



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-340
Regulation title	<i>Regulations Governing Driver Education</i>
Action title	This action adds a new section to 8 VAC 20-340, <i>Regulations Governing Driver Education</i> , which regulates driver education correspondence courses that are programs primarily used by students who are homeschooled.
Date this document prepared	August 25, 2011

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*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

In 1984, the Virginia General Assembly adopted legislation amending the state’s compulsory attendance laws (§ [22.1-254](#) of the *Code of Virginia*) to allow parents to teach their children at home in lieu of sending them to a public or private school. One of the provisions qualifying parents to home instruct their children permitted them to enroll a child in a correspondence course approved by the Board of Education. (§ [22.1-254.1](#) of the *Code*) In 1999, the General Assembly amended § [22.1-205](#) of the *Code* to permit the Board to approve correspondence courses in the classroom portion of driver education for parents who home-school their children.

The 2008 General Assembly adopted [HB 767](#) which removed the correspondence course approval requirements in § [22.1-254.1](#) so that parents who home instruct can use any correspondence course of their choosing to meet this option rendering the previous approval requirement moot. As a result of this action, the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#) is no longer necessary and is being repealed. However, the requirement for the approval of correspondence courses for driver education by this

Department remains. In order to ensure continued compliance with this requirement, a new section governing the approval of correspondence courses for driver education by this Department will be added to the [Regulations Governing Driver Education](#); thus, consolidating the process for approval of correspondence courses for driver education in one set of regulations. This streamlines the current approval process and provides clarity for users.

The proposed new section of the revised regulation, the [Regulations Governing Driver Education](#), includes the definition section from the repealed regulation with minor revisions and also adds a definition for the term “parent.” In addition, the revised regulation requires the applicant to submit to the Department as part of the application process an Affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the correspondence program. Broad language in the current regulation allows the Department to ask for this information, but the more specific language in the proposed regulation enables all users to be fully aware of the regulatory expectations. Moreover, the approval criteria have been expanded to add a requirement that the content of each course meets the requirements of the [Driver Education Standards of Learning](#) and the [Curriculum and Administrative Guide for Driver Education](#). An appeals process has also been added to clarify the applicant’s right to due process.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

All technical terms used in the document are defined in the “Definition” section of the revised regulation.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), 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* vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. In addition, § [22.1-205](#) of the *Code* provides the Board with the authority to approve correspondence courses for the classroom training component of driver education.

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, the environmental benefits, and the problems the proposal is intended to solve.

The proposed regulatory action is essential to protect the health, safety, and welfare of citizens in that it will ensure that courses offered by correspondence schools in driver education will meet state requirements for such programs. It will also help ensure that young aspiring drivers receive adequate instruction prior to seeking a driver's license.

A new section regarding approval of correspondence courses for driver education will be added to the [Regulations Governing Driver Education](#); thus, consolidating the process for approval of correspondence courses for driver education in one set of regulations. This will streamline the current process and delete an obsolete set of regulations, [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#).

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

The proposed change will repeal an outdated regulation (the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#)) initially adopted by the Board of Education in 1985 and revise a current regulation (the [Regulations Governing Driver Education](#)) directed specifically at approving driver education courses offered as correspondence programs. The need for a separate set of regulations was eliminated by an amendment to § [22.1-254.1](#) of the *Code of Virginia* by the 2008 General Assembly.

The proposed new section of the revised regulation, the [Regulations Governing Driver Education](#), includes the definition section from the repealed regulations with minor revisions and also adds a definition for the term "parent." In addition, the revised regulation requires the applicant to submit to the Department as part of the application process an Affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the correspondence program. All of the revisions are proposed to protect the parents and students who use these programs. Moreover, the approval criteria have been expanded to add a requirement that the content of each course meet the requirements of the [Driver Education Standards of Learning](#) and the [Curriculum and Administrative Guide for Driver Education](#). An appeals process has also been added to clarify the applicant's right to due process.

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 indicate.

This proposal will ensure that courses approved by the Board of Education and offered by driver education correspondence programs will meet the minimal requirements for such programs offered in public schools. It will also help ensure that young aspiring drivers receive adequate instruction prior to seeking a driver's license. This should ensure better drivers and a safer public. In addition, the proposed revisions will protect the parents and students who use these programs.

