

COMMONWEALTH of VIRGINIA

Board of Education Agenda

Date of Meeting: March 26, 2009

Time: 9 a.m.

Location: Jefferson Conference Room, 22nd Floor, James Monroe Building
101 North 14th Street, Richmond, Virginia



9:00 a.m. FULL BOARD CONVENES

Moment of Silence

Pledge of Allegiance

Approval of Minutes of the February 19, 2009, Meeting of the Board

Public Comment

Action/Discussion: Board of Education Regulations

- A. Final Review of Proposed Revisions to the *Regulations Governing Educational Services for Gifted Students* (8 VAC 20-40-10 et.seq.)

Reports

- B. Statewide Performance Report for Career and Technical Education and the Virginia Community College System, as a Sub-recipient of Perkins Funds from the Department of Education
- C. Report on Data Elements to be Included in the Virginia Cohort Report
- D. Update on the Web-Based Standards of Learning (SOL) Testing Program
- E. Report on Amendments to the 2008-2010 Biennial Budget Adopted by the 2009 General Assembly and Funding for Public Education under the American Recovery and Reinvestment Act (ARRA)

DISCUSSION OF CURRENT ISSUES - by Board of Education Members and
Superintendent of Public Instruction

ADJOURNMENT

**BUSINESS MEETING OF THE VIRGINIA SCHOOLS FOR THE DEAF
AND THE BLIND FOUNDATION**

PUBLIC NOTICE

The Board of Education members will meet for dinner at 6:30 p.m. at the Crowne Plaza Hotel on Wednesday, March 25, 2009. Items for the Board agenda may be discussed informally at that dinner. No votes will be taken, and it is open to the public. The Board president reserves the right to change the times listed on this agenda depending upon the time constraints during the meeting.

GUIDELINES FOR PUBLIC COMMENT

1. The Board of Education is pleased to receive public comment at each of its regular monthly meetings. In order to allow the Board sufficient time for its other business, the total time allotted to public comment will generally be limited to thirty (30) minutes. Individuals seeking to speak to the Board will be allotted three (3) minutes each.
2. Those wishing to speak to the Board should contact Dr. Margaret Roberts, Executive Assistant for Board Relations at (804) 225-2924. Normally, speakers will be scheduled in the order that their requests are received until the entire allotted time slot has been used. Where issues involving a variety of views are presented before the Board, the Board reserves the right to allocate the time available so as to insure that the Board hears from different points of view on any particular issue.
3. Speakers are urged to contact Dr. Roberts in advance of the meeting. Because of time limitations, those persons who have not previously registered to speak prior to the day of the Board meeting cannot be assured that they will have an opportunity to appear before the Board.
4. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views.

The 2007 proposed regulations included:

1. Additions to and revisions of definitions for critical terms;
2. Realignment of aspects of the screening, referral, identification, and placement components of the 1993 regulations;
3. Addition of parental rights, notification, consent, and appeals information;
4. Revision of components of the local plan for the education of the gifted;
5. Revision of the role and function of the local advisory committee for the education of the gifted to comply with Section 22.1-18.1 of the *Code of Virginia*; and
6. Addition of annual report expectations to comply with Section 22.1-18.1 of the *Code of Virginia*.

The public comment on the proposed *Regulations Governing Educational Services for Gifted Students* was conducted from June 23 – September 26, 2008. The Department of Education received 815 comments, which reflected 37 speakers at the public hearings, 46 e-mailed comments, 44 letters, and 688 Town Hall submissions. A summary of public comments can be found within the attached Town Hall Final Regulation Agency Background Document (Attachment A). The proposed *Regulations Governing Educational Services for Gifted Students* can be found in Attachment B.

Summary of Major Elements

While the majority of the comments dealt with language clarifications and consistency, the following substantive changes are proposed as a result of public comment:

8 VAC20-40-40. Screening, referral, identification, and placement:

- School divisions with identification in general intellectual aptitude shall provide service options from kindergarten through twelfth grade.
- Identification in a specific academic aptitude area may occur as assessment instruments exist to support identification. If the school division elects to identify students in one or more specific academic aptitude areas, it shall provide service options through twelfth grade.
- Eligibility status of a student shall be determined within 90 instructional days of receipt of a parent's or legal guardian's consent for assessment.

8 VAC20-40-60. Local plan, local advisory committee, and annual report:

- Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education for technical review on a schedule determined by the Department.
- Each school board shall approve a comprehensive plan for the education of gifted students that includes the components identified in the regulations.
- School divisions must assure that the selected and administered testing and assessment materials have been evaluated by the developers for cultural, racial, and linguistic biases.

8 VAC20-40-70. Funding:

- A statement was added to reflect that current funding for the education of gifted students is governed by the Appropriation Act.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education approve the proposed changes to the *Regulations Governing Educational Services for Gifted Students* as amended and authorize staff of the Department of Education to proceed with the remaining steps required by the Administrative Process Act.

Impact on Resources:

The impact on resources for the revision of these regulations is not expected to be significant.

Timetable for Further Review/Action:

The Department of Education will notify local school divisions of the changes in the regulations when the regulations become final, pursuant to the requirements of the Administrative Process Act.



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Final Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	<u>8 VAC20-40-10</u> through <u>8VAC20-40-10-70</u>
Regulation title	Regulations Governing Educational Services for Gifted Students
Action title	Revision of regulations school divisions must meet in their gifted education programs, K - 12
Date this document prepared	February 2009

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

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The *Regulations Governing Educational Services for Gifted Students* provide definitions; criteria for screening, referral, and identification of gifted students; delivery of services parameters; and elements of appropriately differentiated curriculum and instruction necessary to meet the learning needs of these students. The regulations also provide requirements for professional development of instructional personnel, the school division's local plan for the education of the gifted, the annual report, and the local advisory committee for the education of the gifted. Additional information is provided about the Department of Education's technical review of local plans for gifted programs and the funding of gifted programs to school divisions through the Appropriation Act.

The existing regulations were approved by the Virginia Board of Education in 1993. The purpose of these proposed revisions is to integrate findings from relevant research regarding identification, curriculum and instruction, delivery of services, and professional preparation into the standards Virginia public schools use to establish and operate programs for which the General Assembly has allocated funds through the *Standards of Quality*.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Board of Education adopted the proposed revisions to the *Regulations Governing Educational Services for Gifted Students* on March 26, 2009.

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 numbers, if applicable, and (2) promulgating entity, i.e., 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 adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This action is essential to ensure that gifted students in the Commonwealth are provided with an education that is commensurate with their abilities. The state definitions and provisions found in the *Regulations Governing Educational Services for Gifted Students* establish the basic expectation for school divisions' services for gifted students. These regulations ensure that school divisions' programs respond appropriately to the learning needs of gifted students, especially those students with economically disadvantaged backgrounds, those with limited English language proficiency, or those with disabilities. The proposed regulations provide clarification to the definitions and to the program operations in order to assist school divisions in providing educational services to gifted students.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The following changes are proposed to the *Regulations Governing Educational Services for Gifted Students*:

1. Additions to and revisions of critical terms;
2. Clarification of the screening, referral, identification, and placement components;
3. Revision of components of the local plan for the education of the gifted;

4. Revisions of the role of local school boards in approval of the local plan for the education of the gifted and the role of the Department of Education in providing technical assistance; and
5. Restatement of language addressing the funding of gifted programs through the Appropriation Act.

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 there are no disadvantages to the public or the Commonwealth, please indicate.*

The primary advantages of the proposed regulations for the public or the Commonwealth:

1. The proposed regulations require alignment of services for gifted students with current standards and practices;
2. The proposed regulations establish the role and function of the local advisory committee for the education of the gifted to comply with Section 22.1-18.1 of the *Code of Virginia*;
3. The proposed regulations establish ample time for school divisions to gather data for identification of students;
4. The proposed regulations establish ample time for parents or legal guardians to appeal an identification or placement decision;
5. The proposed regulations reduce the number of instruments used to identify gifted students from four to three;
6. The proposed regulations establish basic expectations that programs for the gifted include monitoring and assessment;
7. The proposed regulations establish expectations that programs for the gifted will be provided within the school day and week to ensure these students have time to study with their age-level peers, their intellectual peers, and time to study independently;
8. The proposed regulations establish expectations that school boards, and not the Department of Education, will approve local plans that are in compliance with the regulations;
9. The proposed regulations establish expectations that school boards will submit a local plan to the Department of Education on a schedule to be determined by the Department; and
10. The proposed regulations provide a statement to reflect that current funding for the education of gifted students is governed by the Appropriation Act.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

The substantive changes are as follows:

Section number	What has changed	Rationale for change
8VAC20-40-10. Applicability.	Change: regarding their services to: regarding their gifted education services	Language changed for clarity.

Section number	What has changed	Rationale for change
	Change: services for students from kindergarten through high school graduation to: ... services for students from kindergarten through twelfth grade	Language changed for consistency throughout the <i>Regulations</i> .
8VAC20-40-20. Definitions.	Change: accelerated learning aptitudes of eligible or identified students to: ... accelerated learning aptitudes of identified students	Language changed for clarity of terminology.
	Change: beginning with kindergarten through graduation to: ... beginning with kindergarten through twelfth grade	Language changed for consistency throughout the <i>Regulations</i> .
	Change: advanced use of language to: ... advanced use of technical language	Change made for clarification in career and technical aptitude identification.
	Change wording to say: Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression beyond their age-level peers in selected academic areas. Specific academic areas include English, history and social science, mathematics, or science.	Revised definition provides flexibility in selected specific academic aptitudes areas.
	Change: finding students who are eligible for the division's gifted education program. to: ...finding students who are eligible for service options offered through the division's gifted education program.	Language changed for clarity and consistency throughout the <i>Regulations</i> .
	Change: identification and placement committee to: ... identification and placement committee(s)	Language change allows divisions to have multiple committees for identification and placement as may be required by the number of students referred for services. For larger divisions, having only one committee could have fiscal and personnel impacts.
	Change: parents, teachers, professionals, or students to: ... parents or legal guardians, teachers, professionals, students, peers, self, or others	Language change allows for more input into the referral process, possibly increasing the number of potential candidates for screening.

Section number	What has changed	Rationale for change
	Change: Delete current definition for "Screening" and insert this definition: "Screening" means the annual process of creating a pool for potential candidates from kindergarten through twelfth grade using multiple criteria through the referral process, review of current assessment data, or information from other sources. Screening is the active search for students who are then referred for the formal identification process.	Current language requires an annual "review of current assessment data for all kindergarten through twelfth grade" at a minimum, as part of the screening process. Language change still requires that screening be an annual process, but provides flexibility to the divisions in terms of the resources used in the screening process.
	Change: the delivery of appropriate programs provided to eligible students to: ...the delivery of appropriate service or services provided to eligible students	Language changed for consistency with the terminology of 'service options'.
8VAC20-40-40. Screening, referral, identification, and placement.	Change: 8VAC20-40-40. Screening, referral, identification, and placement to: 8VAC20-40-40. Screening, referral, identification, and service.	Language changed to reflect the information provided in the section.
	Change wording to say: A. Each school division shall establish uniform procedures for screening, referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in general intellectual or specific academic aptitude. If the school division elects to identify students in general intellectual aptitude, it shall provide service options from kindergarten through twelfth grade. Identification in a specific academic aptitude area may occur as assessment instruments exist to support identification. If the school division elects to identify students in one or more selected academic aptitude areas, it shall provide service options through twelfth grade.	Revised language requires school divisions selecting identification in general intellectual aptitude to provide service options from kindergarten through twelfth grade. Revised language provides school divisions selecting identification in a specific academic aptitude area flexibility in determining identification and service options. Once identification begins, service options must continue through twelfth grade.
	Change: visual and performing arts aptitude to: ...visual or performing arts aptitude	Language changed for consistency with language used in the visual or performing arts aptitude definition.
	Change: reviewed by the identification and placement committee to: . . . reviewed by the designated identification and placement committee	Language revision allows divisions to establish identification committees in accordance with their needs.

Section number	What has changed	Rationale for change
	Change: referrals from school personnel, parents or legal guardians, or other persons of related expertise, as well as peer or self referral to: . . . referrals from parents or legal guardians, teachers, professionals, students, peers, self, or others.	Language change allows for more input into the referral process, possibly increasing the number of potential candidates for screening.
	Change wording to say: The committee shall consider input from a professional who knows the child. The committee shall include classroom teachers, assessment specialists, gifted program staff, school administrators, or others with credentials or experience in gifted education.	Language change allows divisions to access personnel for committees without overburdening one or more individuals, yet still allowing for specific input from an individual who knows the child.
	Change ...the school division's gifted education program to: ...the school division's gifted education services	Language changed to maintain consistency throughout the <i>Regulations</i> .
	Change ...shall be offered programs or courses to: ...shall be offered service options	Language changed to maintain consistency throughout the <i>Regulations</i> .
	Change: norm-referenced aptitude tests to: . . . nationally norm-referenced aptitude and/or achievement tests	Language changed for clarification and adherence to best practices.
	Change: designed to address general intellectual aptitude or specific academic aptitude to: ... designed to address general intellectual aptitude	Specific language addresses general intellectual aptitude and not necessarily specific academic aptitude.
	Change: norm-referenced aptitude test to: . . . nationally norm-referenced aptitude test	Language changed for clarification and adherence to best practices.
	Change wording to say: If a program is designed to address specific academic aptitude, an individually administered or group-administered, nationally norm-referenced aptitude or achievement test shall be included as one of the three measures used in the school division's identification procedures.	Language changed for clarification and adherence to best practices.

Section number	What has changed	Rationale for change
	Add New: If a program is designed to address either the visual or performing arts or career and technical aptitude, a portfolio or other performance assessment measure in the specific aptitude area shall be included as part of the data reviewed by the identification and placement committee.	Language addition for clarification and adherence to best practices. Basic change in numbering sequence due to other sequential changes.
	Change: Within 60 business days of the receipt of a referral to: . . . Within 90 instructional days, beginning with the receipt of a parent’s or legal guardian’s consent for assessment,	A 90 instructional day time frame will help to ensure 9-week assessment data are available and all aspects of the identification process are addressed. Economic Impact Analysis concurs.
	Change: offered placement in a classroom or program setting to: ... offered placement in an instructional setting	Revised language allows divisions to provide a variety of service options that are not confined to a classroom or a program.
8VAC20-40-55. Parental rights for notification, consent, and appeal.	Change: within ten business days to: ...within ten instructional days	Provides additional time for parents to gather data for an appeal. Economic Impact Analysis concurs.
	Change: in writing within ten business days to: ...in writing within ten instructional days	Provides additional time for schools to notify parents of the appeals process. Economic Impact Analysis concurs.
8VAC20-40-60. Local plan, local advisory committee, and annual report.	Change wording to say: A. Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education for technical review on a schedule determined by the Department. Each school board shall approve a comprehensive plan for the education of gifted students that includes the components identified in these regulations.	Language change requires submission of local plan to the DOE for technical review on a schedule determined by the DOE and provides flexibility to school boards to set their own schedule for review and approval of their gifted education plan.
	Change: personnel preparation to: ... professional development	Language changed for clarification and adherence to best practices.
	Change: visual and performing arts aptitude to: ...visual or performing arts aptitude	Language changed for clarification and adherence to definition.
	Change wording to say: Assurances that (i) the selected and administered testing and assessment materials have been evaluated by the developers for cultural, racial, and linguistic biases;	Language revised to support consistency within VDOE documents.

Section number	What has changed	Rationale for change
	Change: Parents and legal guardians shall receive assessment of each gifted student's intellectual and academic growth. to: ... each gifted student's academic growth.	Language changed for clarification and adherence to best practices.
	Change: school division's program of differentiated curriculum and instruction demonstrating accelerated and advanced content within programs or courses to: ... school division's differentiated curriculum and instruction demonstrating accelerated and advanced content	Language changed for clarification.
	Change: Procedures for the annual evaluation of effectiveness to: Procedures for the annual review of effectiveness	Language changed for clarification and consistency.
	Change wording to say: . . . including review of student outcomes and the academic growth of gifted students.	The ability of a division to measure 'intellectual growth' is questionable.
	Change: Such evaluation shall be based on multiple criteria and shall include multiple sources of information for gifted students to: ...Such review shall be based on multiple criteria and shall include multiple sources of information.	Language changed for clarification.
8VAC20-40-70. Funding.	Add new: " Funds designated by the Virginia General Assembly for the education of gifted students shall be used by school divisions in accordance with the provisions of the Appropriation Act. "	Funding for the education of gifted students is governed by the Appropriation Act, not the <i>Regulations</i> .

