

Board of Education Agenda Item

Item: J.

Date: April 30, 2009

Topic: Final Review of the Proposed Revisions to the *Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs* (8 VAC 20-280-10 et seq.)

Presenter: Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

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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: _____

Previous Review/Action:

No previous board review/action

Previous review/action

Dates: April 27, 2007 and November 29, 2007

Action: April 27, 2007; Approval of the Notice of Intended Regulatory Action (NOIRA)

Action: November 29, 2007; First Review of the Proposed Revisions to the *Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs*

Background Information:

The *Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs*, 8 VAC 20-280-10 et seq., were adopted on or before September 1, 1980. These regulations have not been amended since that time and do not address changes that have been made in the operation of joint schools since the regulations were initially written.

Joint schools include schools and programs established by two or more local school boards, including regional public charter schools, as defined in §22.1-212.5 of the *Code of Virginia*; comprehensive schools offering all day academic programs and career and technical education; regional residential charter schools for at-risk pupils; joint or regional schools, including regional public charter schools, that serve as high schools offering (i) a comprehensive high school

curriculum and specialized training to students desiring to pursue careers in law enforcement, fire fighting, emergency and rescue services, and other occupations addressing public safety and welfare; or (ii) a specialized curriculum leading to a high school diploma and a postsecondary credential, such as an industry certification, career certificate, or degree; or (iii) both; or Governor's Schools that meet the provisions of §22.1-26.

Requirements from legislation passed in 2003, 2004, 2007, and 2008 have been incorporated in the proposed regulations.

- SB 1099 was patroned by Senator Edwards and approved during the 2003 General Assembly Session. It allows two or more school boards, with the consent of the Board of Education, to establish joint or regional schools, including regional public charter schools, to serve as high schools offering a comprehensive high school curriculum and specialized training to students desiring to pursue careers in law enforcement, fire fighting, emergency and rescue services, and other occupations addressing public safety and welfare.
- SB 553 was patroned by Senator Lucas during the 2004 General Assembly Session. It allows two or more school boards, with the consent of the State Board, to establish joint or regional schools, including regional public charter schools, to serve as high schools offering a specialized curriculum leading to a high school diploma and a postsecondary credential, such as industry certification, career certificate, or degree; or (iii) both.
- During the 2007 General Assembly Session, HB 2371, sponsored by Delegate Tata, was passed. This bill permits all joint school boards, by agreement and with the approval of their governing bodies, to designate a fiscal agent for a joint school from among the treasurers of the participating localities. In addition, this bill allows title to property acquired for a joint school to be vested in the school's governing body, with the approval of the participating school boards and the governing bodies. HB 2371 resulted from a legislative proposal proposed by the Department of Education to streamline the operation of joint schools.
- HB 771 was approved during the 2008 General Assembly Session and it permits any joint school already in operation to request a waiver from any new regulation requirements promulgated, effective July 1, 2008.

As a result of this legislation and because of the need for periodic review of these regulations, revisions are being proposed. Because the changes will be extensive, the current regulations, 8 VAC 20-280-10 et seq., will be repealed and the new regulations will be promulgated bearing the number 8 VAC 20-281-10 et seq.

In accordance with the Virginia Administrative Process Act, a NOIRA was published in the *Virginia Register of Regulations* on July 9, 2007, to advise the public of the Board of Education's intent to conduct a comprehensive review of the *Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs* (8 VAC 20-280-10 et seq.). The department did not receive any public comments during the subsequent thirty-day public

comment period. The proposed regulations were presented to the board on November 29, 2007, and published in the Virginia Register on June 23, 2008. A sixty-day public comment period began on June 23, 2008, and ended on August 25, 2008. The department received comments from one individual. A summary of the public comment is attached.

Summary of Major Elements: The first review of the proposed regulations included three major changes:

- Addition of a definitions section to the regulations for clarity. (8 VAC 20-281-10)
- New language that is needed to address the changes in the operation of joint schools and programs since the initial regulations were written.
- New language for requirements in legislation approved during the 2003, 2004, and 2007 General Assembly Sessions.

In addition to the above changes, the final review of the proposed regulations includes four additional changes:

- New language for requirements in legislation approved during the 2008 General Assembly Session related to waivers.
- Deletion of the term “finance officer” and use of the term “fiscal agent” for clarity. The term “fiscal agent” is used in § 22.1-117 of the *Code of Virginia*, which defines fiscal agent and addresses the selection of the fiscal agent when a school division is comprised of more than one city or county.
- Deletion of the terms “alternative education program” and “classification of expenditures” from the definition section because these terms are not referenced anywhere else in the regulations.
- Deletion of the requirement that a finance officer be elected for a joint board because the term finance officer has been deleted from the regulations and because a joint board’s fiscal operations can be addressed in bylaws.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the remaining requirements of the Administrative Process Act.

