



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-280-10 et seq.
Regulation title	<i>Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs</i>
Action title	Revisions to the <i>Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs</i>
Document preparation date	April 3, 2007

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) 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).

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 Jointly Owned and Operated Schools and Jointly Operated Programs*, 8 VAC 20-280-10 et seq., were adopted on or before September 1, 1980. These regulations have not been amended since that time and do not address changes that have been made in the operation of joint schools and joint programs since the regulation was written. Joint schools include academic-year Governor's schools. Not including the academic-year Governor's schools, there are approximately 50 joint schools (i.e., regional programs).

The 2003 General Assembly passed legislation allowing academic-year Governor's schools to choose a fiscal agent from among the treasurers of the cities and/or counties participating in this joint school program. Current law dictates that each of the regional programs other than the Governor's schools designate a fiscal agent according to the physical location of the school. HB 2371, patroned by Delegate Tata, and passed by the 2007 General Assembly will permit all joint school boards to designate a fiscal agent from among participating school divisions regardless of the physical location of the school beginning July 1, 2007. This bill resulted from a legislative proposal put forth by the Department of Education to streamline the operation of joint schools.

As a result of this legislation and the language that needs to be added to address changes that have been made in the operation of joint schools and joint programs since the regulation was written these regulations need to be revised. Because the changes will be extensive, this will be accomplished by repealing the current regulation and promulgating a new regulation.

Legal 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.

Section 22.1-16 of the Code of Virginia provides that “The Board of Education may adopt bylaws for its own governance and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” These regulations are necessary for the governance of the jointly owned and operated schools and programs by the Board of Education.

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. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

A comprehensive review and revision of these regulations has not been done in several years. Because the changes may be extensive, this regulatory action will consist of the repealing of the current regulation, 8 VAC 20-280-10 et seq., and the promulgation of a new regulation, 8 VAC 20-281-10 et seq. This will be accomplished through a review of the current regulations, changes in the Code of Virginia, and the practices and procedures of all of the joint schools and programs. Changes will be made in the following areas:

- A complete revision of the first section of the regulation because it is largely aspirational in nature rather than regulatory. (8 VAC 20-280-10)
- The addition of a definitions section to the regulation.
- A complete revision of the second section of the regulation (8 VAC 20-280-20) into several sections addressing individual topics. Currently this section includes all of the organizing and operating procedures, including membership, organization, authority, authority of the division superintendent, annual budget and financing plan, annual appropriations and expenditures.
- Inclusion of any new language that is needed to address the changes in the operation of joint schools and programs since the regulation was written.
- Addition of the new language passed by the 2007 General Assembly regarding the appointment of a fiscal agent.

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.

No alternatives to amending these regulations have been considered as the Board of Education is desirous of conducting this review and revision as essential to the continued improvement of the system of public schools in Virginia and to incorporate the changes required by legislation passed during the 2007 General Assembly.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The proposed amendments to the regulations are not expected to have an impact on the institution of the family and family stability.