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Issue	Source	Comments	VDOE Response
8VAC20-40-10 Applicability Paragraph 1 <i>25 comments</i>	2 Parents 4 Teachers 9 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(25 comments)</i>	Change: services for students from kindergarten through high school graduation to: ... services for students from kindergarten through twelfth grade	Change made as per public comment.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph 5	2 Parents 4 Teachers 9 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens (25 comments)	Change: finding students who are eligible for the division's gifted education program. to: ...finding students who are eligible for service options offered through the division's gifted education program.	Change made as per public comment.
Paragraph 5	11 Parents 12 Teachers 17 Gifted Coordinators 11 Gifted Adv. Boards 8 School Admin. 3 Gifted Org. Rep. 7 Concerned Citizens (69 comments)	Change: identification and placement committee to: ... identification and placement committee(s)	Change made as per public comment.
Paragraph 9	11 Parents 12 Teachers 17 Gifted Coordinators 11 Gifted Adv. Boards 2 School Admin. 2 Gifted Org. Rep. 7 Concerned Citizens (62 comments)	Change: parents, teachers, professionals, or students to: ... parents or legal guardians, teachers, professionals, students, peers, self, or others	Change made as per public comment.
Paragraph 10	11 Parents 12 Teachers 17 Gifted Coordinators 12 Gifted Adv. Boards 2 School Admin. 2 Gifted Org. Rep. 7 Concerned Citizens (63 comments)	Change: Delete current definition for "Screening" and insert this definition: "Screening" means the annual process of creating a pool for potential candidates from kindergarten through twelfth grade using multiple criteria through the referral process, review of current assessment data, or information from other sources. Screening is the active search for students who are then referred for the formal identification process.	Change made as per public comment.
Paragraph 11	13 Parents 12 Teachers 14 Gifted Coordinators 11 Gifted Adv. Boards 9 School Admin. 2 Gifted Org. Rep. 7 Concerned Citizens (68 comments)	Change: the delivery of appropriate programs provided to eligible students to: ...the delivery of appropriate service or services provided to eligible students	Change made as per public comment.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph 12	1 Parent <i>(1 comment)</i>	Request: references to measurement of student outcomes reflect the definition's use of achievement tests as measurements of outcomes	No change.
8VAC20-40-40. Screening, referral, identification, and placement. <i>765 comments</i> Paragraph A	23 Parents 27 Teachers 15 Gifted Coordinators 17 Gifted Adv. Boards 1 School Board 11 School Admin. 6 Gifted Org. Rep. 1 Univ. Professor 1 Gov. Official 15 Concerned Citizens <i>(117 comments)</i>	Change: procedures for identification and service in, at a minimum, English, history and social science, mathematics, and science to: ...procedures for identification and service in one or more of the following: English/ language arts, mathematics, history/social science, or science.	VDOE recommends the following language change: A. Each school division shall establish uniform procedures for screening, referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in general intellectual or specific academic aptitude. If the school division elects to identify students in general intellectual aptitude, it shall provide service options from kindergarten through twelfth grade. Identification in a specific academic aptitude area may occur as assessment instruments exist to support identification. If the school division elects to identify students in one or more selected academic aptitude areas, it shall provide service options through twelfth grade.
Paragraph A	11 Parents 12 Teachers 17 Gifted Coordinators 9 Gifted Adv. Boards 2 School Admin. 6 Gifted Org. Rep. 7 Concerned Citizens <i>(64 comments)</i>	Change: visual and performing arts aptitude to: ...visual or performing arts aptitude	Change made as per public comment.
Paragraph A	2 Gifted Adv. Boards <i>(2 comments)</i>	Change: identification of general intellectual or specific aptitude to: . . . identification of general intellectual and specific aptitude	No change.
Paragraph B	2 Gifted Adv. Boards <i>(2 comments)</i>	Change: norm-referenced aptitude tests to: . . . norm-referenced aptitude tests and norm-referenced achievements or the Discrepancy Model	No change.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph B	10 Parents 8 Teachers 7 Gifted Coordinators 7 Gifted Adv. Boards 2 School Admin. 5 Gifted Org. Rep. 5 Concerned Citizens (44 comments)	Change: reviewed by the identification and placement committee to: . . . reviewed by the designated identification and placement committee	Change made as per public comment.
Paragraph C	11 Parents 12 Teachers 17 Gifted Coordinators 11 Gifted Adv. Boards 2 School Admin. 6 Gifted Org. Rep. 7 Concerned Citizens (66 comments)	Change: referrals from school personnel, parents or legal guardians, or other persons of related expertise, as well as peer or self referral to: . . . referrals from parents or legal guardians, teachers, professionals, students, peers, self, or others.	Change made as per public comment.
Paragraph D	19 Parents 11 Teachers 4 Gifted Coordinators 2 Concerned Citizens (36 comments)	Change: The committee shall include a professional who knows the child to: The Committee shall include members of the eligibility committee . . . with teacher and parent input provided.	VDOE recommends the following language change: The committee shall consider input from a professional who knows the child. The committee shall include classroom teachers, assessment specialists, gifted program staff, school administrators, or others with credentials or experience in gifted education.
Paragraph D.1	1 Parent (1 comment)	Supports: language that requires identification be based on multiple criteria and designed to seek out students for whom accurate identification may be affected	No specific change requested.
Paragraph D.2	11 Parents 12 Teachers 17 Gifted Coordinators 11 Gifted Adv. Boards 2 School Admin. 5 Gifted Org. Rep. 9 Concerned Citizens (67 comments)	Change ...the school division's gifted education program to: ...the school division's gifted education services	Change made as per public comment.
Paragraph D.2	11 Parents 11 Teachers 17 Gifted Coordinators 11 Gifted Adv. Boards 2 School Admin. 6 Gifted Org. Rep. 9 Concerned Citizens (67 comments)	Change ...shall be offered programs or courses to: ...shall be offered service options	Change made as per public comment.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph D.3	2 Concerned Citizens <i>(2 comments)</i>	Change: include at least three measures from the following category to: . . . include at least four measures from the following category.	No change.
Paragraph D.3.e	2 Parents 5 Teachers 10 Gifted Coordinators 8 Gifted Adv. Boards 2 School Admin. 3 Gifted Org. Rep. 4 Concerned Citizens <i>(34 comments)</i>	Change: norm-referenced aptitude tests to: . . . nationally norm-referenced aptitude and/or achievement tests	Change made as per public comment.
Paragraph D.4	2 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(26 comments)</i>	Change: designed to address general intellectual aptitude or specific academic aptitude to: . . . designed to address general intellectual aptitude	Change made as per public comment.
Paragraph D.4	2 Parents 4 Teachers 10 Gifted Coordinators 7 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(27 comments)</i>	Change: norm-referenced aptitude test to: . . . nationally norm-referenced aptitude test	Change made as per public comment.
Paragraph D.5	2 Parents 4 Teachers 12 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(28 comments)</i>	Change wording to say: If a program is designed to address specific academic aptitude, an individually administered or group-administered, nationally norm-referenced aptitude or achievement test shall be included as one of the three measures used in the school division's identification procedures.	Change made as per public comment.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph D Add a new Number 6	2 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(26 comments)</i>	Add New: If a program is designed to address either the visual or performing arts or career and technical aptitude, a portfolio or other performance assessment measure in the specific aptitude area shall be included as part of the data reviewed by the identification and placement committee.	Change made as per public comment.
Paragraph E	14 Parents 19 Teachers 16 Gifted Coordinators 13 Gifted Adv. Boards 1 School Board 2 School Admin. 5 Gifted Org. Rep. 1 Univ. Professor 1 Gov. Official 11 Concerned Citizens <i>(83 comments)</i>	Change: Within 60 business days of the receipt of a referral to: . . . Within 90 instructional days, beginning with the receipt of a parent's or legal guardian's consent for assessment,	Change made as per public comment.
Paragraph E	9 Parents 8 Teachers 7 Gifted Coordinators 5 Gifted Adv. Boards 2 School Admin. 5 Gifted Org. Rep. 5 Concerned Citizens <i>(41 comments)</i>	Change: Within 60 business days of the receipt of a referral to: . . . Within 60 school days	No change.
Paragraph E	1 Gifted Adv. Board <i>(1 comment)</i>	Change: Within 60 business days of the receipt of a referral to: . . . Within 60 business days beginning with the receipt of a signed permission to evaluate form from the parent or guardian	No change.
Paragraph E	2 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(26 comments)</i>	Change: offered placement in a classroom or program setting to: . . . offered placement in an instructional setting	Change made as per public comment.
Paragraph E	1 Parent <i>(1 comment)</i>	Supports: 60 day notification period.	No specific change requested.
Paragraph E.1	2 Gifted Adv. Boards <i>(2 comments)</i>	Change: Appropriately differentiated curriculum and instruction to: Appropriately differentiated curriculum and direct instruction	No change.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph E.2	2 Gifted Adv. Boards <i>(2 comments)</i>	Change: Monitored and assessed student outcomes that are reported to the parents and legal guardians. to: Monitors and assesses student outcomes, and reports results to the parents and legal guardians.	No change.
8VAC20-40-55. Parental rights for notification, consent, and appeal. <i>94 comments</i> Paragraph B	1 Gifted Adv Board <i>(1 comment)</i>	Supports: changes to this section	No specific change requested.
Paragraph B	2 Parents 4 Teachers 10 Gifted Coordinators 7 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(27 comments)</i>	Change: within ten business days to: ...within ten instructional days	Change made as per public comment.
Paragraph B.1	23 Parents 14 Teachers 12 Gifted Coordinators 10 Gifted Adv. Boards 3 School Admin. 2 Gifted Org. Rep. 2 Concerned Citizens <i>(66 comments)</i>	Change: in writing within ten business days to: ...in writing within ten instructional days	Change made as per public comment.
8VAC20-40-60. Local plan, local advisory committee, and annual report. <i>1351 comments</i> Paragraph A	115 Parents 71 Teachers 41 Gifted Coordinators 31 Gifted Adv. Boards 4 School Boards 11 School Admin. 14 Gifted Org. Rep. 7 Univ. Professors 1 Superintendent 1 Gov. Official 1 Student 37 Concerned Citizens <i>(334 comments)</i>	Remove: review and approve annually a comprehensive plan...	VDOE recommends the following language change: A. Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education for technical review on a schedule determined by the Department. Each school board shall approve a comprehensive plan for the education of gifted students that includes the components identified in these regulations.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph A	117 Parents 78 Teachers 42 Gifted Coordinators 29 Gifted Adv. Boards 2 School Boards 8 School Admin. 17 Gifted Org. Rep. 8 Univ. Professors 1 Gov. Official 1 Student 62 Concerned Citizens (365 comments)	Reinstate: Each school division shall submit to the Department of Education for approval a plan for the education of gifted students...	Language changes are reflected in the initial sentence of paragraph A. in this portion of the <i>Regulations</i> . See prior comment.
Paragraph A	1 School Board Organization Representative (1 comment)	Supports: Each school board shall review and approve annually a comprehensive plan for the education of gifted students that includes the components identified in these <i>Regulations</i> .	No specific change requested.
Paragraph A	96 Parents 63 Teachers 36 Gifted Coordinators 25 Gifted Adv. Boards 2 School Boards 10 School Admin. 9 Gifted Org. Rep. 7 Univ. Professors 1 Superintendent 1 Gov. Official 1 Student 32 Concerned Citizens (283 comments)	Request: make the local plan a five-year local plan as is currently required	No change.
Paragraph A	1 Parent (1 comment)	Request: the local plan be revised a minimum of every three years	No change.
Paragraph A	1 Concerned Citizen (1 comment)	Supports: require that local plan be posted on the school division's Web site	No specific regulatory change requested.
Paragraph A.2	2 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 3 Concerned Citizens (27 comments)	Change: personnel preparation to: ... professional development	Change made as per public comment.
Paragraph A.3	11 Parents 12 Teachers 17 Gifted Coordinators 11 Gifted Adv. Boards 2 School Admin. 6 Gifted Org. Rep. 7 Concerned Citizens (66 comments)	Change: visual and performing arts aptitude to: ...visual or performing arts aptitude	Change made as per public comment.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph A.7	19 Parents 10 Teachers 5 Gifted Coordinators 7 Gifted Adv. Boards 1 School Admin. 3 Concerned Citizens (45 comments)	Change: materials selected and administered are free of cultural, racial, and linguistic bias to: materials selected and administered are sensitive to cultural, racial, and linguistic differences . ..	VDOE recommends the following language change: Assurances that (i) the selected and administered testing and assessment materials have been evaluated by the developers for cultural, racial, and linguistic biases;
Paragraph A.7	1 Parent (1 comment)	Supports: changes addressing the assurances that testing and assessment materials will not discriminate against children affected with disabilities	No specific change requested.
Paragraph A.8	1 Parent (1 comment)	Supports: changes that IEPs will be incorporated into the special education student's gifted education services.	No specific change requested.
Paragraph A.10	3 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Adv. Boards 2 School Admin. 1 Gifted Org. Rep. 3 Concerned Citizens (29 comments)	Change: Parents and legal guardians shall receive assessment of each gifted student's intellectual and academic growth. to: ... each gifted student's academic growth.	Change made as per public comment.
Paragraph A.10	1 Gifted Coordinator (1 comment)	Request: removal of language that proposes specific day and week time frame configurations for services	No change.
Paragraph A.10	3 Parents (3 comments)	Supports: parents and legal guardians shall receive assessment of each gifted student's intellectual and academic growth.	No specific change requested.
Paragraph A.11	2 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Board Rep. 1 School Admin. 1 Gifted Adv. Board 2 Concerned Citizens (26 comments)	Change: school division's program of differentiated curriculum and instruction demonstrating accelerated and advanced content within programs or courses to: ... school division's differentiated curriculum and instruction demonstrating accelerated and advanced content	Change made as per public comment.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
Paragraph A.13	1 Gifted Adv. Board <i>(1 comment)</i>	Change: reference to 8VAC20-542-310 should be changed to: 8VAC20-542-10 et. seq. Regulations Governing Review and Approval of Education Programs in Virginia.	No change.
Paragraph A.14	2 Parents 4 Teachers 10 Gifted Coordinators 7 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(27 comments)</i>	Change: Procedures for the annual evaluation of effectiveness to: Procedures for the annual review of effectiveness	Change made as per public comment.
Paragraph A.14	12 Parents 13 Teachers 19 Gifted Coordinators 11 Gifted Adv. Boards 2 School Admin. 6 Gifted Org. Rep. 11 Concerned Citizens <i>(74 comments)</i>	Remove: including review of student outcomes and the intellectual and academic growth of gifted students.	VDOE recommends the following language change: . . . including review of student outcomes and the academic growth of gifted students.
Paragraph A.14	2 Parents 4 Teachers 10 Gifted Coordinators 6 Gifted Adv. Boards 1 School Admin. 1 Gifted Org. Rep. 2 Concerned Citizens <i>(26 comments)</i>	Change: Such evaluation shall be based on multiple criteria and shall include multiple sources of information for gifted students to: . . .Such review shall be based on multiple criteria and shall include multiple sources of information.	Change made as per public comment.
Paragraph A.14	1 Parent <i>(1 comment)</i>	Supports: Procedures for the annual evaluation of the effectiveness of the school division's gifted education program, including review of student outcomes and the intellectual and academic growth of gifted students.	No specific change requested.
Paragraph B	9 Parents 8 Teachers 7 Gifted Coordinators 5 Gifted Adv. Boards 2 School Admin. 5 Gifted Org. Rep. 5 Concerned Citizens <i>(39 comments)</i>	Change: (i) to review annually the local plan to: (i) to review annually the approved local plan	No change.
Paragraph C	2 Concerned Citizens <i>(2 comments)</i>	Statement minimizes the role of the local advisory committee	No specific change requested.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
8VAC20-40-70. Funding. 297 comments	118 Parents 70 Teachers 41 Gifted Coordinators 27 Gifted Adv. Boards 4 School Boards 12 School Admin. 6 Gifted Org. Rep. 8 Univ. Professors 1 Gov. Official 2 Students 8 Concerned Citizens (297 comments)	Reinstate the following statement: “State funds administered by the Department of Education for the education of gifted students shall be used to support only those activities identified in the school division's plan as approved by the Board of Education.”	VDOE recommends the following language change: “Funds designated by the Virginia General Assembly for the education of gifted students shall be used by school divisions in accordance with the provisions of the Appropriation Act.”
General Remarks	6 Parents 2 Teachers 2 Gifted Adv. Boards 1 Gifted Org. Rep. 1 Univ. Professor (12 comments)	DOE should increase funding to gifted education	VDOE does not have the authority to decrease or increase funding.
	4 Parents (4 comments)	DOE should continue to support gifted education	No specific regulatory change requested.
	2 Parents 1 Gifted Org. Rep. (3 comments)	Request: citations of research as the foundation used for changing the <i>Regulations</i> should be noted	No change.
	11 Parents 10 Teachers 3 Gifted Coordinators 1 Gifted Adv Board 2 School Admin. 2 Univ. Professors 4 Concerned Citizens (33 comments)	Request: a commission be assembled to review the <i>Regulations</i> for compliance with research and best practices in the field of gifted education that embrace the needs of gifted students and schools in the 21 st century	No change.
	8 Parents 4 Teachers 2 Gifted Coordinators 1 Concerned Citizen (15 comments)	Request: school divisions have the flexibility to administer assessments that align with the programs and services offered by a particular division	No change.
	1 Concerned Citizen (1 comment)	Request specific statement: All tests (written and oral) given to children that are referred for gifted and talented services should be individually administered.	No change.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
	19 Parents 10 Teachers 3 Gifted Coordinators 1 Concerned Citizen (33 comments)	Request: remove statements within the definition of 'student outcomes' and throughout 8VAC20-40-60 that introduces language more in line with an IEP approach to monitoring and documenting student outcomes	Changes to the proposed <i>Regulations</i> may address this comment. No action taken.
	19 Parents 11 Teachers 3 Gifted Coordinators 1 Concerned Citizen (34 comments)	Request: review of any student achievement data should be made at key points throughout the K-12 continuum and not annually as stated	Changes to the proposed <i>Regulations</i> may address this comment. No action taken.
	19 Parents 12 Teachers 4 Gifted Coordinators 2 Concerned Citizens (37 comments)	Request: school divisions should have the option of providing gifted services on a regular basis in the primary grades (K-2) or beginning formal screening, referral, and gifted identification processes in the primary grades (K-2)	No change.
	2 Gifted Coordinators 1 Gifted Adv. Board 1 Concerned Citizen (4 comments)	Supports: changes to the definitions	No specific change requested.
	1 Gifted Coordinator (1 comment)	Request: reference to local advisory committee should note that the committee can be part of a broader district 'school improvement' team as long as it meets the two criteria mentioned	Current language supports best practices and allows flexibility in the establishment of a local advisory committee. VDOE recommends retaining current language. No action taken.
	2 Parents 1 Teacher 2 Gifted Coordinators 1 Concerned Citizen (6 comments)	Request: provide assurances that schools will set in place acceleration options with procedures and safeguards that allow students to learn at their own pace in accordance with the Code of Virginia § 22.1-253.13C4	The Code of Virginia § 22.1-253.13:4D5 already provides for the establishment of procedures to facilitate a student's educational acceleration under certain conditions. No action taken.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
	1 Parent <i>(1 comment)</i>	Revise: <i>Regulations</i> to encompass rewards through students' GPAs to accurately reflect the additional demands of their programs	Local divisions have the authority to assign course credit and GPA values. No action taken.
	1 Univ. Professor <i>(1 comment)</i>	Request: assurances that the revisions will not allow for parents to request special placements in expensive programs to meet the needs of their LD/gifted child	Current language supports services for twice-exceptional students in accordance with their needs. No action taken.
	1 Gifted Coordinator <i>(1 comment)</i>	Remove any language throughout the <i>Regulations</i> that is related to individual documentation of student outcomes in addition to standard reporting systems used for the general student population	Current language aligns with best practices. No action taken.
	3 Univ. Professors 1 Concerned Citizen <i>(4 comments)</i>	Revise: include language that supports professional personnel that are educated in gifted education	Current language reflects gifted education endorsement competencies. No action taken.
	1 Gifted Adv. Board <i>(1 comment)</i>	Supports: move toward strengthening the implementation of gifted services after students are identified	No specific regulatory change requested.
	1 Gifted Adv. Board <i>(1 comment)</i>	Request: specific language that addresses communication, like a differentiated education plan or a differentiated learning plan, to inform, guide, and ensure differentiated services are available to identified students	Proposed <i>Regulations</i> support differentiated services for gifted students. No action taken.
	1 Univ. Professor <i>(1 comment)</i>	Revise: supports the oversight of programs for gifted and dual-exceptional students but criteria for identification should be reinstated	Current language provides definitions and criteria for identification. No action taken.