Impact on Resources: The impact on resources for the proposed 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 when the regulations become effective, as established by the Administrative Process Act.

Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs

~~8VAC20-280-10. Arrangements for jointly owned and operated schools and jointly operated programs.~~

~~There are numerous arrangements between and among school divisions in Virginia by which programs and services are offered under various cooperative efforts. These range from a simple arrangement for educating each other's pupils to a sophisticated, multi-divisional organization involving personnel working on a regional basis and possibly buildings owned under sole or multi-ownership arrangements.~~

~~Virginia accounting practices require that public school moneys be in the custody of a duly elected and bonded city or county treasure, that it be disbursed only with the approval of lay board members, that it be audited annually by the state auditor or an approved certified public accounting firm, and that the operating expenses be accounted for on a pro-rata basis by the school divisions who are supporting and utilizing the services.~~

~~The following organizational plan meets these requirements and is recommended when several school divisions are engaging in a fairly extensive regional effort. The decision on the specific organizational structure, however, is made by local school boards. We recommend, but do not require, that school systems use the following plan for regional operations, especially when joint ownership of buildings is involved. In the event that local school boards wish to have some other joint ownership or operational arrangement, the written agreement must provide for the meeting of the requirements in the preceding paragraph as a minimum and it shall be submitted to the Department of Education for its concurrence.~~

~~The Board of Education for the Commonwealth encourages these cooperative efforts for the reasons that they should provide a better quality program offering for Virginia's young people; it~~

~~should also do this at a lesser cost than when a local board is offering the course for only its own students.~~

~~8VAC20-280-20. Organization and operating procedures.~~

~~Two or more schools boards, by individual resolution, may establish a joint board to manage and control schools or programs jointly owned and operated in accordance with the following requirements:~~

~~1. Membership.— The membership of the joint board shall be composed of lay members of participating school boards. When not more than two school boards agree to establish a joint board, its membership shall consist of three members of each of the participating school boards. When three school boards agree to establish a joint board, its membership shall consist of two members from each participating school board. When more than three school boards agree to establish a joint board, its membership shall consist of one member from each of the participating school boards.~~

~~Each school board shall fill vacancies in its membership on the joint board by election for the unexpired term. If a member of the joint board ceases to be a member of the school board which elected him, that person shall cease to be a member of the joint board.~~

~~If at any time the number of members of the joint board shall fall below a quorum and the appointing school board or boards shall fail within 30 days to elect enough members to constitute a quorum, the members already serving, even though they fail to constitute a quorum, may make any decision which the entire joint board may make.~~

~~Members of the joint board may receive compensation fixed by each of the participating school boards. This compensation shall be paid by the local boards and shall not exceed the amount paid for service on the local school boards.~~

~~The joint board shall adopt bylaws or rules of operation and shall establish the length and beginning dates or terms of its members and establish committees that might be needed to carry out its responsibilities.~~

~~2. Organization. The joint board shall elect from its membership a chairman who shall preside at its meetings and a vice chairman who shall preside in the absence of the chairman. The joint board shall also elect a clerk and, if desired, a deputy clerk, who shall not be a member of the joint board and who shall keep a record of its proceedings. The compensation of the clerk shall be fixed by the joint board. The clerk shall execute bond of at least \$10,000, as provided by §22.1-76 of the Code of Virginia.~~

~~The joint board also shall elect a finance officer, who shall have custody of its funds, fix the compensation and provide for bond. The finance officer shall be the treasurer of the county or city where the school is located (§22.1-118 of the Code of Virginia). Through its finance officer, the joint board shall arrange for the safe depository of the funds and, where necessary, see that sufficient collateral is posted to secure such funds.~~

~~3. Authority. The joint board shall be authorized to employ the staff required to operate the joint school and programs; purchase supplies; purchase, sell, or dispose of equipment or appliances; determine policies concerning instruction; approve the curriculum in keeping with the general laws, and with regulations, and requirements~~

~~of the Virginia Board of Education; maintain jointly owned school buildings; and in general to manage, operate, and conduct joint schools and programs.~~

