



Virginia  
Regulatory  
Town Hall

Exempt Action Final Regulation  
Agency Background Document

Agency Name:	20
VAC Chapter Number:	80
Regulation Title:	Regulations Governing Special Education Programs for Children with Disabilities in Virginia
Action Title:	Technical changes: Exempt
Date:	4/21/2002

Where a regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file the final regulation with the Registrar in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

**Note agency actions exempt pursuant to § 9-6.14:4.1(B)** do not require filing with the Registrar a Notice of Intended Regulatory Action, or at the proposed stage. When the regulation is promulgated and submitted to the Registrar, the agency need only provide a statement citing the specific Virginia Code section referencing the exemption and an authority certification letter from the Attorney General's Office. No specific format is required.

This form should be used for actions **exempt from the Administrative Process Act pursuant to § 9-6.14:4.1(C)** at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar a Notice of Intended Regulatory Action, and at the proposed stage.

Summary

*Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed.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 U.S. Department of Education, in its review and analysis of these regulations to determine Virginia's eligibility for federal special education funds, identified certain components of the regulations that needed to be changed. This directive from the USDOE Office of Special Education Programs was received by the Virginia Department of Education on June 28, 2001.

After receiving the letter from USDOE, the Virginia Department of Education drafted changes in the regulations and forwarded the proposed changes to USDOE for review. The technical changes reflected in the revised Regulations Governing special education Programs for Students with Disabilities (8 VAC 20-80-10 through 190) reflect the changes as required by USDOE.

A summary of the Amendments to the Regulations Governing Special Education Programs for Children with Disabilities in Virginia is as follows:

The United States Department of Education has reviewed the Board of Education's Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8 VAC 20-80-10 et. seq.) as adopted in November 2000 (Va Register volume 17, issue 5, page 706). The purpose of the review was to determine Virginia's eligibility for federal special education funds. As a result of its review, USDOE identified certain components of Virginia's Regulations Governing Special Education Programs for Children with Disabilities in Virginia that needed to be changed in order to comply with the U. S. Office of Special Education Programs (OSEP) regulations. The USDOE notified the Virginia Department of Education that certain technical changes to the state's regulations were required in order for the regulations to comport with federal regulations. The changes to be made to the Regulations Governing Special Education Programs for Children with Disabilities in Virginia cover the following sections or areas: state special education advisory committee; process for reporting to the public; confidentiality of personally identifiable information; responsibility of the local school divisions and state-operated programs; procedures for evaluation and determination of eligibility, eligibility of two-year-old children; Full Educational Opportunity Goal, private school placement, and procedural safeguards.

The Office of the Attorney General reviewed the technical changes required by the USDOE and determined that the changes to the state's regulations are non-substantive in nature and content. The Virginia Board of Education, therefore, appeals to the Virginia Registrar of Regulations for an exemption of the requirements of the Administrative Process Act and asks that the technical changes be considered final.

The United States Department of Education, in its review and analysis of these regulations to determine Virginia's eligibility for federal special education funds, identified certain components of the regulations that needed to be changed. The required changes are designed to ensure that:

- (a) meetings of the state special education advisory committee are announced early enough for the public to attend;
- (b) state reports of assessment do not disaggregate data for children with disabilities if doing so is not statistically sound;
- (c) confidentiality notices to parents comply with §300.561 of the Individuals with Disabilities Education Act;
- (d) IEPs are developed appropriately for children placed in non-educational placements by Comprehensive Services Act teams;
- (e) IEP teams determine when services will begin for children who turn 2 during summer months;
- (f) children aged birth to 21 have a free educational opportunity goal and the state and localities intend on meeting this goal by 2010;

- (g) private schools where children with disabilities are placed are described as private schools rather than private special education schools;
- (h) parents of children placed by a Comprehensive Services Act team for special education reasons have the full rights for parental involvement in placement decisions;
- (i) expedited due process hearing timelines are the same for hearings requested by parents or by local educational agencies;
- (j) Virginia's language does not place a statute of limitations on federal appeals.

**Statement of Final Agency Action**

*Please provide a statement of the final action taken by the agency including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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The Virginia Board of Education approved the proposed technical changes on February 5, 2002.

**Family Impact Statement**

*Please provide an analysis of the regulatory action that assesses the 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.*

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The technical changes will have no impact on the family or on the stability of the families of disabled children in Virginia.