Town Hall Agency Background Document

Form: TH-03

Issue	Source	Comments	VDOE Response
	1 Parent <i>(1 comment)</i>	Request: use language that strengthens the plan, changing the 'should' to 'shall'	Current language allows local divisions to determine the services options they provide gifted students. No action taken.
	1 Parent <i>(1 comment)</i>	Request: statement that allows for early entrance into kindergarten for gifted students in accordance with the Code of Virginia § 22.1-199. Kindergarten programs suitable for certain children.	Local school divisions are responsible for compliance with the Code of Virginia § 22.1-199 concerning early entrance into kindergarten. Gifted education identification and services options apply to students starting in kindergarten. No action taken.

All changes made in this regulatory action

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

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-10. Applicability.	This chapter shall apply to all local school divisions in the Commonwealth.	This chapter shall apply to all local school divisions in the Commonwealth, regarding their gifted education services for students from kindergarten through twelfth grade. The proposed language change clarifies the existing language and moves applicability language from 8VAC20-40-30 to this section for clarification and elimination of redundancy.
8VAC20-40-20. Definitions.	The words and terms, when used in this chapter, shall have the following meanings, unless the content clearly indicates otherwise:	The words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise: The proposed language change modifies the definition to indicate that the definitions apply to the given term, unless the context clearly indicates otherwise.

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-20. Definitions.	"Appropriately differentiated curricula" for gifted students refer to curricula designed in response to their cognitive and effective needs. Such curricula emphasis on both accelerative and enrichment opportunities for (i) advanced content and pacing of instruction, (ii) original research or production, (iii) problem finding and solving, (iv) higher level thinking that leads to the generation of products, and (v) a focus on issues, themes, and ideas within and across areas of study.	"Appropriately differentiated curriculum and instruction" means curriculum and instruction adapted or modified to accommodate the accelerated learning aptitudes of identified students in their areas of strength. Such curriculum and instructional strategies provide accelerated and enrichment opportunities that recognize gifted students' needs for (i) advanced content and pacing of instruction; (ii) original research or production; (iii) problem finding and solving; (iv) higher level thinking that leads to the generation of products; and (v) a focus on issues, themes, and ideas within and across areas of study. Such curriculum and instruction are offered continuously and sequentially to support the achievement of student outcomes, and provide support necessary for these students to work at increasing levels of complexity that differ significantly from those of their age-level peers. The proposed language clarifies the existing language and reflects current research appropriate for differentiated curriculum and instruction for gifted students.
8VAC20-40-20. Definitions.	No current requirement.	"Eligible student" means a student who has been identified as gifted by the identification and placement committee for the school division's gifted education program. The proposed revision adds new language to establish that "identification" and "eligibility" are interchangeable terms.
8VAC20-40-20. Definitions.	"Gifted students" means those students in public elementary and secondary schools beginning with kindergarten through graduation whose abilities and potential for accomplishment are so outstanding that they require special programs to meet their educational needs. These students will be identified by professionally qualified persons through the use of multiple criteria as having potential or demonstrated abilities and who have evidence of high performance capabilities, which may include leadership, in one or more of the following areas:	"Gifted students" means those students in public elementary, middle, and secondary schools beginning with kindergarten through twelfth grade who demonstrate high levels of accomplishment or who show the potential for higher levels of accomplishment when compared to others of the same age, experience, or environment. Their aptitudes and potential for accomplishment are so outstanding that they require special programs to meet their educational needs. These students will be identified by professionally qualified persons through the use of multiple criteria as having potential or demonstrated aptitudes in one or more of the following areas: The proposed revision adds clarification to the definition of "Gifted students" to incorporate current research and to mirror the language in the definition for eligible students.

Town Hall Agency Background Document

Form: TH-03

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-20. Definitions.	1. Intellectual aptitude or aptitudes. Students with advanced aptitude or conceptualization whose development is accelerated beyond their age peers as demonstrated by advanced skills, concepts, and creative expression in multiple general intellectual ability or in specific intellectual abilities.	1. General intellectual aptitude. Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression across a broad range of intellectual disciplines beyond their age-level peers. The proposed revision clarifies the existing language to incorporate current research.
8VAC20-40-20. Definitions.	2. Specific academic aptitude. Students with specific aptitudes in selected academic areas: mathematics; the sciences; or the humanities as demonstrated by advanced skills, concepts, and creative expression in those areas.	2. Specific academic aptitude. Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression beyond their age-level peers in selected academic areas. Specific academic areas include English, history and social science, mathematics, or science. The proposed revision provides flexibility in selected specific academic aptitudes areas.
8VAC20-40-20. Definitions.	3. Technical and practical arts aptitude. Students with specific aptitudes in selected technical or practical arts as demonstrated by advanced skills and creative expression in those areas to the extent they need and can benefit from specifically planned educational services differentiated from those provided by the general program experience.	3. Career and technical aptitude. Such students demonstrate or have the potential to demonstrate superior reasoning; persistent technical curiosity; advanced use of technical language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression beyond their age-level peers in career and technical fields. The proposed revision clarifies the existing language to incorporate current research.
8VAC20-40-20. Definitions.	4. Visual or performing arts aptitude. Students with specific aptitudes in selected visual or performing arts as demonstrated by advanced skills and creative expression who excel consistently in the development of a product or performance in any of the visual and performing arts to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience.	4. Visual or performing arts aptitude. Such students demonstrate or have the potential to demonstrate superior creative reasoning and imaginative expression; persistent artistic curiosity; and advanced acquisition and mastery of techniques, perspectives, concepts, and principles beyond their age-level peers in visual or performing arts. The proposed revision clarifies the existing language to incorporate current research.

Town Hall Agency Background Document

Form: TH-03

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-20. Definitions.	"Identification" is the process of reviewing student data collected at the screening level and conducting further evaluation of student potential to determine the most qualified students for the specific gifted program available.	"Identification" means the multistaged process of finding students who are eligible for service options offered through the division's gifted education program. The identification process begins with a divisionwide screening component that is followed by a referral component, and that concludes with the determination of eligibility by the school division's identification and placement committee(s). The identification process includes the review of valid and reliable student data based on criteria established and applied consistently by the school division. The process shall include the review of information or data from multiple sources to determine whether a student's aptitudes and learning needs are most appropriately served through the school division's gifted education program. The proposed revision clarifies the existing language to incorporate current research and flexibility to school divisions in selection of identification and placement committee members.
8VAC20-40-20. Definitions.	"Identification/Placement Committee" means a standing committee which is composed of a professional who knows the child, classroom teacher or teachers, others representing assessment specialists, gifted program staff and school administration, and others deemed appropriate. This committee may operate at the school or division level. In either case, consistent criteria must be established for the division.	"Identification and placement committee" means the building-level or division-level committee that shall determine a student's eligibility for the division's gifted education program, based on the student's assessed aptitude and learning needs. The identification and placement committee shall determine which of the school division's service options are appropriate for meeting the learning needs of the eligible student. The proposed revision clarifies the existing language that the building- or division-level committee determines eligibility and service options based on the student's assessed aptitude and learning needs.
8VAC20-40-20. Definitions.	No current requirement.	"Learning needs of gifted students" means gifted students' needs for advanced and complex content that is paced and sequenced to respond to their persistent intellectual, artistic, or technical curiosity; exceptional problem-solving abilities; rapid acquisition and mastery of information; conceptual thinking processes; and imaginative expression across a broad range of disciplines. The proposed new language adds a definition of "Learning needs of gifted students" to incorporate current research.
8VAC20-40-20. Definitions.	"Placement" means the determination of the appropriate educational option for each eligible student.	"Placement" means the determination of the appropriate educational options for each eligible student. The proposed revision provides clarity and consistency.

Town Hall Agency Background Document

Form: TH-03

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-20. Definitions.	No current requirement.	"Referral" means the formal and direct process that parents or legal guardians, teachers, professionals, students, peers, self, or others use to request that a kindergarten through twelfth-grade student be assessed for gifted education program services. The proposed new language adds a definition of "Referral" to incorporate current research.
8VAC20-40-20. Definitions.	"Screening" is the process of creating the pool of potential candidates using multiple criteria through the referral process, review of test data, or from other sources. Screening is the active search for students who should be evaluated for identification.	"Screening" means the annual process of creating a pool for candidates from kindergarten through twelfth grade using multiple criteria through the referral process, the review of current assessment data, or other information from other sources. Screening is the active search for students who are then referred for the formal identification process. The proposed revision clarifies the existing language to incorporate current research regarding the annual process of screening.
8VAC20-40-20. Definitions.	"Service options" include the instructional approach or approaches, setting or settings, and staffing selected for the delivery of appropriate service or services that are based on student needs.	"Service options" means the instructional approaches, settings, and staffing selected for the delivery of appropriate service or services provided to eligible students based on their assessed needs in their areas of strength. The proposed revision clarifies the existing language to incorporate current research.
8VAC20-40-20. Definitions.	"Student outcomes" are specified expectations based on the assessment of student cognitive and affective needs. Such outcomes should articulate expectations for advanced levels of performance for gifted learners.	"Student outcomes" means the advanced achievement and performance expectations established for each gifted student, through the review of the student's assessed learning needs and the goals of the program of study, that are reviewed and reported to parents or legal guardians. The proposed revision clarifies the existing language to incorporate current research.
9VAC20-40-30. Applicability.	Part II Responsibilities of the Local School Divisions 8VAC20-40-30. Applicability. The requirements set forth in this part are applicable to local school divisions providing educational services for gifted students in elementary and secondary schools from kindergarten through graduation. Statutory Authority §§22.1-16 and 22.1-253.13:1 of the Code of Virginia.	Repealed. The proposed revision moves some of this language to 8VAC20-40-10 and deletes the remainder to avoid redundancy.

Town Hall Agency Background Document

Form: TH-03

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-40. Identification.	8VAC20-40-40. Identification.	8VAC20-40-40. Screening, referral, identification, and service. The proposed revision to the section title reflects the broader section coverage of screening, referral, identification, and service.
8VAC20-40-40. Identification.	A. Each school division shall establish a uniform procedure with common criteria for screening and identification of gifted students. If the school division elects to identify students with specific academic aptitudes, they shall include procedures for identification and service in mathematics, science, and humanities. These procedures will permit referrals from school personnel, parents or legal guardians, other persons of related expertise, peer referral and self-referral of those students believed to be gifted. Pertinent information, records, and other performance evidence of referred students will be examined by a building level or division level identification committee. Further, the committee or committees will determine the eligibility of the referred students for differentiated programs. Students who are found to be eligible by the Identification/Placement Committee shall be offered a differentiated program by the school division.	A. Each school division shall establish uniform procedures for screening, referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in general intellectual or specific academic aptitude. If the school division elects to identify students in general intellectual aptitude, it shall provide service options from kindergarten through twelfth grade. Identification in a specific academic aptitude area may occur as assessment instruments exist to support identification. If the school division elects to identify students in one or more selected academic aptitude areas, it shall provide service options through twelfth grade. School divisions may identify and serve gifted students in career and technical or visual or performing arts aptitude, or both, at their discretion. The proposed language requires school divisions selecting identification in general intellectual aptitude to provide service options from kindergarten through twelfth grade. The proposed language provides school divisions selecting identification in a specific academic aptitude area flexibility in determining identification and service options. Once identification begins, service options must continue through twelfth grade.
8VAC20-40-40. Identification.	B. Each school division shall maintain a division review procedure for students whose cases are appealed. This procedure shall involve individuals, the majority of whom did not serve on the Identification/Placement Committee.	These uniform procedures shall include a screening process that requires instructional personnel to review, at a minimum, current assessment data on each kindergarten through twelfth-grade student annually. Some data used in the screening process may be incorporated into multiple criteria reviewed by the designated identification and placement committee to determine eligibility, but those data shall not replace norm-referenced aptitude test data. The proposed revision clarifies the screening process.
8VAC20-40-40. Identification.	No current requirement.	C. These uniform procedures shall permit referrals from parents or legal guardians, teachers, professionals, students, peers, self, or others. Such referrals shall be accepted for kindergarten through twelfth-grade students. The proposed new language allows more opportunities for referrals.