~~The school boards owning joint school buildings or facilities shall have no authority over the maintenance and repair of buildings and the management, operation, and conduct of the joint school, but shall retain and have sole authority in all matters affecting the real estate, the construction and alteration of the school building, and the improvement of the school grounds. No action shall be taken in matters over which the school boards jointly owning such school buildings or facilities retain authority without the concurrence of all school boards involved.~~

~~Personnel, including teachers required to operate programs, shall be employed by the joint board upon the recommendation of the division superintendents appointed for the counties or cities of the respective school boards which establish the joint board.~~

~~Except as otherwise provided, all meetings and procedures of the committees for control shall be in accordance with provisions of §§22.1-72 through 22.1-75 of the Code of Virginia.~~

~~Any action by the joint committee shall be action by the school boards jointly owning such school, within the provisions of §22.1-87 of the Code of Virginia.~~

~~4. Authority of the division superintendent.— The division superintendents representing the counties or cities of the school boards which form the joint board shall constitute a Committee of Superintendents and shall jointly exercise the same authority that they have in the counties or cities for which they are appointed. With the approval of their respective school boards, such division superintendents may~~

~~elect one of their members as executive officer in whom may be vested such authority as the superintendents may from time to time find advisable.~~

~~In case of disagreement, the matter shall be referred to the joint board which shall have final disposition of the matter, subject to appeal as provided in §22.1-87 of the Code of Virginia.~~

~~5. Annual budget and financing plan. The Committee of Superintendents shall prepare, with the advice and approval of the joint board, an annual program plan, budget, and plan for financing the operation of the joint school. The financing plan shall include an estimate of the amount of money which will be needed from each participating school system during the next scholastic year to maintain and repair the joint school building, and for administration, instruction, and operation of schools and other programs, following as far as appropriate the forms furnished by the Virginia Board of Education as provided in §22.1-91 of the Code of Virginia. The estimate so made shall clearly show all necessary details and be provided in a timely manner so that the participating school boards may be well informed about every item included in the estimate.~~

~~6. Annual appropriations. Each school board participating in the joint board shall review the annual budget presented by the joint board and, if in agreement, provide funds to cover its share of the cost of maintaining and repairing the joint school building, as well as the cost of administration, instruction, and operation of the school and its programs.~~

~~7. Expenditures. The amount provided by each such school board shall be made available for expenditures by the joint board as follows:~~

~~a. Funds to be provided by participating school boards shall be made available to the joint board upon its request.~~

~~b. Funds to be provided on a fee for service basis shall be paid to the joint board upon receipt of an appropriate invoice.~~

~~Such money shall be paid to the finance officer, as authorized by this chapter.~~

~~The joint board, or its delegate, shall receive all claims arising from commitments made by it pursuant to authority conferred by this chapter and, when such claims are approved, authorized the payment of them. A record of such approval and order or authorization shall be made in the minutes of the joint board. Payment of each claim shall be authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody and disbursement of the joint board's funds. The warrant shall be signed by the chairman or vice chairman of the joint board or its delegate, countersigned by the clerk or deputy clerk, made payable to the person or persons, or the firm or corporation entitled to receive such payment and recorded as prescribed by the Board of Education. A statement shall be recorded on the face of the warrant indicating the reason for the payment and the date of the order entered or authority granted by the joint board.~~

~~The joint board, by resolution, may provide for special warrants for compensation, for all employees under written contract, upon receipt of certified time sheets or other evidence of services performed, and for all other employees whose rates of pay have been established by the joint board. All special warrants shall be signed by the clerk of the joint board and countersigned by the chairman or vice chairman of the joint~~

~~board. Payrolls shall be reviewed and approved by the joint board at its next regular meeting.~~

~~On or before the 10th day of each month, the clerk of the joint board shall transmit to the superintendents of the participating school boards an itemized statement of receipts and disbursements during the preceding month, with a cumulative statement of all receipts and disbursements since the beginning of the current fiscal year.~~

8VAC20-281-10. Definitions.

The following words and terms apply only to these regulations and do not supersede those definitions used for federal reporting purposes or for the calculation of costs related to the Standards of Quality (§22.1-253.13:1 et seq. of the Code of Virginia). When used in these regulations, these words shall have the following meanings, unless the context clearly indicates otherwise:

["Alternative Education Program" means any program designed to offer instruction to students for whom the regular program of instruction may be inappropriate, as defined in §22.1-276.01 of the Code of Virginia, and as prescribed in the Rules Governing Alternative Education (8VAC20-330).]

