

Board of Education Agenda Item

Item: C.

Date: September 22, 2011

Topic: First Review of the Proposed Repeal of the *Regulations Governing the Approval of Correspondence Courses for Home Instruction* (8 VAC 20-60)

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

Telephone Number: (804) 225-2403

E-Mail Address: Anne.Wescott@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: _____

Previous Review/Action:

No previous board review/action

Previous review/action

Date October 28, 2010

Action First Review of the Notice of Intended Regulatory Action (NOIRA)

Background Information: The 1984 General Assembly adopted legislation amending the state's compulsory attendance laws (§ [22.1-254](#) of the *Code of Virginia*) to allow parents to teach their children at home in lieu of sending them to a public or private school. One of the provisions qualifying parents to home instruct their children permitted them to enroll a child in a correspondence course approved by the Board of Education. (§ [22.1-254.1](#) of the *Code*) Section [22.1-254.1](#) of the *Code* was later amended to allow correspondence courses addressing academic subjects to be approved by the Superintendent of Public Instruction.

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Governing the Approval of Correspondence Courses for Home Instruction](#) are no longer necessary and need to be repealed.

However, § [22.1-205](#) of the *Code* requires that the Board approve correspondence courses related to driver education. In a separate action, there is a proposal for a new section governing the approval of correspondence courses for driver education to be added to the [Regulations Governing Driver Education](#).

At its meeting of October 28, 2010, the Board of Education authorized the Department to proceed with the requirements of the Administrative Process Act to repeal the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#) and amend the [Regulations Governing Driver Education](#).

Summary of Major Elements: The proposed regulatory action would repeal the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#) as § [22.1-254.1](#) of the *Code of Virginia* has been amended so that the Superintendent of Public Instruction no longer approves correspondence courses for parents who home school their children, rendering these regulations obsolete.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept for first review the repeal of the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#).

Impact on Resources: The impact on resources is expected to be minimal.

Timetable for Further Review/Action: The timetable for further action will be governed by the requirements of the Administrative Process Act.

REGULATIONS GOVERNING THE APPROVAL OF CORRESPONDENCE COURSES FOR HOME INSTRUCTION

~~8VAC20-60-10. Definitions.~~

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

~~"Board" means the Virginia Board of Education.~~

~~"Correspondence school" means a school, organization, or other entity, no matter how titled, that teaches nonresident students by mailing them lessons and exercises which, upon completion, are returned to the school for grading. The lessons or exercises may also be transmitted and graded through electronic means.~~

~~"Course" means presentation of an orderly sequence of material dealing with an individual subject area such as mathematics, biology, etc.~~

~~"Department" means the Department of Education.~~

~~"Home instruction" means the teaching of a child or children in the home as an alternative to compulsory attendance as defined in § 22.1-254 of the Code of Virginia.~~

~~"School" means a correspondence school.~~

~~8VAC20-60-20. Schools seeking approval.~~

~~Schools seeking approval of the academic courses offered shall submit the following:~~

- ~~1. A catalog or other documents containing the following information:
 - ~~a. A statement of ownership or control of the institution;~~
 - ~~b. Descriptions of courses offered by the institution;~~
 - ~~c. A description of the evaluative method used; and~~
 - ~~d. A schedule of tuition and fees.~~~~
- ~~2. Verification of approval or exemption from regulation from the appropriate government agency in its state of domicile.~~
- ~~3. Such additional information as the board or department may deem necessary.~~

~~8VAC20-60-30. Approval renewal.~~

~~Approval of the academic courses shall be renewed annually on or before August 1, provided the school verifies that it continues to meet the requirements of 8VAC20-60-50. Forms for this purpose shall be provided by the department.~~

~~8VAC20-60-40. Review.~~

~~Each school meeting the criteria listed in 8VAC20-60-50 is required to submit the material in 8VAC20-60-20 for review every five years concurrent with the renewal affidavit.~~

~~8VAC20-60-50. Approval criteria.~~

~~Academic courses offered by schools submitting the information required by 8VAC20-60-20 of this chapter shall be approved if the following criteria have been met:~~

- ~~1. The school is, in fact, a correspondence school as defined in this chapter;~~
- ~~2. The courses offered are not in conflict with state or federal laws or regulations;~~
- ~~3. The school evaluates the students' work on a periodic basis and maintains a permanent record of that work.~~

~~8VAC20-60-60. Disclaimer.~~

~~Board of Education's approval of correspondence courses is not an endorsement of the program as a substitute for public school programs nor is it an endorsement of the educational or operational philosophy of the school. Additionally, the approval of courses is not intended as an endorsement of the quality of the courses nor is it a conclusion that they are appropriate to meet the educational needs of the student or the assessment required by § 22.1-254.1 of the Code of Virginia.~~

~~It is manifest that parents who choose to educate their children at home through a correspondence course are directly responsible for the educational progress of their children and the adequacy of instruction. The General Assembly has provided a mechanism to ensure that a child is receiving adequate instruction at home by requiring annual competency testing or evaluation. This testing program or evaluation is a measure of educational adequacy and the determining factor in the decision regarding the continuation of home study.~~

~~The approval of the board does not guarantee that a school has a refund policy for uncompleted courses. The Board of Education assumes no liability for damages or financial loss to parents using any course to meet Option iii of § 22.1-254.1 of the Code of Virginia relating to home instruction.~~