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-40. Identification.	No current requirement.	<p>D. An identification and placement committee shall review pertinent information, records, and other performance evidence for referred students. The committee shall consider input from a professional who knows the child. The committee shall include classroom teachers, assessment specialists, gifted program staff, school administrators, or others with credentials or experience in gifted education. The committee shall (i) review data from multiple sources selected and used consistently within the division to assess students' aptitudes in the areas of giftedness the school division serves, (ii) determine whether a student is eligible for the division's services, and (iii) determine which of the school division's service options match the learning needs of the eligible student. The committee may review valid and reliable data administered by another division for a transfer student who has been identified previously. The proposed new language requires the identification and placement committee to review multiple data sources to determine eligibility and service options for identified students and transfer students.</p>
8VAC20-40-40. Identification.	No current requirement.	<p>1. Identification of students for the gifted education program shall be based on multiple criteria established by the school division and designed to seek out those students with superior aptitudes, including students for whom accurate identification may be affected because they are economically disadvantaged, have limited English proficiency, or have a disability. Data shall include scores from valid and reliable instruments that assess students' potential for advanced achievement, as well as instruments that assess demonstrated advanced skills, conceptual knowledge, and problem-solving aptitudes. The proposed new language requires that the identification of students be based on multiple criteria, including those students that are economically disadvantaged, have limited English proficiency, or have a disability.</p>

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-40. Identification.	No current requirement.	<p>2. Valid and reliable data for each referred student shall be examined by the building-level or division-level identification and placement committee. The committee shall determine the eligibility of each referred student for the school division's gifted education services. Students who are found eligible by the identification and placement committee shall be offered service options with appropriately differentiated curriculum and instruction by the school division. The proposed new language requires that valid and reliable data will be used by the identification and placement committee when determining eligibility and service options for identified students.</p>
8VAC20-40-40. Identification.	No current requirement.	<p>3. The identification process used by each school division must ensure that no single criterion is used to determine a student's eligibility. The identification process shall include at least three measures from the following categories:</p> <ul style="list-style-type: none"> a. Assessment of appropriate student products, performance, or portfolio; b. Record of observation of in-classroom behavior; c. Appropriate rating scales, checklists, or questionnaires; d. Individual interview; e. Individually administered or group-administered, nationally norm-referenced aptitude and/or achievement tests; f. Record of previous accomplishments (such as awards, honors, grades, etc.); or g. Additional valid and reliable measures or procedures. <p>The proposed new language ensures that no single criterion is used to determine a student's eligibility and provides a list of criteria from which three measures shall be included in the identification process.</p>
8VAC20-40-40. Identification.	No current requirement.	<p>4. If a program is designed to address general intellectual aptitude, an individually administered or group-administered, nationally norm-referenced aptitude test shall be included as one of the three measures used in the school division's identification procedure.</p> <p>The proposed new language ensures that a nationally norm-referenced aptitude test shall be included as one of the three measures used for identification in general intellectual aptitude.</p>

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-40. Identification.	No current requirement.	<p>5. If a program is designed to address specific academic aptitude, an individually administered or group-administered, nationally norm-referenced aptitude or achievement test shall be included as one of the three measures used in the school division's identification procedures.</p> <p>The proposed new language ensures that a nationally norm-referenced aptitude or achievement test shall be included as one of the three measures used for identification in a specific academic aptitude area.</p>
8VAC20-40-40. Identification.	No current requirement.	<p>6. If a program is designed to address either the visual or performing arts or career and technical aptitude, a portfolio or other performance assessment measure in the specific aptitude area shall be included as part of the data reviewed by the identification and placement committee.</p> <p>The proposed new language ensures that a portfolio or other performance measure will be used in the identification of visual or performing arts or career and technical aptitude.</p>
8VAC20-40-40. Identification.	No current requirement.	<p>E. Within 90 instructional days, beginning with the receipt of a parent's or legal guardian's consent for assessment, the identification and placement committee shall determine the eligibility status of each student referred for the division's gifted education program and notify the parent or guardian of its decision. If a student is identified as gifted and eligible for services, the identification and placement committee shall determine which service options most effectively meet the assessed learning needs of the student. Identified gifted students shall be offered placement in an instructional setting that provides:</p> <p>The proposed new language ensures that school divisions will have 90 instructional days, beginning with the receipt of a parent's or legal guardian's consent for assessment, to determine a student's eligibility and placement for services.</p>
8VAC20-40-40. Identification.	No current requirement.	<p>1. Appropriately differentiated curriculum and instruction provided by professional instructional personnel trained to work with gifted students; and</p> <p>The proposed new language ensures that school divisions will provide appropriately differentiated curriculum and instruction provided by professional instructional personnel trained to work with gifted students.</p>

Town Hall Agency Background Document

Form: TH-03

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-40. Identification.	No current requirement.	2. Monitored and assessed student outcomes that are reported to the parents and legal guardians. The proposed new language ensures that school divisions will provide parents and legal guardians with reports of student outcomes.
8VAC20-40-50. Criteria for screening and identification.	<p>Eligibility of students for programs for the gifted shall be based on multiple criteria for screening and identification established by the school division, and designed to seek out high aptitude in all populations. Multiple criteria shall include four or more of the following categories:</p> <ol style="list-style-type: none"> 1. Assessment of appropriate student products, performance, or portfolio; 2. Record of observation of in-classroom behavior; 3. Appropriate rating scales, checklists, or questionnaires; 4. Individual interview; 5. Individual or group aptitude tests; 6. Individual or group achievement tests; 7. Record of previous accomplishments (such as awards, honors, grades, etc.); 8. Additional valid and reliable measures or procedures. <p>If a program is designed to address general intellectual aptitude, aptitude measures must be included as one of the categories in the division identification plan. If a program is designed to address specific academic aptitude, an achievement or an aptitude measure in the specific academic area must be included as one of the categories in the division identification plan. If a program is designed to address either the visual/performing arts or technical/practical arts aptitude, a performance measure in the specific aptitude area must be used. Inclusion of a test score in a division identification plan does not indicate that an individual student must score at a prescribed level on the test or tests to be admitted to the program. No single criterion shall be used in determining students who qualify for, or are denied access to, programs for the gifted.</p>	Repealed. The language in this section has been incorporated into section, 8VAC20-40-40. Screening, referral, identification, and service.

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-55. Parents rights for notification, consent, and appeal.	No current requirement.	<p>A. School divisions shall provide written notification to and seek written consent from parents and legal guardians to:</p> <ol style="list-style-type: none"> 1. Conduct any required assessment to determine a referred student's eligibility for the school division's gifted education program; 2. Announce the decision of the identification and placement committee regarding a referred student's eligibility for and placement in the school division's gifted education program; and 3. Provide services for an identified gifted student in the school division's gifted education program. <p>The proposed new language ensures that parents and legal guardians have rights of written notification, consent, and appeal.</p>
8VAC20-40-55. Parents rights for notification, consent, and appeal.	No current requirement.	<p>B. Each school division shall adopt a review procedure for students whose cases are appealed. This procedure shall involve a committee, the majority of whose members did not serve on the initial identification and placement committee, and shall inform parents or legal guardians, in writing, of the appeal process. Requests filed by parents or legal guardians to appeal any action of the identification and placement committee shall be filed within 10 instructional days of receipt of notification of the action by the division. The process shall include an opportunity to meet with an administrator to discuss the decision.</p> <ol style="list-style-type: none"> 1. A parent or legal guardian of a student who was referred but not identified by the identification and placement committee as eligible for services in the school division's gifted education program shall be informed, in writing, within 10 instructional days after receipt of the appeal, of the school division's process to appeal the committee's decision. 2. A parent or legal guardian of an identified gifted student may appeal any action taken by the school division to change the student's identification for, placement in, or exit from the school division's gifted education program. <p>The proposed new language ensures that parents and legal guardians have the right for an appeal within a specified time period.</p>
8VAC20-40-55. Parents rights for notification, consent, and appeal.	No current requirement.	<p>C. Following the notification and consent of a parent or legal guardian, the identification and placement committee shall apprise school administrators of each student's eligibility status. The proposed new language ensures that school division administrators are apprised of each student's eligibility status.</p>

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-60. Local plan.	8VAC20-40-60. Local plan. A. Each school division shall submit to the Department of Education for approval a plan for the education of gifted students. Modifications to the plan shall be reported to the Department of Education on dates specified by the department. The plan shall include the components as follow:	8VAC20-40-60. Local plan, local advisory committee, and annual report. A. Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education (DOE) for technical review on a schedule determined by the Department. Each school board shall approve a comprehensive plan for the education of gifted students that includes the components identified in these regulations. The development process for the school division's local plan for the education of the gifted shall include opportunities for public review of the school division's plan. The approved plan shall be accessible through the division's Web site and the school division shall ensure that printed copies of the comprehensive plan are available to citizens who do not have online access. The plan shall include the following components: The proposed revision requires submission of the local plan to the DOE for technical review on a schedule determined by the DOE and provides flexibility to school boards to set their own schedule for review and approval of their gifted education plan. In addition, the revision gives the community access to the school division's plan for the education of gifted students.
8VAC20-40-60. Local plan.	1. A statement of philosophy;	1. A statement of philosophy for the gifted education program; The proposed revision clarifies language.
8VAC20-40-60. Local plan.	2. A statement of program goals and objectives;	2. A statement of the school division's gifted program goals and objectives for identification, delivery of services, curriculum and instruction, professional development, and parent and community involvement. The proposed revision ensures that all sections are addressed in the local plan.
8VAC20-40-60. Local plan.	3. Procedures for the early and on-going identification and placement of gifted students; beginning with kindergarten through secondary graduation in at least one of the four defined areas of giftedness;	3. Procedures for the early and ongoing screening, referral, identification and placement of gifted students, beginning with kindergarten through twelfth grade in at least a general intellectual aptitude or a specific academic aptitude program; and, if provided in the school division, procedures for the screening, referral, identification, and placement of gifted students in visual or performing arts or career and technical aptitude programs; The proposed revision clarifies the existing language to incorporate best practices and consistency throughout the regulations.

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-60. Local plan.	4. A procedure for notifying parents or legal guardians when additional testing or additional information is required during the identification process and for obtaining permission prior to placement of students in the appropriate program;	4. A procedure for written notification of parents or legal guardians when additional testing or additional information is required during the identification process and for obtaining permission of parents or legal guardians prior to placement of a gifted student in the appropriate service options; The proposed revision clarifies the existing language to incorporate current research, best practices, and maintain consistency throughout the regulations.
8VAC20-40-60. Local plan.	5. A policy for notifying gifted students' change of placement within, and exit from the program, which includes an opportunity for parents who disagree with the committee or committees decision to meet and discuss their concern or concerns with an appropriate administrator;	5. A policy for written notification to parents or legal guardians of identification and placement decisions, including initial changes in placement or exit from the program. Such notice shall include an opportunity for parents or guardians to meet and discuss their concerns with an appropriate administrator and to file an appeal; The proposed revision clarifies the existing language to incorporate best practices and maintain consistency throughout the regulations.
8VAC20-40-60. Local plan.	6. Assurances that records are maintained according to 8VAC20-150-10 et seq., Management of Student's Scholastic Record in the Public Schools of Virginia;	6. Assurances that student records are maintained in compliance with applicable state and federal privacy laws and regulations; The proposed revision ensures that student records will be maintained in compliance with applicable state and federal privacy laws and regulations should the laws change or new laws become applicable.
8VAC20-40-60. Local plan.	7. Assurances that (i) testing and evaluation materials selected and administered are sensitive to cultural, racial, and linguistic differences, (ii) identification procedures are constructed so that they identify high potential/ability in all underserved culturally diverse, low socio-economic, and disabled populations, (iii) standardized tests have been validated for the specific purpose for which they are used, (iv) instruments are administered and interpreted by a trained personnel in conformity with the instructions of their producer;	7. Assurances that (i) the selected and administered testing and assessment materials have been evaluated by the developers for cultural, racial, and linguistic biases; (ii) identification procedures are constructed so that those procedures may identify high potential or aptitude in any student whose accurate identification may be affected by economic disadvantages, by limited English proficiency, or by disability; (iii) standardized tests and other measures have been validated for the purpose of identifying gifted students; and (iv) instruments are administered and interpreted by trained personnel in conformity with the developer's instructions; The proposed revision provides language consistency with other DOE documents and provides consistency throughout the regulations.

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-60. Local plan.	8. A procedure to identify and evaluate student outcomes based on the initial and ongoing assessment of their cognitive and affective needs;	8. Assurances that accommodations or modifications determined by the school division's special education Individual Education Plan (IEP) team, as required for the student to receive a free appropriate public education, shall be incorporated into the student's gifted education services; The proposed revision clarifies the existing language to incorporate current research in support of underrepresented populations and compliance with the Americans with Disabilities Act (ADA).
8VAC20-40-60. Local plan.	9. A procedure to match service options, including instructional approaches, settings, and staffing, to designated student needs;	9. Assurances that a written copy of the school division's approved local plan for the education of the gifted is available to parents or legal guardians of each referred student, and to others upon request; The proposed revision provides for the distribution of information to constituent groups.
8VAC20-40-60. Local plan.	10. A framework for appropriately differentiated curricula indicating accelerative and enrichment opportunities in content, process, and product;	10. Evidence that gifted education service options from kindergarten through twelfth grade are offered continuously and sequentially, with instructional time during the school day and week to (i) work with their age-level peers, (ii) work with their intellectual and academic peers, (iii) work independently; and (iv) foster intellectual and academic growth of gifted students. Parents and legal guardians shall receive assessment of each gifted student's academic growth; The proposed revision clarifies the existing language to incorporate current research.
8VAC20-40-60. Local plan.	11. Procedures for the selection/evaluation of teachers and for the training of personnel to include administrators/supervisors, teachers, and support staff;	11. A description of the school division's program of differentiated curriculum and instruction demonstrating accelerated and advanced content; The proposed revision clarifies the existing language to incorporate current research.
8VAC20-40-60. Local plan.	12. Procedures for the appropriate evaluation of the effectiveness of the school division's program for gifted students; and	12. Policies and procedures that allow access to programs of study and advanced courses at a pace and sequence commensurate with their learning needs; The proposed revision clarifies the existing language to incorporate current research.

Town Hall Agency Background Document

Form: TH-03

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-60. Local plan.	13. Other information as required by the Department of Education.	13. Evidence that school divisions provide professional development based on the competencies specified in 8VAC20-542-310, Gifted education (add-on endorsement), for instructional personnel who deliver services within the gifted education program; and The proposed revision assures that school divisions provide professional development based on competencies specified in 8VAC20-542-310.
8VAC20-40-60. Local plan.	No current requirement.	14. Procedures for the annual review of the effectiveness of the school division's gifted education program, including review of student outcomes and the academic growth of gifted students. Such review shall be based on multiple criteria and shall include multiple sources of information. The proposed new language assures that school divisions review annually the effectiveness of the school division's gifted education program based on multiple criteria and sources of information.
8VAC20-40-60. Local plan.	B. Each school division shall establish a local advisory committee composed of parents, school personnel, and other community members. This committee shall reflect the ethnic and geographical composition of the school division. The purpose of this committee shall be to advise the school board through the division superintendent of the educational needs of all gifted students in the division. As a part of this goal, the committee shall review annually the local plan for the education of gifted students, including revisions, and determine the extent to which the plan for the previous year was implemented. The recommendations of the advisory committee shall be submitted in writing through the division superintendent to the school board.	B. Each school division shall establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board. This committee shall reflect the ethnic and geographical composition of the school division. This committee shall have two responsibilities: (i) to review annually the local plan for the education of gifted students, including revisions, and (ii) to determine the extent to which the plan for the previous year was implemented. The findings of the annual program effectiveness and the recommendations of the advisory committee shall be submitted annually in writing to the division superintendent and the school board. The proposed language revises the regulations to comply with § 22.1-18.1. <i>Code of Virginia</i> .
8VAC20-40-60. Local plan.	No current requirement.	C. Each school division shall submit an annual report to the Department of Education in a format prescribed by the department. The proposed new language revises the regulations to comply with § 22.1-18.1. <i>Code of Virginia</i> .

Current section number	Current requirement	Proposed change and rationale
8VAC20-40-70. Funding.	State funds administered by the Department of Education for the education of gifted students shall be used to support only those activities identified in the school division's plan as approved by the Board of Education.	Funds designated by the Virginia General Assembly for the education of gifted students shall be used by school divisions in accordance with the provisions of the Appropriation Act. The proposed language revision addresses funding for the education of gifted students as governed by the Appropriation Act.