["Classification of expenditures" means a system of accounting for all school funds, as prescribed in §22.1-115 of the Code of Virginia.]

["Finance officer" means fiscal agent for the joint school.]

"Fiscal agent" means the treasurer of a county or city in which a joint school is physically located or the treasurer from one of the participating localities as selected by agreement of the participating local school boards with approval of the participating local governing bodies. (See also ["finance officer" or] "treasurer.")

"Joint board" means the governing board of the joint school. The joint board is composed of at least one member from each participating local school board.

["Joint school" means a program or school established by two or more local school boards, including a regional public charter school, as defined in §22.1-212.5 of the Code of Virginia, or a comprehensive school offering part or full day programs joint or regional school or program established by two or more local school boards, pursuant to § 22.1-26 of the Code of Virginia,

which may include but not be limited to a regional public charter school, a regional residential charter school, a regional academic year Governor’s school, a regional career and technical center, a regional special education program, or a regional alternative education program as defined in § 22.1-209.1:2 of the Code of Virginia.]

“Operation and maintenance” means budget preparation, contracts for services, personnel matters, use of or construction of a school building and grounds and the operation and maintenance thereof, and the provision of any services, activity, or undertaking that the joint school is required to perform in order to carry out its educational program.

“Regional public charter school” means a public charter school operated by two or more school boards and chartered directly by the participating school boards, as defined in §22.1-212.5 of the Code of Virginia.

“Treasurer” means the fiscal agent of the joint school, in accordance with §58.1-3123 of the Code of Virginia.

8VAC20-281-20. Organization and operating procedures.

Two or more school boards, by individual resolution, may establish a joint board to manage and control schools or programs jointly owned and operated in accordance with the following requirements:

1. Membership. The membership of the joint board shall be composed of at least one member of each of the local school boards participating in the joint program. Each school board shall fill any vacancies in its membership on the joint board. If a member of the joint board ceases to be a member of the school board that elected him, the local school board shall appoint his successor to the joint board. If at any time the number of

members of the joint board shall fall below a quorum, the local board shall appoint a member to fill the vacancy or vacancies within 30 calendar days.

Members of the joint board may receive compensation fixed by each of the participating school boards. This compensation shall be paid by the local boards and shall not exceed the amount paid for service on the local school boards.

The joint board shall adopt bylaws or rules of operation and shall establish the length and beginning dates or terms of its members and establish committees that might be needed to carry out its responsibilities. Such bylaws shall address the receipt, custody, and disbursement of funds and the payment of all claims related to the operation and maintenance of the joint facility, consistent with the state statutes and regulations of the Board of Education.

2. Organization. The joint board shall elect from its membership a chairman who shall preside at its meetings and a vice-chairman who shall preside in the absence of the chairman.

The joint board shall elect a clerk and, if desired, a deputy clerk. Neither the clerk nor the deputy clerk shall be a member of the joint board but shall keep record of the proceedings. The compensation of the clerk and the deputy clerk shall be fixed by the joint board. The clerk and the deputy clerk shall execute bond of at least \$10,000, as provided by §22.1-76 of the Code of Virginia.

~~The joint board also shall elect a finance officer, who shall have custody of its funds, fix the compensation, and provide for bond. All disbursements shall be by warrant signed by the clerk of the joint board and countersigned by the finance officer. Through its finance~~

officer, the joint board shall arrange for the safe depository of the funds and, where necessary, see that sufficient collateral is posted to secure such funds.]

3. Authority. The joint board shall be authorized to employ the staff required to operate the joint school and programs; purchase supplies; purchase, sell, or dispose of equipment or appliances; determine policies concerning instruction; approve the curriculum in keeping with the general laws, and with the regulations and requirements of the Virginia Board of Education; maintain jointly owned school buildings; and in general manage, operate, and conduct joint schools and programs.

The title to all property acquired for joint schools shall vest jointly in the participating school boards in such respective proportions as the participating school boards may determine, and the schools or programs shall be managed and controlled by the participating school boards jointly. With the approval of the participating school boards and the respective local governing bodies, title to property acquired for a joint school shall be vested in the governing body of such school.

Except as otherwise provided, all meetings and procedures of the joint board shall be in accordance with provisions of §§22.1-72 through 22.1-75 of the Code of Virginia. Any action by the joint board shall be deemed an action by the school boards jointly owning such school.

