



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Education
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20-280-10 through 8 VAC 20-280-20
<b>Regulation title</b>	Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs
<b>Action title</b>	Revision of regulations governing joint schools and jointly operated programs
<b>Date this document prepared</b>	November 2, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The *Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs* were adopted on or before September 1, 1980. These regulations have not been amended since then and do not address changes made in these programs since that time. Joint schools include academic-year Governor's schools, alternative education centers, career and technical centers, and special education centers. In a concurrent action, the Board of Education proposes to repeal the text of the current regulations (8VAC20-280-10 et seq.) and promulgate new regulations (8VAC20-281-10 et seq.).

The present action proposes significant changes in the regulations. In the proposal, the first section of the regulations has been deleted because it is primarily aspirational, the second section has been reorganized, revised, and streamlined, and a definitions section has been added for clarity. In addition, new language has been added in response to HB 2371, which addressed the appointment of a fiscal agent and the holding of title to property. This bill was passed during the 2007 Session of the General Assembly.

## 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.*

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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, § 22.1-26 of the Code of Virginia provides the Board of Education with the legal authority to promulgate regulations that govern joint schools.

## 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.*

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These regulations provide joint schools and joint school boards with guidance and operating procedures that support regional efforts to establish programs that meet the needs of their communities and ensure that these programs are managed appropriately and in a fiscally sound manner.

## Substance

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

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The current regulations (8VAC280-10 et seq.) are being repealed. The proposed regulations (8VAC20-281-10 et seq.) include the following:

- Addition of a definitions section for clarity.
- Revision of the second section of the regulations which includes all of the organizing and operating procedures, including membership, organization, authority, authority of the division superintendent, annual budget and financing plan, and expenditures. Most of these headings/catchlines from the current regulations remain, but the language has been streamlined and is more user-friendly.
- Addition of the new language related to HB 2371 which was passed by the 2007 General Assembly regarding the appointment of a fiscal agent and the holding of title to property.

## 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 so indicate.

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The proposed regulations to these regulations are advantageous to the public, the agency, and the commonwealth for the following reasons:

1. The proposed regulations establish clear and basic expectations for all programs subject to its requirements.
2. The proposed regulations replace current regulations that are ambiguous in some areas.
3. The proposed regulations replace one section of the current regulations where much of the language is aspirational.

There are no perceived disadvantages to the public, to the agency, or to the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need 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.*

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There are no 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.*

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There is no disproportionately significant negative or positive effect on any specific locality. All joint schools will be impacted by the revised regulations.

**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.*

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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 by mail, email or fax to **The Policy Office, Att: Comments on Joint Schools Regulations Revision, Virginia Department of Education, P.O. Box 2120, Richmond, Virginia 23218-2120; by fax at (804) 786-5389; or by e-mail at [Policydata@doe.virginia.gov](mailto:Policydata@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 date 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](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	There is minimal cost to the state to implement the proposed regulations revisions. Existing allocations should be sufficient to fund the state's responsibilities.
<b>Projected cost of the regulation on localities</b>	It is anticipated that the additional costs associated with the implementation of the proposed regulations will be minimal.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	The Virginia Department of Education and 100 joint schools will be affected by this proposal. Local school divisions (132) may be affected.
<b>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.</b> 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.	The proposed regulations do not affect small businesses.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	The additional costs created by the proposed changes should be minimal. The proposed regulations do not affect small businesses.

**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.*

There are no viable alternatives to revising these regulations. However, in accordance with the Governor’s Executive Order 36 (2006) efforts have been made to minimize the number of regulations proposed to those necessary to achieve their objective in the most cost-efficient and cost-effective manner. Small businesses will not be affected.

**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 these schools. Small businesses will not be impacted by these regulations.

**Public comment**

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

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
None		

**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.*

It is not anticipated that the proposed regulations will have any impact on the institution of the family or family stability.

**Detail of changes**

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

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

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8VAC20-280-10	NA	This section includes some aspirational language regarding the arrangements for jointly owned and operated schools and jointly operated programs.	This section will be repealed because much of the language is not necessary. In the proposed regulations language regarding accounting practices and the organizational plan is found in 8VAC20-281-20.
NA	8VAC20-281-10	The current regulations do not include a definitions section.	A definitions section has been added for clarity. It includes definitions for the following terms: alternative education program, classification of expenditures, finance officer, fiscal agent (HB 2371 from the 2007 General Assembly Session), joint board, joint school, operation and maintenance, regional public charter school, and treasurer.
8VAC20-280-20	8VAC20-281-20	<p>The current section includes operating procedures regarding membership of the joint board; organization of the board including a chairman and vice-chairman; joint board authority; authority of the division superintendents; annual budget and financing; and annual appropriations and expenditures. This section will be repealed.</p> <p>The current regulations provide:</p> <p>1. Membership of the joint board is composed of lay members of the participating school boards. When no more than two boards are members, membership shall consist of three members from each of the participating school board. When three school boards participate, membership will consist of two members from each board. When more than three boards establish a joint board, membership will consist of one member from each board.</p>	<p>The language in the proposed section has been streamlined and revised for clarity, and to give the joint schools more flexibility in operating their programs. It includes operating procedures regarding membership of the joint board; organization of the board including a chairman and vice-chairman; authority of the joint board, including ability to hold title to property (HB 2371 from the 2007 General Assembly Session); authority of the division superintendents; and budget and expenditures.</p> <p>The new regulations provide:</p> <ol style="list-style-type: none"> <li>1. Membership of the joint board shall consist of at least one member from each of the participating school boards.</li> <li>2. The terms, finance officer and fiscal agent, are included in the definitions. Fiscal agent means the treasurer of a county or city where the school is located or as selected from among the treasurers of the participating localities. (HB 2371) Finance officer means fiscal agent for the joint school board.</li> <li>3. The joint school board is authorized to employ staff; purchase supplies; purchase, sell, or dispose of equipment or appliances; determine policies concerning instruction, etc. In addition, title to property acquired for joint schools will vest jointly in the participating school boards. With the approval of the participating school boards and the local governing bodies, title to property</li> </ol>

		<p>2. The joint board shall elect a finance officer who shall have custody of board funds, fix compensation, and provide for bond. The term finance officer is not defined.</p> <p>3. The joint school board is authorized to employ staff; purchase supplies; purchase, sell, or dispose of equipment or appliances; and determine policies concerning instruction, etc.</p> <p>4. The clerk of the joint board is required to transmit to the superintendents an itemized statement of receipts and disbursements on or before the 10<sup>th</sup> of each month.</p>	<p>acquired for a joint school shall be vested in the joint school's governing body. (HB 2371)</p> <p>4. The clerk of the joint board is required to transmit an itemized statement of receipts and disbursements to the superintendents of the participating school boards on a regular monthly basis.</p>
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