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.

The current *Regulations Governing Educational Services for Gifted Students* do not impact small businesses; consequently, these revisions do not change the effect on small business.

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.

The primary advantages of the proposed regulations for families may include:

1. Greater access to gifted services that are designed to meet the educational needs of students through increased availability of the local plan;
2. Better alignment of services for students based on their individual strengths and the application of current relevant research and practice;
3. Increased parental and student involvement through the establishment and monitoring of student outcomes;
4. Increased communication between the school division and parents of identified students through the periodic reports of student progress;
5. Increased access to academic challenges; accelerated coursework; and entry into college-level opportunities for growth;
6. Increased earning power associated with the acquisition of educational advancement; and
7. Increased direct responsibility for the local school board in the development, review, and approval of the comprehensive local plan for the education of the gifted.

8VAC20
CHAPTER 40

REGULATIONS GOVERNING EDUCATIONAL SERVICES FOR GIFTED STUDENTS

8VAC20-40-10

~~Part I~~

~~Applicability and Definitions~~

8VAC20-40-10. Applicability.

This chapter shall apply to all local school divisions in the Commonwealth, regarding their [gifted education] services for students from kindergarten through [high school graduation twelfth grade].

Statutory Authority

§22.1-16 ~~and 22.1-253.13:4~~ of the Code of Virginia.

Historical Notes

Derived from VR270-01-0002 §1.1, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.

8VAC20-40-20

8VAC20-40-20. Definitions.

The words and terms, when used in this chapter, shall have the following meanings, unless the ~~content~~ context clearly indicates otherwise:

~~"Appropriately differentiated curricula" for gifted students refer to curricula designed in response to their cognitive and effective needs. Such curricula provide emphasis on both accelerative and enrichment opportunities for curriculum and instruction"~~ means curriculum and instruction adapted or modified to accommodate the accelerated learning aptitudes of [eligible or] identified students in their areas of

strength. Such curriculum and instructional strategies provide accelerated and enrichment opportunities that recognize gifted students' needs for (i) advanced content and pacing of instruction; (ii) original research or production; (iii) problem finding and solving; (iv) higher level thinking that leads to the generation of products; and (v) a focus on issues, themes, and ideas within and across areas of study. Such curriculum and instruction are offered continuously and sequentially to support the achievement of student outcomes, and provide support necessary for these students to work at increasing levels of complexity that differ significantly from those of their age-level peers.

"Eligible student" means a student who has been identified as gifted by the identification and placement committee for the school division's gifted education program.

"Gifted students" means those students in public elementary, middle, and secondary schools beginning with kindergarten through [~~graduation~~ twelfth grade] ~~whose abilities~~ who demonstrate high levels of accomplishment or who show the potential for higher levels of accomplishment when compared to others of the same age, experience, or environment. Their aptitudes and potential for accomplishment are so outstanding that they require special programs to meet their educational needs. These students will be identified by professionally qualified persons through the use of multiple criteria as having potential or demonstrated ~~abilities and who have evidence of high performance capabilities, which may include leadership,~~ aptitudes in one or more of the following areas:

1. ~~Intellectual~~ General intellectual aptitude or aptitudes. ~~Students with advanced aptitude or conceptualization whose development is accelerated beyond their age peers as demonstrated by advanced skills, concepts, and creative expression in multiple general intellectual ability or in specific intellectual abilities.~~ Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression across a broad range of intellectual disciplines beyond their age-level peers.

2. ~~Specific academic aptitude.~~ Students with specific aptitudes in selected academic areas: mathematics; the sciences; or the humanities as demonstrated by advanced skills, concepts, and

~~creative expression in those areas.~~ Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression beyond their age-level peers in selected academic areas. Specific academic areas include English, history and social science, mathematics, or science.

3. ~~Technical and practical arts~~ Career and technical aptitude. ~~Students with specific aptitudes in selected technical or practical arts as demonstrated by advanced skills and creative expression in those areas to the extent they need and can benefit from specifically planned educational services differentiated from those provided by the general program experience.~~ Such students demonstrate or have the potential to demonstrate superior reasoning; persistent technical curiosity; advanced use of [technical] language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression beyond their age-level peers in career and technical fields.

4. Visual or performing arts aptitude. ~~Students with specific aptitudes in selected visual or performing arts as demonstrated by advanced skills and creative expression who excel consistently in the development of a product or performance in any of the visual and performing arts to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience.~~ Such students demonstrate or have the potential to demonstrate superior creative reasoning and imaginative expression; persistent artistic curiosity; and advanced acquisition and mastery of techniques, perspectives, concepts, and principles beyond their age-level peers in visual or performing arts.

"Identification" is means the multistaged process of ~~reviewing student data collected at the screening level and conducting further evaluation of student potential to determine the most qualified students for the specific gifted program available.~~ finding students who are eligible for [service options offered through] the division's gifted education program. The identification process begins with a divisionwide screening component that is followed by a referral component, and that concludes with the

determination of eligibility by the school division's identification and placement [~~committee~~ committee(s)]. The identification process includes the review of valid and reliable student data based on criteria established and applied consistently by the school division. The process shall include the review of information or data from multiple sources to determine whether a student's aptitudes and learning needs are most appropriately served through the school division's gifted education program.

~~"Identification/Placement Committee"~~ "Identification and placement committee" means ~~a standing committee which is composed of a professional who knows the child, classroom teacher or teachers, others representing assessment specialists, gifted program staff and school administration, and others deemed appropriate. This committee may operate at the school or division level. In either case, consistent criteria must be established for the division.~~ the building-level or division-level committee that shall determine a student's eligibility for the division's gifted education program, based on the student's assessed aptitude and learning needs. The identification and placement committee shall determine which of the school division's service options are appropriate for meeting the learning needs of the eligible student.

"Learning needs of gifted students" means gifted students' needs for advanced and complex content that is paced and sequenced to respond to their persistent intellectual, artistic, or technical curiosity; exceptional problem-solving abilities; rapid acquisition and mastery of information; conceptual thinking processes; and imaginative expression across a broad range of disciplines.

"Placement" means the determination of the appropriate educational ~~option~~ options for each eligible student.

"Referral" means the formal and direct process that parents [or legal guardians] , teachers, professionals, [or] students [, peers, self, or others] use to request that a kindergarten through [~~twelfth-grade~~ twelfth-grade] student be assessed for gifted education program services.

~~"Screening" is the process of creating the pool of potential candidates using multiple criteria through the referral process, review of test data, or from other sources. Screening is the active search for students who should be evaluated for identification [means the divisionwide search each school division~~

~~conducts at least once annually across all its students to determine which students should be referred for identification and service in the gifted education program. The annual screening shall, at a minimum, consist of a review of current assessment data for all kindergarten through twelfth grade students. Students selected through the school division's screening process are then referred for formal identification.~~ means the annual process of creating a pool for candidates from kindergarten through twelfth grade using multiple criteria through the referral process, the review of current assessment data, or other information from other sources. Screening is the active search for students who are then referred for the formal identification process.]

"Service options" include means the instructional approach or approaches, setting or settings, and staffing selected for the delivery of appropriate service or services that are based on student needs [~~programs~~ service or services] provided to eligible students based on their assessed needs in their areas of strength.

"Student outcomes" ~~are specified expectations based on the assessment of student cognitive and affective needs. Such outcomes should articulate expectations for advanced levels of performance for gifted learners~~ means the advanced achievement and performance expectations established for each gifted student, through the review of the student's assessed learning needs and the goals of the program of study, that are reviewed and reported to parents or legal guardians.

Statutory Authority

§22.1-16 and ~~22.1-253.13:4~~ of the Code of Virginia.

Historical Notes

Derived from VR270-01-0002 §1.2, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.

8VAC20-40-30

Part II-

~~Responsibilities of the Local School Divisions-~~

8VAC20-40-30. ~~Applicability. (Repealed.)~~

~~The requirements set forth in this part are applicable to local school divisions providing educational services for gifted students in elementary and secondary schools from kindergarten through graduation.~~

~~Statutory Authority-~~

~~§§22.1-16 and 22.1-253.13:1 of the Code of Virginia.-~~

Historical Notes

~~Derived from VR270-01-0002 §2.1, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995; repealed, Volume 24, Issue 21, 2008.~~

8VAC20-40-40

8VAC20-40-40. ~~Identification~~ Screening, referral, identification, and [placement service].

A. Each school division shall establish a uniform ~~procedure with common criteria~~ procedures for screening, ~~[referral, and identification of~~ referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in] general intellectual or specific academic aptitude [gifted students] . If the school division elects to identify students ~~[with specific academic aptitudes in general intellectual aptitude]~~ , they ~~it~~ shall ~~[include procedures for identification and service in, at a minimum, English, history and social science, mathematics, and science]~~ , and humanities ~~[provide service options from kindergarten through twelfth grade]~~ . ~~These procedures will permit referrals from school personnel, parents or legal guardians, other persons of related expertise, peer referral and self-referral of those students believed to be gifted. Pertinent information, records, and other performance evidence of referred students will be examined by a building level or division level identification committee. Further, the committee or committees will determine the eligibility of the referred students for differentiated programs. Students who are found to be eligible by the Identification/Placement Committee shall be offered a differentiated program by the school division. [Identification in a specific academic aptitude area may occur as assessment instruments exist to support identification. If the school division elects to identify students in one or more selected academic aptitude areas, it shall~~

provide service options through twelfth grade.] School divisions may identify and serve gifted students in career and technical aptitude or visual [~~and~~ or] performing arts aptitude, or both, at their discretion.

B. Each school division shall maintain a division review procedure for students whose cases are appealed. This procedure shall involve individuals, the majority of whom did not serve on the Identification/Placement Committee. These uniform procedures shall include a screening process that requires instructional personnel to review, at a minimum, current assessment data on each kindergarten through [~~twelfth-grade~~ twelfth-grade] student annually. Some data used in the screening process may be incorporated into multiple criteria reviewed by the [designated] identification and placement committee to determine eligibility, but those data shall not replace norm-referenced aptitude test data.

C. These uniform procedures shall permit referrals from [~~school personnel,~~] parents or legal guardians, [~~or other persons of related expertise, as well as peer or self-referral~~ teachers, professionals, students, peers, self, or others] . Such referrals shall be accepted for kindergarten through [~~twelfth-grade~~ twelfth-grade] students.

D. An identification and placement committee shall review pertinent information, records, and other performance evidence for referred students. [The committee shall consider input from a professional who knows the child.] The committee shall include [~~a professional who knows the child, as well as~~] classroom teachers, assessment specialists, gifted program staff, school administrators, or others with credentials or experience in gifted education. The committee shall (i) review data from multiple sources selected and used consistently within the division to assess students' aptitudes in the areas of giftedness the school division serves, (ii) determine whether a student is eligible for the division's services, and (iii) determine which of the school division's service options match the learning needs of the eligible student. The committee may review valid and reliable data administered by another division for a transfer student who has been identified previously.

1. Identification of students for the gifted education program shall be based on multiple criteria established by the school division and designed to seek out those students with superior aptitudes,

including students for whom accurate identification may be affected because they are economically disadvantaged, have limited English proficiency, or have a disability. Data shall include scores from valid and reliable instruments that assess students' potential for advanced achievement, as well as instruments that assess demonstrated advanced skills, conceptual knowledge, and problem-solving aptitudes.

2. Valid and reliable data for each referred student shall be examined by the building-level or division-level identification and placement committee. The committee shall determine the eligibility of each referred student for the school division's gifted education [~~program services~~] . Students who are found eligible by the identification and placement committee shall be offered [~~programs or courses~~ service options] with appropriately differentiated curriculum and instruction by the school division.

3. The identification process used by each school division must ensure that no single criterion is used to determine a student's eligibility. The identification process shall include at least three measures from the following categories:

a. Assessment of appropriate student products, performance, or portfolio;

b. Record of observation of in-classroom behavior;

c. Appropriate rating scales, checklists, or questionnaires;

d. Individual interview;

e. Individually administered or group-administered, [nationally] norm-referenced aptitude [and/or achievement] tests;

f. Record of previous accomplishments (such as awards, honors, grades, etc.); or

g. Additional valid and reliable measures or procedures.

4. If a program is designed to address general intellectual aptitude [~~or specific academic aptitude~~] , an individually administered or group-administered, [nationally] norm-referenced aptitude test shall be included as one of the three measures used in the school division's identification procedure.

5. If a program is designed to address [either the visual and performing arts or career and technical specific academic] aptitude, [a portfolio or other performance assessment measure in the specific aptitude area shall be included as part of the data reviewed by the identification and placement committee an individually administered or group-administered, nationally norm-referenced aptitude or achievement test shall be included as one of the three measures used in the school division's identification procedures] .

[6. If a program is designed to address either the visual or performing arts or career and technical aptitude, a portfolio or other performance assessment measure in the specific aptitude area shall be included as part of the data reviewed by the identification and placement committee.]

E. Within [60 business 90 instructional] days [of , beginning with] the receipt of a [referral parent's or legal guardian's consent for assessment] , the identification and placement committee shall determine the eligibility status of each student referred for the division's gifted education program and notify the parent or guardian of its decision. If a student is identified as gifted and eligible for services, the identification and placement committee shall determine which service options most effectively meet the assessed learning needs of the student. Identified gifted students shall be offered placement in [a classroom or program an instructional] setting that provides:

1. Appropriately differentiated curriculum and instruction provided by professional instructional personnel trained to work with gifted students; and

2. Monitored and assessed student outcomes that are reported to the parents and legal guardians.

Statutory Authority

§22.1-16 and ~~22.1-253.13:1~~ of the Code of Virginia.

Historical Notes

Derived from VR270-01-0002 §2.2, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.

8VAC20-40-50

~~8VAC20-40-50. Criteria for screening and identification. (Repealed.)~~

~~Eligibility of students for programs for the gifted shall be based on multiple criteria for screening and identification established by the school division, and designed to seek out high aptitude in all populations. Multiple criteria shall include four or more of the following categories:-~~

- ~~1. Assessment of appropriate student products, performance, or portfolio;-~~
- ~~2. Record of observation of in-classroom behavior;-~~
- ~~3. Appropriate rating scales, checklists, or questionnaires;-~~
- ~~4. Individual interview;-~~
- ~~5. Individual or group aptitude tests;-~~
- ~~6. Individual or group achievement tests;-~~
- ~~7. Record of previous accomplishments (such as awards, honors, grades, etc.);-~~
- ~~8. Additional valid and reliable measures or procedures.-~~

~~If a program is designed to address general intellectual aptitude, aptitude measures must be included as one of the categories in the division identification plan. If a program is designed to address specific academic aptitude, an achievement or an aptitude measure in the specific academic area must be included as one of the categories in the division identification plan. If a program is designed to address either the visual/performing arts or technical/practical arts aptitude, a performance measure in the specific aptitude area must be used. Inclusion of a test score in a division identification plan does not indicate that an individual student must score at a prescribed level on the test or tests to be admitted to the program. No single criterion shall be used in determining students who qualify for, or are denied access to, programs for the gifted.-~~

~~Statutory Authority-~~

~~§§22.1-16 and 22.1-253.13:1 of the Code of Virginia.~~

Historical Notes

Derived from VR270-01-0002 §2.3, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.

8VAC20-40-55

8VAC20-40-55. Parental rights for notification, consent, and appeal.

A. School divisions shall provide written notification to and seek written consent from parents and legal guardians to:

1. Conduct any required assessment to determine a referred student's eligibility for the school division's gifted education program;
2. Announce the decision of the identification and placement committee regarding a referred student's eligibility for and placement in the school division's gifted education program; and
3. Provide services for an identified gifted student in the school division's gifted education program.

B. Each school division shall adopt a review procedure for students whose cases are appealed. This procedure shall involve a committee, the majority of whose members did not serve on the initial identification and placement committee, and shall inform parents or legal guardians, in writing, of the appeal process. Requests filed by parents or legal guardians to appeal any action of the identification and placement committee shall be filed within 10 [~~business~~ instructional] days of receipt of notification of the action by the division. The process shall include an opportunity to meet with an administrator to discuss the decision.

1. A parent or legal guardian of a student who was referred but not identified by the identification and placement committee as eligible for services in the school division's gifted education program shall be informed, in writing, within 10 [~~business~~ instructional] days after receipt of the appeal, of the school division's process to appeal the committee's decision.

2. A parent or legal guardian of an identified gifted student may appeal any action taken by the school division to change the student's identification for, placement in, or exit from the school division's gifted education program.