4. Authority of the division superintendent. The division superintendents representing the counties or cities of the school boards that form the joint board shall constitute a Committee of Superintendents and shall jointly exercise the same authority that they have in the counties or cities for which they are appointed. With the approval of their respective school boards, the division superintendents may elect one of their members as

executive officer in whom may be vested such authority as the superintendents may from time to time find advisable.

The Committee of Superintendents shall prepare, with the advice and approval of the joint board, an annual program plan, budget, and plan for financing the operation of the joint school that would include appropriate state and local funding from each participating school division. The financing plan shall include an estimate of the amount of money that will be needed from each participating school system during the next scholastic year for operation and maintenance of the joint school facility. The estimate shall clearly show all necessary details and be provided in a timely manner so that the participating school boards may be well-informed about every item included in the estimate.

In case of disagreement, all matters shall be referred to the joint board for resolution.

5. Budget and Expenditures. Each participating school board shall review and approve the annual budget presented by the joint board and provide funds to cover its share of the cost of operating and maintaining the joint school facility. The amount provided by each participating school board shall be made available for expenditures by the joint board as follows:

- a. Funds to be provided by participating school boards shall be made available to the joint board upon its requests.
- b. Funds to be provided on a fee for service basis shall be paid to the joint board upon receipt of an appropriate invoice.

On a regular monthly basis, the clerk of the joint board shall transmit to the Committee of Superintendents of the participating school boards an itemized statement of receipts and

disbursements during the preceding months, with a cumulative statement of all receipts and disbursements since the beginning of the current fiscal year.

[8 VAC20-281-30. Waiver of Regulations' Requirements.

Effective July 1, 2008, a joint school or program in operation prior to the promulgation of revisions to these regulations may request a waiver of the new requirements of the regulations.

This waiver request shall be submitted to the Board of Education in a manner prescribed by the Board. If the Board of Education grants the waiver request, the approved school shall continue to operate under the previous version of the regulations.]



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Final Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-281-10 through 8 VAC 20-281-30
Regulation title	Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs
Action title	Repeal of regulations governing joint schools and jointly operated programs and promulgation of new regulations
Date this document prepared	April 6, 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 Jointly Owned and Operated Schools and Jointly Operated Programs* was adopted on or before September 1, 1980. These regulations have not been amended since then and do not address changes made in these schools and programs since that time. As defined in the proposed regulation, *joint school* means a joint or regional school or program established by two or more local school boards, pursuant to § 22.1-26 of the Code of Virginia, which may include but not be limited to a regional public charter school, a regional residential charter school, a regional academic year Governor’s school, a regional career and technical center, a regional special education program, or a regional alternative education program as defined in § 22.1-209.1:2 of the Code of Virginia.

In a concurrent action, the Board of Education proposes to repeal the text of the current regulations (8 VAC 20-280-10 et seq.) and promulgate new regulations (8 VAC 20-281-10 et seq.). The present action proposes significant changes in the regulations. In the proposal a definitions section has been added for clarity; and new language was added in response to legislation passed during the 2003, 2004, 2007, and 2008 General Assembly Sessions. In addition, changes were made in response to agency review.

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.

During its meeting on April 30, 2009, the Board of Education adopted the proposed revisions to the *Regulations Governing Jointly Owned and Operated Schools* (8 VAC 20-281-10 et seq.) and directed the Department of Education to proceed with the requirements of the Administrative Process Act.

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 promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. In addition, §22.1-26 of the Code of Virginia provides the Board of Education with the legal authority to promulgate regulations that govern joint schools.

Purpose

Please explain the need for the new or amended regulation. 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.

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

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 current regulations (8 VAC 20-280-10 et seq.) are being repealed. The proposed regulations (8 VAC 20-281-10 et seq.) include the following:

- Addition of a definitions section for clarity.

- Revision of the second section of the repealed regulations which includes all of the organizing and operating procedures, including membership, organization, joint board authority, authority of the division superintendent, annual budget and financing plan, and expenditures. Most of the headings/catchlines from the current regulations remain, but the language has been streamlined and is more user-friendly.
- Addition of new language related to SB 1099 (2003 General Assembly Session) regarding a new category of high school operated as a joint or regional school and offering a comprehensive high school curriculum and specialized training to students desiring to pursue careers in law enforcement, fire fighting, emergency and rescue services, and other occupations addressing public safety and welfare.
- Addition of new language related to SB 553 (2004 General assembly Session) that allows two or more school boards, with the consent of the State Board, to establish joint or regional schools, including regional public charter schools, to serve as high schools offering a specialized curriculum leading to a high school diploma and a postsecondary credential, such as industry certification, career certificate, or degree; or (iii) both.
- Addition of new language related to HB 2371 (2007 General Assembly Session) regarding the appointment of a fiscal agent and the holding of title to property.
- Addition of new language related to HB 771 (2008 General Assembly Session) which permits any joint school already in operation to request a waiver from any new regulation requirements promulgated, effective July 1, 2008.