This regulatory action does not pose a disadvantage to the public or to the Commonwealth in any way.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements or requirements that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There is no disproportionately significant impact on any locality.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the Board is 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) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall Web site, www.townhall.virginia.gov, or The Policy Office, Att: Comments on Proposed Revision to Driver Education Regulations, P.O. Box 2120, Richmond, VA 23218-2120, by phone number at 804-225-2092, by fax number at 804-530-4502, or by e-mail at POLICY@doe.virginia.gov. Written

comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>There is minimal cost to the state to implement the proposed revision of the regulation. Existing allocations should be sufficient to fund the state’s responsibilities.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>There should be no cost to localities, as these regulations do not directly affect localities.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>The Virginia Department of Education, some parents who home school, some students who are home-schooled, and correspondence programs which provide driver education in Virginia will be affected by the new regulation.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Currently there are four approved driver education correspondence programs in Virginia.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>Any additional costs created by the proposed changes should be insignificant.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>This proposal consolidates two sets of regulations already in place. All of the revisions are proposed to protect the parents and students who use these programs. Moreover, the approval criteria have been expanded to add a requirement that the</p>

	content of each course meets the requirements of the Driver Education Standards of Learning and the Curriculum and Administrative Guide for Driver Education and an appeals process has also been added to clarify the applicant's right to due process.
--	--

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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The alternative considered was to maintain an obsolete set of regulations intended for another purpose and earlier time and continue to approve driver education correspondence courses under these regulations. However, this change is the most efficient and cost-effective manner to approve these courses.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

During the development of the proposed regulations, this Department has made efforts to minimize the number of regulations that will impact the driver education correspondence programs while maintaining the minimum requirements that will assure the safety of citizens and students in the Commonwealth.

Public comment

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

Commenter	Comment	Agency response
Matty	Fiscally responsible? I'm not sure this is the most fiscally responsible route to take. How can we propose alternative	This proposal has a minimal fiscal impact. Any proposals for alternative measures may be submitted to the Board of Education at Policy@doe.virginia.gov

	measures? -Matty from Mini Trampoline Headquarters	
Alex	Fiscal reforms I think that fiscal reforms are a MUST, but we should hire real professionals to implement them... a fiscal measure requires more feasibility studies... Thanks, Alex Cursuri Dezvoltare Personala	This proposal does not address fiscal reforms or feasibility studies.
Frederik Friis	Many Regulations Is Needed I think to make good condition and good rule.need to make regulations.i agree with this regulation and i suggestion to this regulations.thanks <u>Makeityourring Diamond Engagement Rings</u>	No response necessary.

Family impact

Please assess the 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.

There is no potential additional impact on the family. In fact, the repeal of obsolete regulations and the revisions to the existing driver education regulations is expected to benefit families because the proposed regulatory revisions ensure that families using correspondence courses can find all pertinent information related to the correspondence course approval process in one set of regulations rather than two.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
<p>8 VAC 20-340- 40</p>	<p>The proposed change will repeal an outdated regulation revise a current regulation (the Regulations Governing Driver Education) directed specifically at approving driver education courses offered as correspondence programs. These programs are currently being regulated under an obsolete set of regulations (the Regulations Governing the Approval of Correspondence Courses for Home Instruction) initially adopted by the Board of Education in 1985. The need for a separate set of regulations was eliminated by an amendment to § 22.1-254.1 of the <i>Code of Virginia</i> by the 2008 General Assembly.</p> <p>The proposed new section of the revised regulation, the Regulations Governing Driver Education, includes the definition section from the repealed regulations with minor revisions and also adds a definition for the term “parent.” In addition, the revised regulation requires the applicant to submit to the Department as part of the application process an Affidavit; a schedule of tuition and fees, a description of its refund policy; and copies of all application forms and enrollment agreements used by the correspondence program. All of the revisions are proposed to protect the parents and students who use these programs.</p> <p>Moreover, the approval criteria have been expanded to add a requirement that the content of</p>	<p>§ 22.1-205 of the <i>Code of Virginia</i></p>	<p>This proposal will ensure that courses approved by the Board of Education and offered by correspondence programs in driver education will meet or exceed requirements for such programs offered in public schools. It will also help ensure that young aspiring drivers who are homeschooled will receive adequate instruction prior to seeking a driver’s license.</p>

	<p>each course meets the requirements of the <u>Driver Education Standards of Learning</u> and the <u>Curriculum and Administrative Guide for Driver Education</u>. An appeals process has also been added to clarify the applicant's right to due process.</p>		
--	---	--	--