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-60
Regulation title	<i>Regulations Governing the Approval of Correspondence Courses for Home Instruction.</i>
Action title	This action repeals 8 VAC 20-60, <i>Regulations Governing the Approval of Correspondence Courses for Home Instruction.</i>
Date this document prepared	July 11, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

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

The 1984 General Assembly adopted legislation amending the state's compulsory attendance laws (§ [22.1-254](#) of the *Code of Virginia*) to allow parents to teach their children at home in lieu of sending them to a public or private school. One of the provisions qualifying parents to home instruct their children permitted them to enroll a child in a correspondence course approved by the Board of Education. (§ [22.1-254.1](#) of the *Code*) Section [22.1-254.1](#) of the *Code* was later amended to allow correspondence courses addressing academic subjects to be approved by the Superintendent of Public Instruction.

The 2008 General Assembly adopted [HB 767](#), which removed the correspondence course approval requirement in § [22.1-254.1](#), so that parents who home school may use any correspondence course of their choosing to meet this option (with the exception of driver education), rendering the previous approval requirement moot. As a result of this action, the [*Regulations Governing the Approval of Correspondence Courses for Home Instruction*](#) are no longer necessary and need to be repealed.

However, § [22.1-205](#) of the Code requires that the Board approve correspondence courses related to driver education. In a separate action, there is a proposal for a new section governing the approval of correspondence courses for driver education to be added to the [Regulations Governing Driver Education](#).

At its meeting on October 28, 2010, the Board of Education authorized the Department to proceed with the requirements of the Administrative Process Act to repeal the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#) and amend the [Regulations Governing Driver Education](#).

Acronyms and Definitions

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

Not applicable.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section [22.1-16](#) of the Code of Virginia vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. However, § [22.1-254.1](#) has been amended and no longer requires the Superintendent of Public Instruction to approve correspondence courses for families who home school their children.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The proposed regulatory action would delete an obsolete set of regulations, [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#).

Substance

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

The proposed change will repeal an outdated set of regulations (the [Regulations Governing the Approval of Correspondence Courses for Home Instruction](#)). The need for this set of regulations was eliminated by an amendment to § [22.1-254.1](#) of the Code of Virginia by the 2008 General Assembly.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

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

Requirements more restrictive than federal

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

Not applicable. The regulations are being repealed.

Localities particularly affected

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

The repeal of these regulations would not have a disproportionately material impact on any locality.

Public participation

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

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Through the public comment process, the Board is seeking information on impacts on small businesses as defined in § [2.2-4007.1](#) of the *Code of Virginia*. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall Web site, www.townhall.virginia.gov, or **The Policy Office, Attention: Comments on Proposed Revision to Driver Education Regulations, P.O. Box 2120, Richmond, VA 23218-2120, by phone number at 804-225-2092, by fax number at 804-530-4502, or by e-mail at POLICY@doe.virginia.gov**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

Economic impact

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

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	The cost to the state to repeal this regulation would be minimal.
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	Not applicable.
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	Not applicable.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Currently there are four approved driver education correspondence programs in Virginia that would be governed under a new section of the driver education regulations, in a separate action of the Board of Education. The regulatory changes are expected to be minimal. The Superintendent of Public Instruction ceased approval of other correspondence courses in 2008, when § 22.1-254.1 of the <i>Code of Virginia</i> was revised.
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential	None.

purposes that are a consequence of the proposed regulatory changes or new regulations.	
Beneficial impact the regulation is designed to produce.	This action would repeal an outdated and unnecessary regulation.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

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

Regulatory flexibility analysis

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

Not applicable. The regulations are being repealed.

Public comment

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

Commenter	Comment	Agency response
Matty	Fiscally responsible? I'm not sure this is the most fiscally responsible route to take. How can we propose alternative meassures? -Matty from Mini Trampoline Headquarters	This proposal has a minimal fiscal impact. Any proposals for alternative measures may be submitted to the Board of Education at Policy@doe.virginia.gov
Alex	Fiscal reforms I think that fiscal reforms are a MUST, but we should hire real	This proposal does not address fiscal reforms or feasibility studies.

	professionals to implement them... a fiscal measure requires more feasibility studies... Thanks, Alex Cursuri Dezvoltare Personala	
Frederik Friis	Many Regulations Is Needed I think to make good condition and good rule.need to make regulations.i agree with this regulation and i suggestion to this regulations.thanks <u>Makeityourring Diamond Engagement Rings</u>	No response necessary.

Family impact

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

There is no potential impact on the family, as these regulations are being repealed.

Detail of changes

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

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
8 VAC 20-60-10 through 8 VAC 20- 60-	N/A	These regulations set out requirements for the approval of correspondence courses for home instruction by the	The 2008 General Assembly adopted HB 767 which eliminated from § 22.1-254.1 the requirement that the Superintendent of Public Instruction approve correspondence courses

100		Superintendent of Public Instruction.	<p>available to parents who home school. Since these regulations are no longer needed for approval of correspondence courses, these regulations are being repealed. However, since approval of correspondence courses for driver education programs is still required by § 22.1-205, much of the language in the Regulations Governing the Approval of Correspondence Courses for Home Instruction will be moved to the Regulations Governing Driver Education. This revision will delete obsolete language and clarify approval requirements.</p>
-----	--	---------------------------------------	--