C. Following the notification and consent of a parent or legal guardian, the identification and placement committee shall apprise school administrators of each student's eligibility status.

Statutory Authority

§22.1-16 and ~~22.1-18.1~~ of the Code of Virginia.

Historical Notes

[~~Derived from Virginia Register Volume , Issue , eff. Month dd, yyyy. Derived from VR270-01-0002 §2.2, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.]~~

8VAC20-40-60

8VAC20-40-60. Local plan, local advisory committee, and annual report.

A. [Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education (DOE) for technical review on a schedule determined by the Department.]

~~Each school division board shall submit to the Department of Education for approval a [review and] approve [annually] a comprehensive plan for the education of gifted students that includes the components identified in these regulations. Modifications to the plan shall be reported to the Department of Education on dates specified by the department. The development process for the school division's local plan for the education of the gifted shall include opportunities for public review of the school division's plan. The approved local plan shall be accessible through the school division's Web site and the school division shall ensure that printed copies of the comprehensive plan are available to citizens who do not have online access. The plan shall include the following components as follow:~~

1. A statement of philosophy for the gifted education program;

2. A statement of the school division's gifted education program goals and objectives for identification, delivery of services, curriculum and instruction, [~~personnel preparation~~ professional development] , and parent and community involvement;
3. Procedures for the early and ongoing screening, referral, identification and placement of gifted students; beginning with kindergarten through secondary graduation [~~twelfth grade~~ twelfth grade] in at least one of the four defined areas of giftedness; a general intellectual aptitude or a specific academic aptitude program; and, if provided in the school division, procedures for the screening, referral, identification, and placement of gifted students in visual [~~and~~ or] performing arts or career and technical aptitude programs;
4. A procedure for ~~notifying~~ written notification of parents or legal guardians when additional testing or additional information is required during the identification process and for obtaining permission of parents or legal guardians prior to placement of ~~students~~ a gifted student in the appropriate ~~program~~ service options;
5. A policy for ~~notifying gifted students' change of placement within, and~~ written notification to parents or legal guardians of identification and placement decisions, including initial changes in placement or exit from the program, which includes an opportunity for parents who disagree with the committee or committees decision to meet and discuss their concern or concerns with an appropriate administrator. Such notice shall include an opportunity for parents or guardians to meet and discuss their concerns with an appropriate administrator and to file an appeal;
6. Assurances that student records are maintained according to 8VAC20-150-10 et seq., Management of Student's Scholastic Record in the Public Schools of Virginia in compliance with applicable state and federal privacy laws and regulations;
7. Assurances that (i) [~~testing and evaluation~~ assessment materials selected and administered are sensitive to ~~free of~~ the selected and administered testing and assessment materials have been evaluated by the developers for] cultural, racial, and linguistic ~~differences, biases;~~ (ii) identification

~~procedures are constructed so that they those procedures may identify high potential/ability in all underserved culturally diverse, low socio-economic, and disabled populations, high potential or aptitude in any student whose accurate identification may be affected by economic disadvantages, by limited English proficiency, or by disability; (iii) standardized tests and other measures have been validated for the ~~specific purpose for which they are used~~ purpose of identifying gifted students; and (iv) instruments are administered and interpreted by trained personnel in conformity with the developer's instructions of their producer;~~

~~8. A procedure to identify and evaluate student outcomes based on the initial and ongoing assessment of their cognitive and affective needs;~~

~~9. A procedure to match service options, including instructional approaches, settings, and staffing, to designated student needs;~~

~~10. A framework for appropriately differentiated curricula indicating accelerative and enrichment opportunities in content, process, and product;~~

~~11. Procedures for the selection/evaluation of teachers and for the training of personnel to include administrators/supervisors, teachers, and support staff;~~

~~12. Procedures for the appropriate evaluation of the effectiveness of the school division's program for gifted students; and~~

~~13. Other information as required by the Department of Education.~~

8. Assurances that accommodations or modifications determined by the school division's special education Individual Education Plan (IEP) team, as required for the student to receive a free appropriate public education, shall be incorporated into the student's gifted education services;

9. Assurances that a written copy of the school division's approved local plan for the education of the gifted is available to parents or legal guardians of each referred student, and to others upon request;

10. Evidence that gifted education service options from kindergarten through twelfth grade are offered continuously and sequentially, with instructional time during the school day and week to (i) work with their age-level peers, (ii) work with their intellectual and academic peers, (iii) work independently; and (iv) foster intellectual and academic growth of gifted students. Parents and legal guardians shall receive assessment of each gifted student's [~~intellectual and~~] academic growth;

11. A description of the school division's program of differentiated curriculum and instruction demonstrating accelerated and advanced content [~~within programs or courses~~];

12. [~~Policies~~ Policies] and procedures that allow access to programs of study and advanced courses at a pace and sequence commensurate with their learning needs;

13. Evidence that school divisions provide professional development based on the competencies specified in 8VAC20-542-310, Gifted education (add-on endorsement), for instructional personnel who deliver services within the gifted education program; and

14. Procedures for the annual [~~evaluation~~ review] of the effectiveness of the school division's gifted education program, including review of student outcomes and the [~~intellectual and~~] academic growth of gifted students. Such [~~evaluations~~ review] shall be based on multiple criteria and shall include multiple sources of information [~~for gifted students~~] .

B. Each school division shall establish a local advisory committee composed of parents, school personnel, and other community members who are appointed by the school board. This committee shall reflect the ethnic and geographical composition of the school division. ~~The purpose of this committee shall be to advise the school board through the division superintendent of the educational needs of all gifted students in the division. As a part of this goal, the~~ This committee shall have two responsibilities: (i) to review annually the local plan for the education of gifted students, including revisions, and (ii) to determine the extent to which the plan for the previous year was implemented. The findings of the annual program effectiveness and the recommendations of the advisory committee shall be submitted annually in writing through to the division superintendent to and the school board.

C. Each school division shall submit an annual report to the Department of Education in a format prescribed by the department.

Statutory Authority

~~§22.1-16, 22.1-253.13:1, and 22.1-18.1~~ of the Code of Virginia.

Historical Notes

Derived from VR270-01-0002 §2.4, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.

8VAC20-40-70

8VAC20-40-70. ~~Funding.~~ [~~(Repealed.)~~ Funding.]

~~State funds administered by the Department of Education for the education of gifted students shall be used to support only those activities identified in the school division's plan as approved by the Board of Education.~~ [Funds designated by the Virginia General Assembly for the education of gifted students shall be used by school divisions in accordance with the provisions of the Appropriation Act.]

~~Statutory Authority~~

~~§§22.1-16 and 22.1-253.13:1~~ of the Code of Virginia.

[Statutory Authority]

[§§22.1-16 and 22.1-253.13:1 of the Code of Virginia.]

Historical Notes

Derived from VR270-01-0002 §2.5, eff. June 25, 1986; amended, Virginia Register Volume 11, Issue 9, eff. February 22, 1995.

Board of Education Agenda Item

Item: _____ B. _____

Date: March 26, 2009

Topic: Statewide Performance Report for Career and Technical Education and the Virginia Community College System, as a Sub-recipient of Perkins Funds from the Department of Education

Presenter: Ms. Elizabeth M. Russell, Director of Career and Technical Education, Department of Education
Mrs. Wendy Kang, Director of Workforce Services Research, Virginia Community College System

Telephone Number: (804) 225-2847
(804) 819-4781

E-Mail Address: Elizabeth.Russell@doe.virginia.gov
Wkang@vccs.edu

Origin:

Topic presented for information only (no board action required)

Board review required by
 State or federal law or regulation
 Board of Education regulation
 Other: _____

Action requested at this meeting Action requested at future meeting: _____ (date)

Previous Review/Action:

No previous board review/action

Previous review/action
date _____
action _____

Background Information:

The Board of Education approved the Virginia System of Performance Standards and Measures as part of the 2008-2013 Five Year State Plan for Career and Technical Education (CTE). The federal Perkins Act requires that the results on the negotiated state-adjusted levels of performance for both secondary and postsecondary CTE be communicated to the Board and other audiences. Each school division and the Virginia Community College System receive an annual report of performance. All secondary performance standards were met or exceeded by the Virginia Department of Education. The Virginia Community College System did not meet their performance standard for Technical Skills Attainment and met the Perkins requirement to attain ninety percent of their negotiated state adjusted levels of performance for Completion and Non-Traditional representation. They met their standards for Retention and Transfer and Non-Traditional Gender Completion.

Summary of Major Elements

The Virginia system addresses performance on:

- academic achievement;
- technical competence;
- nontraditional career preparation;
- successful transition to careers and/or further education;
- employer/employee satisfaction with high school preparation; and
- access and success for special populations as defined by Perkins.

The CTE Annual Performance Report provides results for the first four items. All other results will be provided to each locality in a comprehensive individual Data Analysis Report.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board accept the report as presented, maintained as a part of the Board of Education's meeting records, and communicated to audiences as required by the Perkins legislation.

Impact on Resources:

There is minimum impact on resources. The agency's existing resources can absorb costs at this time.

Timetable for Further Review/Action:

None

VIRGINIA DEPARTMENT OF EDUCATION

OFFICE OF CAREER AND TECHNICAL EDUCATION SERVICES

**CAREER AND TECHNICAL EDUCATION
STATEWIDE ANNUAL PERFORMANCE REPORT
PERKINS IV PERFORMANCE STANDARDS**

2007-2008

A. ACADEMIC ACHIEVEMENT

Performance Standard: Career and technical education completers who completed a CTE program and also enrolled in an academic course, for which a Standards of Learning end-of-course test is/are required, will attain a passing score on the Standards of Learning end-of-course tests. Reading/Language Arts performance standard is 65% and Mathematics performance standard is 63%. This standard utilizes the English 11

Percent of CTE completers who passed the Standards of Learning End-of-Course Tests

Subject Area	Percent Passing of Test Takers
Reading/Language Arts	97.55% (33,036 of 33,865)
Mathematics	83.56% (26,221 of 31,379)

B. TECHNICAL SKILLS ATTAINMENT

Performance Standard: Seventy-five percent (75.00%) of the career and technical education completers will attain 80 percent of the essential competencies on the state-provided, industry-validated competency lists.

Career and Technical Education Program Completers

Completers who Attained 80% of the Competencies	Completers ¹	Percent that Attained 80% of the Competencies
32,997	34,513	95.61%

¹A Career and Technical Education Program Completer is a student who has met the requirements for a Career and Technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

NOTE: Beginning in 2008-2009 Annual Report, the Technical Skills Attainment score will also include industry credential testing as part of the percentage.

C. SECONDARY SCHOOL COMPLETION

Performance Standard: The completion rate for students in career and technical content areas, including the secondary component of Tech Prep programs is 75%.

Secondary School Completion Rate

C ²	c + d ²	Completion Rate ²
34,513	34,960	98.72%

² The Completion Rate was calculated using the number of completers (c) reported on the 2007-2008 Completer Demographics Report (CDR) and the number of dropouts (d) who completed a career and technical education program sequence or concentration as reported on the 2007-2008 Division Dropout Report. The formula is $c \div (c+d)$.

D.**STUDENT GRADUATION RATE**

Performance Standard: The number of CTE completers who earned an Advanced Studies or Standard Diploma for school year 2007-2008 is 61.00%.

Graduation Rate

Completers who earned an Advanced Studies or Standard Diploma	Completers	Percent who earned an Advanced Studies and Standard Diploma
32,477	34,513	94.10%

E.**TRANSITION**

Performance Standard: Students who are career and technical completers/graduates will successfully transition at a combined rate of 75% from secondary school to employment, apprenticeship, military or other service, further education, or full-time equivalency of part-time combinations of transition indicators.

2007 Completer Transition Rate

Completers who transitioned	Completers who indicated transition status	Transition Rate
23,659	24,740	95.63%

F.**NON-TRADITIONAL CAREER PREPARATION**

Performance Standard: The total enrollment rate in the state-identified courses for non-traditional career preparation of the gender that comprise less than 25% will be 13.63%.

Non-Traditional Career Preparation Enrollment

Non-Traditional Enrollment	Enrollment of Non-Traditional Courses	Percent of Non-Traditional Enrollment
116,530	339,360	34.33%

Performance Standard: The total completion rate of the state-identified content areas for non-traditional career preparation of the gender that comprise less than 25% will be 9.00%.

Non-Traditional Career Preparation Completion

Non-Traditional Completers	Completers of Non-Traditional Programs	Percent of Non-Traditional Completers
9,142	31,473	29.04%

2007-2008 STATEWIDE PERFORMANCE SUMMARY

Standard	Met	Not Met
A. Academic Achievement	X	
B. Technical Skills Attainment	X	
C. Secondary School Completion	X	
D. Graduation Rate	X	
E. Transition	X	
F. Non-Traditional Enrollment	X	
G. Non-Traditional Completion	X	

Highlights for Career and Technical Education for 2007-2008

- 19,462 students obtained the Career and Technical Education Seal
- 1,067 students obtained the Advanced Mathematics and Technology Seal
- 44.98% of CTE completers attained an Advanced Studies Diploma
- 49.12% of CTE completers attained a Standard Diploma
- 2.71% of CTE completers attained a Modified Standard Diploma
- 1.78% of CTE completers attained a Special Diploma
- 0.62% of CTE completers attained a General Educational Development (GED) certificate
- Less than 1% of CTE completers attained Other Completion Certificates
- Less than 0.01% of CTE completers attained a General Achievement Diploma (GAD)
- 10,224 CTE students participated in the Cooperative Education Program (CO-OP)
- 9,696 employers employed CTE students under the CO-OP program
- \$45,201,288.65 total wages earned by our CO-OP students

- 2,436 CTE teachers have passed industry certification examinations as of March 9, 2009.
- 43.23% of CTE completers attend post secondary education
- 19.76% of CTE completers have transitioned to full time employment
- 27.92% of CTE completers have transitioned to employment and postsecondary education
- 3.29% of CTE completers have transitioned to the military
- 1.43% of CTE completers have transitioned to a full-time equivalency of part-time combinations of transition indicators

Division	Performance Measures							
	Academic Achievement		Technical Skills Attainment	Secondary School Completion	Graduation Rate	Transition	Non-Trad Enrollment	Non-Trad Completion
	English	Mathematics						
Chesterfield County	✓	✓	✓	✓	✓	✓	✓	✓
Clarke County	✓	✓	✓	✓	✓	✓	✓	✓
Colonial Beach	✓	✓	✓	✓	✓	✓	✓	✓
Colonial Heights City	✓	✓	✓	✓	✓	✓	✓	✓
Covington City	✓	✓	✓	✓	✓	✓	✓	✓
Craig County	✓	✓	✓	✓	✓	✓	✓	✓
Culpeper County	✓	✓	✓	✓	✓	✓	✓	✓
Cumberland County	✓	X	✓	✓	✓	✓	✓	✓
Danville City	✓	✓	✓	✓	✓	✓	✓	✓
Dickenson County	✓	✓	✓	✓	✓	✓	✓	✓
Dinwiddie County	✓	✓	✓	✓	✓	✓	✓	✓
Essex County	✓	✓	✓	✓	✓	✓	✓	✓
Fairfax County	✓	✓	✓	✓	✓	✓	✓	✓
Falls Church City	✓	✓	✓	✓	✓	✓	✓	✓
Fauquier County	✓	✓	✓	✓	✓	✓	✓	✓
Floyd County	✓	✓	✓	✓	✓	✓	✓	✓
Fluvanna County	✓	✓	✓	✓	✓	✓	✓	✓
Franklin City	✓	✓	✓	✓	✓	✓	✓	✓
Franklin County	✓	✓	✓	✓	✓	✓	✓	✓
Frederick County	✓	✓	✓	✓	✓	✓	✓	✓
Fredericksburg City	✓	✓	✓	✓	✓	✓	✓	✓
Galax City	✓	✓	✓	✓	✓	✓	✓	✓
Giles County	✓	✓	✓	✓	✓	✓	✓	✓
Gloucester County	✓	✓	✓	✓	✓	✓	✓	✓
Goochland County	✓	✓	X	✓	✓	✓	✓	✓
Grayson County	✓	✓	✓	✓	✓	✓	✓	✓
Greene County	✓	✓	✓	✓	✓	✓	✓	✓
Greenville County	✓	✓	✓	✓	✓	✓	✓	✓
Halifax County	✓	✓	✓	✓	✓	✓	✓	✓
Hampton City	✓	✓	X	✓	✓	✓	✓	✓

**Perkins Core Performance Measures
Results and Targets
2007-2008**



Report Prepared by Marcia Harrington
Data Compiled by Adolph Hofmann

Workforce Development Services
January 2009

**VIRGINIA COMMUNITY COLLEGE SYSTEM
PERFORMANCE ON PERKINS CORE PERFORMANCE STANDARDS AND MEASURES
FOR 2008-2009**

Overview

With the passage of Perkins IV in 2006 came greater accountability and tighter performance measures. Six new federally-established Perkins performance measures were identified: Technical Skills Attainment, Completion, Retention/Transfer, Employment, and Non-traditional Gender Representation in Participation and Non-traditional Gender Representation in Completion. These new performance measures were applied to historic data to evaluate the appropriateness of the targets set for 2007-08 and to consider targets for future years. The 2007-08 targets were established by the USDOE for the 2007-08 period. These will be evaluated for appropriateness and renegotiated if needed. The results of these performance measures applied to the past three years and the derivation of these measures follow.

