~~ June 15 as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

E. A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

F. Within two weeks of the approval of the school budget by the appropriating body, but no later than June 1, school boards shall notify all teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

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.

The proposed regulatory action is essential to protect the health, safety, or welfare of citizens as the regulations set forth the policies and procedures for contracts for teachers, principals, and supervisors.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. 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 comprehensive review of the *Regulations Governing the Employment of Professional Personnel* will be conducted. The regulations will be examined in their entirety, and recommendations for revisions will be presented to the Virginia Board of Education for review.

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.

No specific alternatives exist. A comprehensive review of the *Regulations Governing the Employment of Professional Personnel* requires regulatory action.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including 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.

Please also indicate, pursuant to your Public Participation Guidelines, whether a Regulatory Advisory Panel or a Negotiated Rulemaking Panel will be used in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including, but not limited to 1) ideas to be considered in the development of this 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) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>), or by mail, e-mail, or fax to Mrs. Patty S. Pitts, assistant superintendent for teacher education and licensure, Virginia Department of Education, P. O. Box 2120; Richmond, Virginia 23218-2120; (phone) 804-371-2522; (fax) 804-530-4510. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar Web site (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

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.

The *Regulations Governing the Employment of Professional Personnel* set forth the requirements for the issuance of contracts to teachers, principals, and supervisors, further ensuring educational quality for Virginia's public schools.