



Economic Impact Analysis Virginia Department of Planning and Budget

8 VAC 20-671 – Regulations Governing the Operation of Private Schools for Students with Disabilities

Department of Education

April 2, 2011

Summary of the Proposed Amendments to Regulation

Chapter 670 (8 VAC 20-670) is titled Regulations Governing the Operation of Private Day Schools for Students with Disabilities. As the name implies, the regulations govern the operation of private *day* schools for students with disabilities, but not private residential schools for students with disabilities. Currently there are no single set of regulations applicable to the educational programs in private residential facilities. It is necessary to refer to several sets of regulations. The Board of Education proposes to repeal Chapter 670 and promulgate Chapter 671 (8 VAC 20-671), Regulations Governing the Operation of Private Schools for Students with Disabilities, to address all applicable requirements for both private day schools and education programs in residential facilities, including group homes. Other than location within the administrative code, the only change in requirements from the current regulations would be an increase in the amount of the required guaranty instrument.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Under the current regulations, all applicants for a new license to operate shall provide a surety bond, irrevocable letter of credit, or certificate of deposit and maintain the guaranty instrument. The minimum guaranty for up to 50 students is \$5,000. The minimum increases incrementally by \$5,000 for each additional 50 students or portion thereof. If after three full years of operation the school shows that it collects no advance tuition other than equal monthly

installments or is paid after services have been rendered, the school may become exempt from the guaranty requirement.

Under the proposed regulations, the minimum guaranty becomes \$10,000 for up to 25 students and \$5,000 for each additional 25 students. The guaranty exemption language remains the same.

Of the 85 existing licensed day schools, 62 are exempt from the guaranty requirement and 11 are not yet eligible for exemption.¹ Some day schools that could be exempt have requested to continue with the guaranty. Only 21 day schools have private pay students; all other schools are reimbursed monthly through the Comprehensive Services Act. Of these 21 day schools, we believe all claim reimbursements after services are rendered.

An informal survey conducted by the Department of Education (Department) of 10 of the existing 43 private residential facilities revealed that each one would qualify for exemption because payments are made through reimbursements after services are provided.

The Department estimates that schools who currently maintain guaranty instruments pay approximately \$100 to \$150 annually. Under the proposed regulations the cost would likely approximately double. The schools have been notified of the proposed regulations and none are known to have expressed objections.

Businesses and Entities Affected

The proposed amendments affect the 132 public school divisions in the Commonwealth.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposal amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments will not affect most of the private schools for students with disabilities. For those for whom the guaranty instrument applies, costs will likely increase by about \$100 annually.

Small Businesses: Costs and Other Effects

The proposed amendments will not affect most of the private schools for students with disabilities. For those for whom the guaranty instrument applies, costs will likely increase by about \$100 annually. All of the private schools for students with disabilities are likely small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There is no alternative method that would reduce the modest increase in costs for small private schools for students with disabilities that would still meet the policy goal of covering a more than marginal but still modest portion of the potential lost tuition if schools were to close.

Real Estate Development Costs

The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

¹ Source: Department of Education

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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