Background

Perkins is a federally funded program targeting career and technical skill programs at the secondary and postsecondary levels. The program was initially established in 1963 with the passage of the Vocational Education Act, which was renamed in later authorizations by the program’s largest proponent, Carl D. Perkins. In 2007, Perkins III was revamped via legislation to Perkins IV. Perkins IV stresses increased accountability and greater linkages among secondary and postsecondary education and employment.

Goals of the Perkins program include:

- Further developing the academic, career and technical skills of students through high standards;
- Linking secondary and postsecondary career and technical programs;
- Disseminating national research about career and technical education; and
- Providing professional development and technical assistance to career and technical educators.

The Virginia Department of Education is the grant recipient of the Perkins funds for the Commonwealth. The VCCS receives 15 percent of the grant to administer the postsecondary component of the program. The majority of these funds (over \$3.2 million in FY 2008) are distributed to the 23 community colleges across Virginia.

2007-08 Performance Results

In 2007-08, the VCCS compiled three years of historical data to help establish baselines for these new performance measures. Current targets had been established without historical data. In April, with the help of baseline data we will establish more appropriate targets.

Table 1 provides three years of results for five of the six performance measures. The Virginia Employment Commission (VEC) will be releasing employment data to the VCCS within the 2009 year, enabling the VCCS to respond to 4P1.

Technical Skills Attainment has decreased each year of the three-year period. Completion, Retention and Transfer, and Non-traditional Gender Representation and Completion all have remained fairly constant.

**Table 1
VCCS Performance on Perkins Performance Measures for
Academic Years 2005-06 to 2007-08**

Performance Measure	Actual			
	2005-06	2006-07	2007-08	Avg.
1P1: Technical Skills Attainment	77.5%	75.6%	74.8%	76%
2P1: Completion	40.3%	38.6%	40.4%	40%
3P1: Retention and Transfer	68.8%	68.1%	70.8%	69%
4P1: Employment	*	*	*	*
5P1: Non-traditional Gender Representation	20.0%	18.6%	18.3%	19%
5P2: Non-traditional Gender Completion	17.4%	16.3%	16.9%	17%

The VCCS is expected to meet established targets each year and to report on the results of the performance measures. Continued Perkins funding is contingent upon achieving targets for each of these measures in future years. Institutions are considered to have met the target if they are within 90% of the target.

In 2007-2008, the VCCS exceeded (or came within 90 percent of the target) of four of the six performance targets (Completion, Retention and Transfer, and Non-traditional Gender Representation and Non-traditional Completion). It missed meeting the target for Technical Skills Attainment (1P1) and lacked the data needed to respond to 4P1.

Table 2 shows achievement at 90 percent of target. In two cases the difference between actual measure and target measures is significant (1P1 and 3P1). These alone indicate the need to reevaluate these targets which were set devoid of data. The three years of data presents the opportunity to establish more precise targets.

Table 2
2007-08
Evaluation of Target Attainment

Performance Measure	2007-08	Target	90% of Target	Result
1P1: Technical Skills Attainment	74.8%	85.5%	76.95%	Missed Target
2P1: Completion	40.4%	42.0%	37.8%	Met Target
3P1: Retention and Transfer	70.8%	50.0%	45.0%	Met Target
4P1: Employment	*	*	*	*
5P1: Non-traditional Gender Representation	18.3%	18.5%	16.65%	Met Target
5P2: Non-traditional Gender Completion	16.9%	14.0%	12.6%	Met Target

Student Type

Participants, concentrators and completers are the three categories of students that are included in these performance measures. Participants include all students in the career and technical education programs. Concentrators are those participants who have earned 12 or more degree-bearing credits. Completers are those concentrators who earned a credential or a degree during the reporting year.

Calculating the Performance Measures

A description of what happens with each measure and the method for calculating each performance measure is provided in Table 3.

Table 3
Definition by Performance Measure

Measure	Completion Measure Definition
1P1: Technical Skills Attainment	<p><i>The measure reflects the percentage of concentrators who earn a GPA of 2.5 or more of all CTE concentrators. GPA of 2.5 indicates a degree of knowledge and skill attainment. All concentrators in the reporting year with a 2.5 GPA or higher are divided by all concentrators in the reporting year.</i></p> <p>Numerator: Number of CTE concentrators who accumulate a G.P.A. of 2.5 or greater during the reporting year. Denominator: Number of CTE concentrators during the reporting year.</p>
2P1: Completion	<p><i>The measure reflects the percentage of career and technical concentrators who graduated of all students who left postsecondary education in the reporting year. Graduates are included in those departing postsecondary. National Student Clearinghouse data is used to identify students in the reporting year who re-enrolled in postsecondary education.</i></p> <p>Numerator: Number of CTE concentrators, who in the reporting year earned a degree, a certificate, or an industry-recognized credential. Denominator: Number of CTE concentrators in the reporting year who left postsecondary education (graduates plus non-returns).</p>

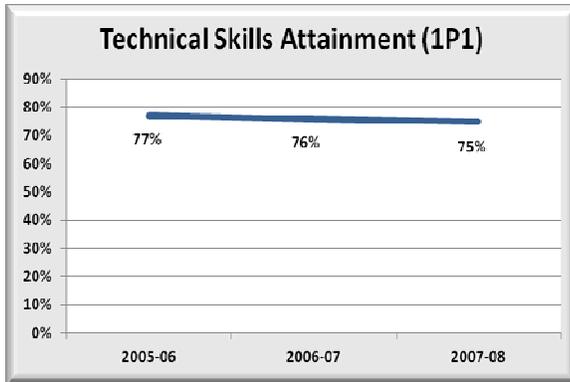
Measure	Completion Measure Definition
3P1: Retention/Transfer	<p><i>The measure reflects the percentage of career and technical concentrators who graduated of all students who left postsecondary education in the reporting year. Graduates are included in those departing postsecondary education. National Student Clearinghouse data is used to identify students in the reporting year who re-enrolled in postsecondary education.</i></p> <p>Numerator: Number of CTE concentrators enrolled in post-secondary education the fall after the reporting year via re-enrolling at a VCCS college or transferring to another college or university. Denominator: Number of CTE concentrators enrolled during the reporting year less graduates.</p>
4P1: Employment	<p><i>Virginia employment information will be obtained from the VEC. Completers who are employed within the 2nd quarter after the reporting year are considered, as are students who are placed in apprenticeships. The VCCS is attempting to secure access to the Federal Data Exchange System to identify federal employment. Those employed are divided by the total number of completers in the reporting year.</i></p> <p>Numerator: Number of CTE completers who were placed in or retained employment, or placed in military service, or apprenticeship programs in the 2nd quarter following the reporting year in which they left postsecondary education. Denominator: Number of CTE completers in the reporting year.</p>
4P1: Employment	<p><i>Virginia employment information will be obtained from the VEC. Completers who are employed within the 2nd quarter after the reporting year are considered, as are students who are placed in apprenticeships. The VCCS is attempting to secure access to the Federal Data Exchange System to identify federal employment. Those employed are divided by the total number of completers in the reporting year.</i></p> <p>Numerator: Number of CTE completers who were placed in or retained employment, or placed in military service, or apprenticeship programs in the 2nd quarter following the reporting year in which they left postsecondary education. Denominator: Number of CTE completers in the reporting year.</p>
5P1: Nontraditional by Gender Participation	<p><i>Non-traditional gender graduates in traditional single-gender fields are divided by the total number of CTE completers.</i></p> <p>Numerator: In the reporting year, number of CTE participants from underrepresented gender groups who participated in a program that leads to employment in non-traditional fields. Denominator: In the reporting year, number of CTE concentrators who participated in a program that leads to employment in non-traditional fields.</p>
5P2: Nontraditional by Gender Completion	<p><i>Non-traditional gender graduates in traditional single-gender fields are divided by the total number of CTE completers.</i></p> <p>Numerator: In the reporting year, number of CTE completers from underrepresented gender groups who completed a program that leads to employment in non-traditional fields. Denominator: In the reporting year, number of CTE completers who completed a program that leads to employment in non-traditional fields.</p>

VCCS Performance on Perkins Measures

Each state negotiates target levels of performance with the US DOE. For the most part, targets are established based on a three-year historic average. These targets are incorporated into each state's annual Perkins plan. Performance by measure for the VCCS over a three-year period is provided below.

1P1 Technical Skills Attainment

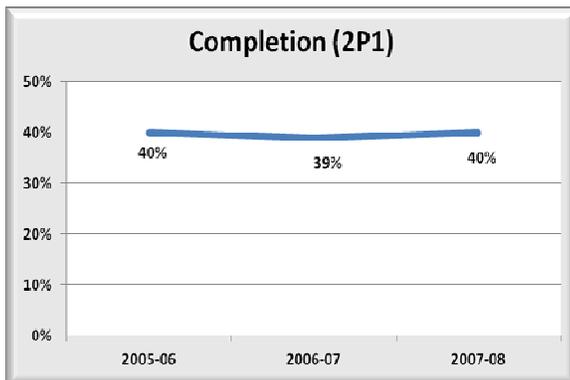
In 2007-08, the VCCS did not achieve 90 percent (77 percent) of the Technical Skills Attainment target (85.5 percent). The performance result was 75 percent, approximately ten percentage points less than the target. The Technical Skills Attainment measure also declined by two percentage points over the three-year period. Technical Skills Attainment focuses on CTE concentrators who achieve a G.P.A of 2.5 or better in the reporting year. This target will need to be readjusted.



Colleges have continually concentrated funding and efforts to improve skills attainment through initiatives such as enhancement of curriculum, on-line instructional services, and tutoring.

2P1 Completion

The new completion measure more closely aligns and is more reflective of the attendance patterns of the typical CTE student – that is, part-time and continuing (stop-out/drop-in) students. Unlike previous and traditional completion/graduation measures, this new measure is configured to measure the exit (as opposed to entry) cohort. The exit cohort consists of those exiting postsecondary education – graduates and those dropping out of postsecondary education altogether.

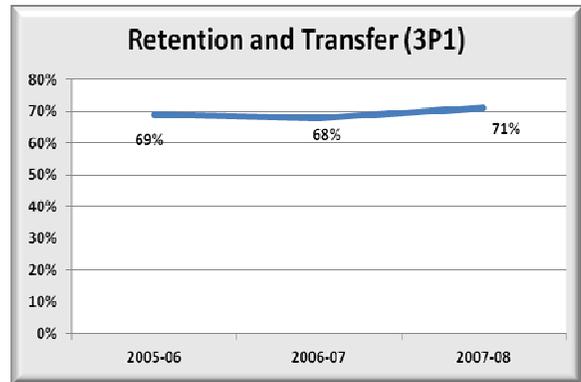


The VCCS was successful in the Completion measure (40.4 percent) meeting 90 percent of the target (42.0 percent). Completion also has remained stable at 40 percent over the three-year period.

While this measure indicates success, colleges should continue to focus energy on helping students complete as well as decreasing the number of students leaving postsecondary education every year.

3P1 Retention and Transfer

The VCCS exceeded the target (50 percent) on the Retention/Transfer measure (71 percent) by over 20 percentage points. Retention and Transfer has increased marginally (two percentage points) over the three-year period. Several factors may affect improvement of this measure including the transfer agreements with Virginia's four-year institutions and the newly implemented Commonwealth Transfer Grant. Student success also is the focus of several concerted initiatives of the VCCS. The economy and the ability for people to pay for postsecondary education may counter improvement.



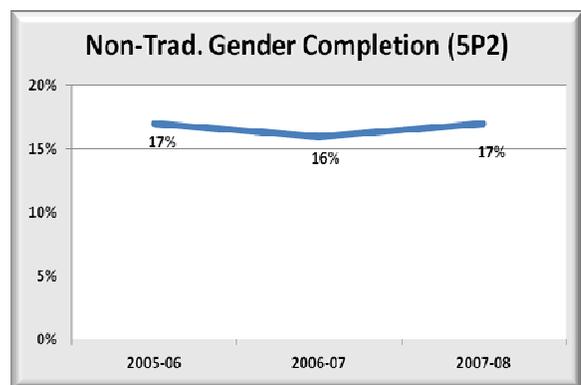
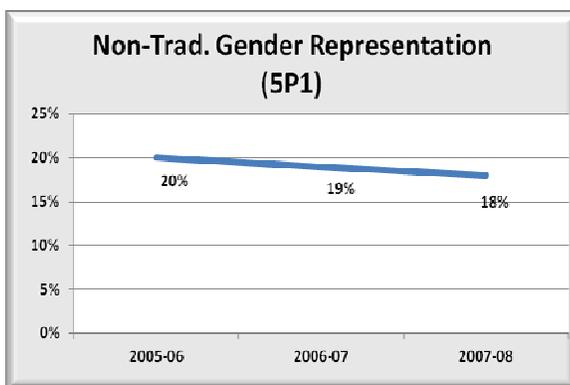
4P1 Employment

Career resources and career coaching, job placement software, skills training and relationships with business and industry are all in place to affect this measure. However, the VCCS has been unable to access data to measure performance on placement and employment. VCCS has signed a Memorandum of Understanding with the VEC. The VCCS will begin to receive employment data later in 2009 enabling evaluation of this measure. Additionally, the VCCS is attempting to secure access to the federal employment database to track federal employment. The federal government is a significant employer in the Commonwealth of Virginia.

5P1 Non-traditional Gender Participation

VCCS met the Non-traditional Gender Representation measure for the past three years; however, it has been on the decline over this period and in 2007-08 fell just below the target. If the trend continues, non-traditional participation will not meet the target.

Colleges have developed learning communities to build a support network for gender minorities, published gender- and minority-balanced marketing materials to demonstrate access, and employed career coaches to encourage students to pursue their career interests regardless of traditional gender for that career.



5P2 Non-traditional Gender Completion

The VCCS has met the target established for Non-traditional Gender Completion for the past three years. The trend has remained stable averaging 17 percent, three percentage points above the target (14 percent). Learning communities, career coaches and marketing materials are all means the colleges employ to help increase Non-traditional Gender Completion. The focus on student success will also affect this measure.

Community College Performance at the College Level

The VCCS will work with the USDOE to establish system-level targets for each measure. Similarly, the staff at the system office will work with the colleges to establish individual college targets. Colleges will be required to achieve performance at least 90 percent of the established target. Colleges that do not achieve 90 percent of the state-identified target in year 1

are required to develop a plan for improving the measure. If the target is not achieved in year 2, the institution will be required to seek onsite technical assistance; if the institution continues to not reach the target in year 3, funding will be reduced.

The Table 4 provides performance data for the 23 colleges for 2007-08.