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 proposed revisions to these regulations are advantageous to the public, the agency, and the Commonwealth for the following reasons:

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

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

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.

Section number	Requirement at Proposed stage	What has changed	Rationale for change
8 VAC 20-281-10	The proposed regulation includes a definition for the term <i>alternative education program</i> .	This term has been deleted.	It was not necessary.
8 VAC 20-281-10	The proposed regulation includes a definition for the term <i>finance officer</i> .	This term has been deleted.	It was not necessary.
8 VAC 20-281-10	The proposed regulation includes a definition for the term <i>joint school</i> .	This term has been revised.	It was revised to comport with §22.1-26.
8 VAC 20-281-20	The proposed regulation requires the election of a finance officer and describes that individual's duties.	This reference has been deleted.	It was not necessary.
8 VAC 20-281-30	The 2008 General Assembly passed HB 771 which permits any joint school already in operation to request a waiver from any new regulation requirements promulgated, effective July 1, 2008.	8 VAC 20-281-30 was added to the regulation to reflect this change in the law.	The language in HB 771 has been added to the regulation.

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.

The official public comment period extended from June 23, 2008 through August 25, 2008. One individual submitted comments by e-mail. A public hearing was held immediately following the adjournment of the business session of the Board of Education on July 17, 2008, but no one appeared for the hearing.

Commenter	Comment	Agency response
Program director	The current regulation includes lay members as well as school board members as members of the joint board. The proposed regulations	School board members in Virginia are either elected or appointed. It is not clear what the term <i>lay member</i> means as it is not defined in the current regulations or referenced in the

	<p>only require school board members as joint board participants. The proposed regulations do not include safeguards for input from those involved in day-to-day operations or input from persons knowledgeable in this specialized field of education. In addition, the joint school structure as proposed is top-heavy.</p>	<p>Code of Virginia; therefore, that term is not included in the proposed regulations. Instead, the regulations were changed to include only participating school board members as members of the joint board. This individual also had concerns about the impact on the organizational structure of these schools and decision-making authority. However, all public schools in Virginia are supervised by local school boards (Article VIII, § 7 of the Constitution of Virginia and § 22.1-28 of the Code of Virginia) and each school board appoints a school superintendent (§ 22.1-58 et seq.). In addition, the proposed regulations describe the joint board’s authority and the school superintendents’ authority and require the joint board to adopt bylaws or rules of operation.</p> <p>HB 771 was approved during the 2008 General Assembly Session and it permits any joint school already in operation to request a waiver from any new regulation requirements promulgated, effective July 1, 2008.</p>
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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.

The current regulations are proposed for repeal (8 VAC 20-280-10 et seq.) and new regulations are being promulgated (8 VAC 20-281-10 et seq.)

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8 VAC 10-280-20	8 VAC 10-281-20	This section of the current regulations describes arrangements for jointly owned and operated schools and jointly operated programs.	8 VAC 20-281-10 has been added to the new regulations to include definitions for clarity.
8 VAC 20-280-20	8 VAC 20-281-10	The language in the original regulations has been repealed because much of the language is aspirational.	The term joint school is defined in the new section.
8 VAC 20-280-20	8 VAC 20-281-20	This section of the current regulations describes organization and operating procedures, including	8 VAC 281-20 (in the new regulations) also describes organization and operating procedures. However, the language has been revised for clarity and is more user-

		membership, organization, joint board authority, division superintendent's authority, annual budget and financing plan, annual appropriations, and expenditures.	friendly. In addition, language from HB 2371 (2007 General Assembly Session), which addresses the appointment of a fiscal agent and the holding of title to property, is included in this section.
NA	8 VAC 20-281-30	This section is not included in the current regulations. The 2008 General Assembly passed HB 771 which permits any joint school already in operation to request a waiver from any new regulation requirements promulgated, effective July 1, 2008.	8 VAC 20-281-30 was added to the regulations to reflect this change in the law.

Regulatory flexibility analysis

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

During the development of the proposed regulations, this department has made efforts to minimize the number of regulations that will impact these schools. Small businesses will not be impacted by these regulations.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

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