Table 4
College Results of Perkins Performance Measures for 2007-08

	1P1	2P1	3P1	5P1	5P2
	Technical Skills Attainment	Completion	Retention and Graduation	Non-Trad Gender Representation	Non-Trad Gender Completion
	College Measure	College Measure	College Measure	College Measure	College Measure
BRCC	77.6%	45.1%	75.5%	16.4%	10.5%
CVCC	75.3%	43.8%	68.3%	18.1%	18.3%
DSLCC	72.9%	46.8%	70.2%	24.1%	17.9%
DCC	70.2%	50.6%	70.6%	16.6%	18.2%
ESCC	75.1%	51.0%	67.4%	9.5%	7.1%
GCC	75.9%	42.3%	72.8%	26.6%	21.8%
JSRCC	78.2%	39.2%	69.8%	15.5%	14.6%
JTCC	79.2%	41.5%	74.4%	16.8%	15.6%
LFCC	76.6%	49.2%	70.0%	15.2%	7.5%
MECC	76.3%	35.8%	61.3%	16.3%	15.9%
NRCC	69.4%	46.2%	73.0%	14.8%	12.6%
NVCC	73.7%	30.5%	73.6%	21.4%	18.4%
PHCC	79.9%	46.7%	70.1%	19.7%	18.0%
PDCCC	71.8%	38.1%	66.1%	12.4%	12.7%
PVCC	76.3%	49.6%	72.9%	20.7%	13.0%
RCC	74.4%	45.5%	68.1%	9.4%	5.4%
SVCC	70.3%	47.2%	64.4%	18.1%	18.6%
SWCC	81.2%	37.6%	61.3%	16.3%	12.4%
TNCC	71.3%	42.1%	70.2%	24.5%	31.6%
TCC	75.1%	33.5%	71.4%	16.5%	16.9%
VHCC	74.2%	49.5%	69.8%	16.1%	15.2%
VWCC	71.9%	37.9%	72.6%	20.9%	19.3%
WCC	76.2%	57.3%	76.1%	17.4%	13.5%
VCCS	74.8%	40.4%	70.8%	18.3%	16.9%
VCCS Target	85.5%	42.0%	50.0%	18.5%	14.0%

For additional questions please contact:

Elizabeth Creamer
 Director of Postsecondary Tech Prep/Perkins
 Virginia Community College System
ecreamer@vccs.edu
 804.819.4691

Marcia Harrington
 Director of Institutional Research
 Virginia Community College System
mharrington@vccs.edu
 804.819.4965

Board of Education Agenda Item

Item: _____ C. _____

Date: March 26, 2009

Topic: Report on Data Elements to be Included in the Virginia Cohort Report

Presenter: Dr. Deborah Jonas, Executive Director for Research and Strategic Planning

Telephone Number: (804)-225-2067 **E-Mail Address:** Deborah.Jonas@doe.virginia.gov

Origin:

Topic presented for information only (no board action required)

Board review required by

State or federal law or regulation

Board of Education regulation

Other: _____

Action requested at this meeting Action requested at future meeting: _____ (date)

Previous Review/Action:

No previous board review/action

Previous review/action

date _____

action _____

Background Information:

House Bill 19 (2006) amended section § 22.1-253, 13:4 of the *Code of Virginia* and requires the State Board of Education to assure uniform assessment of high school graduation rates by collecting, analyzing and reporting high school graduation and dropout data using a formula prescribed by the Board. In November 2006 the Board of Education adopted the NGA On-Time Graduation Rate formula to calculate graduation rates in Virginia.

In its 2007 report to the Governor and General Assembly "On the Study of High School Dropout and Graduation Rates in the Commonwealth (SJR 329)," the Board of Education recommended that the Virginia Department of Education report both the annual and cohort dropout rates, and that dropout rates be published in the context of other information, including:

1. Graduation rates;
2. Completion rates that include graduates and students who earn alternative completion credentials such as the General Educational Development certificate (GED); and
3. A 'remain in school' rate.

In October 2008 the Virginia Department of Education, for the first time, reported the graduation rates using the new formula. The Department reported graduation rates at the state, school division, and school level for all students and for student subgroups consistent with those defined for federal accountability purposes. In the next week, the Department will publish the Virginia Cohort Report.

This report accounts for the status of all students included in the 2007-2008 adjusted cohort as defined by the Virginia On-Time Graduation Rate, including dropouts. Reports will be published online for high schools, school divisions, and the state.

Summary of Major Elements

The Virginia Cohort Report accounts for the status of all students as of the end of the school year including students who graduate or complete high school in the summer. The report relies on longitudinal data to calculate a snapshot report that accounts for all students in the adjusted cohort before they begin the next school year.

The report templates are provided in Appendix A. In future years, the Department will publish the report in October.

The Cohort Report reports the status of students in each of the following categories:

- Diplomas: Students who earned one of the five approved Board of Education diplomas;
- Alternative completion credentials: Students who earned a GED or Certificate of Program Completion;
- Still enrolled: Students who did not earn a completion credential and were still enrolled in school on the last day of the 2007-2008 school year;
- Dropout: Students who dropped out of school according to the state's official definition (see Appendix B).
- Long-term absence: Students who were on long-term medical absence, emergency family absence, and students who were expelled for one-year. These students had not earned a credential and were not enrolled in school at the time of the report.
- Unconfirmed Status: Students whose records were properly reported to the state but whose status is inconclusive.

Students may have an unconfirmed status for the following reasons:

1. Students who transferred between Virginia public schools may have been erroneously assigned a new state testing identifier (STI) upon enrollment in the new school.
2. Students may have incomplete transfer data submitted to the state. This can occur when students transfer near the end of their on-time year and are waiting until the next school year to enroll in the new school; or when students register and enroll at another public school but don't actually attend the new school for any instructional days.
3. In the first two years of Virginia's longitudinal data system, the Virginia Department of Education did not require school divisions to submit data to document the status of students who left Virginia public schools over the summer and outside of Virginia's public school system (e.g., out-of-state or private schools). The Department does not have the exit status for these students.

The Department of Education has made several changes to the longitudinal data system since first requiring all students to have a unique identifier in 2005. These changes will significantly reduce the number of students with uncertain status in future years. The Department has been and will continue working with school divisions to correct data to improve the accuracy of reports and, to the extent possible, to confirm the status of all students. The Department has provided school divisions with data tools to easily identify students whose data should be reviewed and makes regular contact with school division personnel to provide technical assistance as needed.

Upon submission of data corrections, school divisions are required to submit evidence that directly supports

each change in the student's record that impacts the Cohort Report. Consistent with the process used for data corrections prior to the On-Time Graduation Rate report, the Department will audit a random sample of evidence submitted to support data corrections.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept this report for informational purposes.

Impact on Resources:

The Department has sufficient resources at this time to calculate and publish the cohort report.

Timetable for Further Review/Action:

N/A

Appendix B: Virginia's Definition of a dropout

A dropout is an individual who:

1. Was enrolled in school at some time during the previous school year and was not enrolled on October 1 of the current school year, or
2. Was not enrolled on October 1 of the previous school year although expected to be in membership;
and
3. Has not graduated from high school or completed a state- or -approved educational program; and
4. Does not meet any of the following exclusionary conditions:
 - (i) Transfer to another public school district, private school, or state- or district-approved education program;
 - (ii) Temporary school-recognized absence due to suspension or illness;
 - (iii) Death .

Board of Education Agenda Item

Item: _____ D. _____

Date: March 26, 2009

Topic: Update on the Web-based Standards of Learning (SOL) Testing Program

Presenter: Mrs. Shelley Loving-Ryder, Assistant Superintendent, Division of Student Assessment and School Improvement

Telephone Number: (804) 225-2102 **E-Mail Address:** Shelley.Loving-Ryder@doe.virginia.gov

Origin:

Topic presented for information only (no board action required)

Board review required by
 State or federal law or regulation
 Board of Education regulation
 Other: _____

Action requested at this meeting Action requested at future meeting: _____ (date)

Previous Review/Action:

No previous board review/action

Previous review/action
 date _____
 action _____

Background Information:

In the 2000 session of the General Assembly, legislation was passed that required and funded a statewide Web-based Technology Initiative. The goal of this initiative was for Virginia school divisions to implement online, Web-based SOL instruction, remediation, and testing beginning in Virginia's high schools. The initiative provided funding for school divisions to purchase hardware, purchase software, and to upgrade network and Internet capabilities.

Because the initial focus of the project was Virginia's high schools, the online testing initiative began with the End-of-Course (EOC) SOL tests. The first online EOC tests were administered in fall 2001. Additional EOC tests were phased in to the Web-based delivery system in subsequent administrations so that all EOC tests with the exception of English: Writing were available in the online system by 2003-2004 as specified in the initiative. Following the full implementation of the online EOC tests, SOL tests administered in middle school and elementary school were added to the Web-based system. By 2005-2006 all SOL tests except for the writing tests were available in the online delivery system.

Summary of Major Elements:

Since the implementation of the Web-based technology initiative in 2000, Virginia has become a national leader in online testing. An update on the implementation of online testing in Virginia will be provided as well as a brief overview of additional ways in which technology is used to enhance the overall efficiency and effectiveness of Virginia's assessment programs.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the BOE accept the report on the use of technology in Virginia's assessment programs.

Impact on Resources:

N/A

Timetable for Further Review/Action:

N/A

Board of Education Agenda Item

Item: _____ E. _____

Date: March 26, 2009

Topic: Report on Amendments to the 2008-2010 Biennial Budget Adopted by the 2009 General Assembly and Funding for Public Education under the American Recovery and Reinvestment Act of 2009 (ARRA)

Presenter: Mr. Kent C. Dickey, Assistant Superintendent for Finance

Telephone Number: 225-2025

E-Mail Address: Kent.Dickey@doe.virginia.gov

Origin:

Topic presented for information only (no board action required)

Board review required by

State or federal law or regulation

Board of Education regulation

Other: _____

Action requested at this meeting Action requested at future meeting: _____ (date)

Previous Review/Action:

No previous board review/action

Previous review/action

date January 15, 2009

action The Board received a report on the Governor's proposed amendments to the 2008-2010 biennial budget.

Background Information:

Governor Kaine's proposed amendments to the 2008-2010 Direct Aid to Public Education budget included technical updates to funding formulas, targeted reductions in FY10 in response to state revenue shortfalls, and a funding loss cap payment to divisions. The 2009 General Assembly acted on the Governor's budget recommendations and adopted its amended 2008-2010 budget on February 28, 2009. The General Assembly adopted most of the Governor's budget recommendations, as well as several of its own amendments. The General Assembly's overall budget is based on \$821 million less in general fund revenue for the biennium than the Governor's introduced budget, which represents a total general fund budget shortfall of \$3.7 billion when compared to the 2008-2010 budget passed at the 2008 session. No additional reductions in Direct Aid funding resulted from this latest reduction in projected general fund revenues.

On February 17, 2009, the federal stimulus law, the American Recovery and Reinvestment Act of 2009 (ARRA), was signed into law. Significant amounts of one-time funding for education under the law will be coming to Virginia on a formula basis beginning this spring. Competitive grant opportunities focusing on various reform goals will also be available to Virginia within the next several months. The principles of ARRA funding are:

- must be spent quickly to save and create jobs;
- should be used to improve student achievement and help close the achievement gap;
- will be subject to additional and more rigorous public reporting requirements; and
- are available for a limited duration (only two to three years) and should be invested in ways that do not result in unsustainable commitments after the funding expires.

The ARRA includes three primary funding sources for public education: State Fiscal Stabilization Funds (SFSF); supplemental Title I, Part A funding; and supplemental Individuals with Disabilities Education Act (IDEA) funding. Smaller amounts of formula funding will be available in areas such as educational technology. States will be required to submit a two-phase application to the U.S. Department of Education (USED) to receive funding for the three main funding sources. The applications must include assurances in meeting key requirements. USED has begun issuing guidance to states on ARRA funding. In turn, VDOE has begun providing information to school divisions on key elements and requirements of the ARRA to assist divisions in developing effective plans to spend the federal stimulus funds consistent with the principles of the law.

Summary of Major Elements:

This report will provide a summary of the final 2008-2010 budget actions affecting public education adopted by the 2009 General Assembly and a summary of public education funding under the Recovery and Reinvestment Act of 2009 (ARRA).

The amended budget adopted by the General Assembly maintains the Governor's recommendation to limit targeted reductions to Direct Aid funding to FY10 only (with only standard formula updates made to FY09 funding). The General Assembly adopted the FY10 targeted funding reductions as recommended by the Governor (i.e., funding cap for support positions; elimination of school construction grants; elimination of Lottery funding for school construction; and elimination of FY10 salary increase).

While the General Assembly adopted the funding reduction resulting from the support position cap methodology recommended by the Governor, it did not adopt this methodology as a permanent change to the SOQ funding formula. Instead, the General Assembly directs the Department of Education to generate a cost estimate for the 2010-2012 SOQ rebenchmarking that includes and excludes the support position funding cap, and to report the resulting costs to the Governor, the General Assembly money committees, and the Board of Education by September 1, 2009. The Board is required to review the current instructional standards in the SOQ and the appropriateness of establishing ratio standards for support positions, and to report its findings and recommendations for rebenchmarking to the Governor, the General Assembly money committees, and the Joint Subcommittee on Elementary and Secondary Education Funding by November 1, 2009.

Further, the General Assembly did not accept the Governor's proposal to use \$60.9 million in Lottery funds for a one-time funding loss cap payment to mitigate divisions' loss of state funds in FY10. Instead, the General Assembly budget maintains the distribution of these funds using the existing per

pupil funding methodology. It also provides flexibility in the use of these funds by waiving in FY10 the local match and the requirement that 50 percent of the funds be spent on non-recurring costs.

The General Assembly adopted various recommendations by the Governor to provide flexibility to school divisions, including the Board's proposals for flexibility in the use of state funds and local match to employ data coordinators, English language learner teachers, and reading and mathematics specialists. For FY10, the General Assembly provides flexibility in the use of SOQ textbooks funds by allowing the funds to be spent by school divisions for any purpose and by waiving the local match. The General Assembly budget also provides an additional \$1.0 million in FY10 to fund expected growth in the number of teachers eligible for bonuses due to achieving national board certification.

The State Fiscal Stabilization Fund (SFSF) is a new program authorized under the ARRA, with limited funding duration. The SFSF consists of an 81.8 percent portion for K-12 and higher education, intended primarily to backfill recent state funding reductions, and an 18.2 percent portion available to governors to sustain government services, which can include education. States must use their allocations to help restore for FY09, FY10, and FY11 support for public elementary, secondary, and postsecondary education to the greater of the FY08 or FY09 level. The funds needed to restore support for elementary and secondary education must be run through the state's primary elementary and secondary education funding formula. The General Assembly's budget provides an FY10 allocation of the SFSF to school divisions and it designates the entire 18.2 percent discretionary portion of the SFSF for specific state-level projects.

It is anticipated the state application for SFSF will be due to USED by April. USED will release 67 percent of the SFSF to Virginia upon receiving a completed application. The remaining funding will be provided to Virginia during summer 2009 after the second-phase application is filed. SFSF are available for obligation at the state and local levels through September 30, 2011. The funding will include rigorous public reporting requirements.

The USED guidance states that SFSF may be used at the local level to pay salaries to avoid having to lay off teachers and other school employees. Funds may also be used for modernization, renovation, or repair of school buildings. Further, SFSF education funds may be used for any activity authorized under the Elementary and Secondary Education Act (ESEA), the Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act, or the Carl D. Perkins Career and Technical Education Act.

By late March or April, USED plans to release to Virginia 50 percent of ARRA formula funds under Title I, Part A, and IDEA, Part B (both grants to states and preschool), based on currently approved state applications. The remainder of the funds will be awarded between July 1 and October 1, 2009, based on amendments Virginia will be required to make in other applications. Allowable uses of the Title I and IDEA funds under ARRA are the same as in the main programs. The funding will remain available for obligation through September 30, 2011, with Title I carryover limitations remaining in effect.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept this informational report.

Impact on Resources:

The General Assembly's budget reduces state Direct Aid funding by \$104.2 million in FY09 and by \$629.5 million in FY10 compared to the current 2008-2010 budget (Chapter 879) passed at the 2008 session. The FY09 reduction is due to technical changes and the FY10 reduction is due mostly to the targeted reductions. Compared to the introduced budget, the General Assembly's budget is \$8.0 million less in FY09 and \$26.9 million less in FY10 due mainly to lowered sales tax estimates and estimated non-participation savings in the Virginia Preschool Initiative program. State funding distributions to school divisions would decrease by \$383.2 million (six percent overall) from FY09 to FY10 due mainly to the targeted FY10 reductions. The General Assembly's budget is under review by Governor Kaine. He may propose amendments or vetoes to the General Assembly's budget to be considered at the veto session on April 8, 2009.

Preliminary ARRA formula funding awards for Virginia that have been released by USED are as follows: State Fiscal Stabilization Fund (\$1.2 billion – education and discretionary portions); Title I (\$165.3 million); IDEA Part B State Grants (\$281.4 million); IDEA Part B Preschool Grants (\$9.5 million); and Educational Technology State Grants (\$10.8 million). Where available, preliminary ARRA division-level funding allocations have been communicated to school divisions. The General Assembly allocated the K-12 portion of the SFSF to divisions over a two-year period (in state FY10 and FY11). The FY10 division allocation of this funding totals \$365.2 million statewide, and was allocated to divisions based on the proportion of targeted state funding reductions divisions experienced in FY10. There is limited funding available under ARRA for state-level administration in VDOE.

Timetable for Further Review/Action:

None.