

Virginia Board of Education Agenda Item



Agenda Item: A

Date: May 24, 2012

Title	Final Review of a Notice of Intended Regulatory Action (NOIRA) of Proposed Amendments to the Regulations Establishing the Standards for Accrediting Public Schools in Virginia (8 VAC 20-131) to Include Standards for the Accreditation of Public Virtual Schools, Pursuant to HB 1215 (2012)		
Presenter	Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications		
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Purpose of Presentation:

Action required by state or federal law or regulation.

Previous Review or Action:

Previous review and action. Specify date and action taken below:

Date: April 26, 2012

Action: First review

Action Requested:

Final review: Action requested at this meeting.

Alignment with Board of Education Goals: Please indicate (X) all that apply:

X	Goal 1: Expanded Opportunities to Learn
X	Goal 2: Accountability of Student Learning
	Goal 3: Nurturing Young Learners
	Goal 4: Strong Literacy and Mathematics Skills
	Goal 5: Highly Qualified and Effective Teachers and Administrators
X	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
	Other Priority or Initiative. Specify:

Background Information and Statutory Authority:

This item addresses three of the Board of Education’s goals. The regulations governing full-time virtual schools would expand opportunities to learn by setting forth the expectations for a virtual school as an option for students and school divisions. In promulgating these regulations, the Board would establish the policies and standards necessary to ensure accountability of student learning in full-time public virtual schools. Finally, the regulations would provide the Board with the opportunity to develop and implement sound policies for student success in a virtual setting.

[HB 1215](#) (R.P. Bell) was approved during the 2012 General Assembly Session and has been signed by the Governor. The legislation becomes effective July 1, 2012. As amended by that bill,

§ [22.1-253.13:3.A](#) of the *Code of Virginia* (the Standards of Quality) will state:

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The intent of this legislation is to address situations where local school boards could establish a virtual public school, with all students taking coursework virtually, rather than in a traditional “brick and mortar” environment. The Board’s [Regulations Establishing the Standards for Accrediting Public Schools in Virginia](#) (SOA) are designed to ensure that an effective educational program is established and maintained in Virginia's public schools. These regulations are applicable to all public schools in Virginia and are geared to the traditional “brick and mortar” public school. Consequently, the regulations do not specifically address differences in service delivery that exist between a “brick and mortar” public school and a virtual public school that enrolls students full-time.

SOA standards, such as those related to library media, staffing requirements, hours of instruction, extracurricular activities, and school facilities and safety, need to be examined for virtual schools and for appropriate service delivery in a full-time virtual environment. Currently, the Board may grant waivers of those sections of the SOA that may not be appropriate, or may be inapplicable, for a virtual school. Once these regulations are promulgated, school divisions would no longer be required to request waivers of those regulations that would not be applicable to virtual schools. In addition, the Board may determine that there are additional, or alternate, requirements that are needed to ensure the accountability of virtual schools.

As the options available to Virginia’s public school students through virtual learning programs continue to expand, students enrolled in public schools may be able to take all coursework virtually and may not attend traditional “brick and mortar” schools at all. Therefore, the Board must establish standards governing public virtual schools that will maintain a level of student achievement commensurate with high-quality instruction delivered in traditional “brick and mortar” schools.

Summary of Important Issues:

The amendment to these regulations, as prescribed in HB 1215, will assure that the SOA requirements will address instructional service delivery for both “brick and mortar” and virtual schools, further ensuring educational quality for Virginia’s public school students.

Attached is the Notice of Intended Regulatory Action (NOIRA) Background Document, which is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA) and Executive Order 14 (2010). This document must be approved by the Board before department staff can proceed with the requirements of the Administrative Process Act.

Impact on Fiscal and Human Resources:

There will be an administrative impact as Department of Education staff will need to develop draft regulations for public comments, prepare and file all documentation related to the Administrative Process Act, and ensure that public comments are solicited and addressed. This impact will be absorbed within existing resources.

Timetable for Further Review/Action:

The timetable for further action will be governed by the requirements of the Administrative Process Act.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education approve the Notice of Intended Regulatory Act to begin the process of promulgating regulations governing public virtual schools that enroll students full time.



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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-131
Regulation title	<i>Regulations Establishing the Standards for Accrediting Public Schools in Virginia</i>
Action title	Update to Comport with Legislative Changes Made by HB 1215 (2012)
Date this document prepared	April 26, 2012

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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

[HB 1215](#), which was passed by the General Assembly during the 2012 Session and has been signed by the Governor, amends the *Code of Virginia* to require the Board of Education to promulgate regulations establishing standards for the accreditation of public virtual schools that enroll students full-time. This regulatory action addresses this legislation by amending existing regulations to address the accreditation of public virtual schools operating under the authority of the local school boards. The intent of this legislation is to address situations where a student could be enrolled in a public school and take all coursework virtually, rather than in a traditional “brick and mortar” environment.

The Board of Education’s [Regulations Establishing the Standards for Accrediting Public Schools in Virginia](#) (SOA) are designed to ensure that an effective educational program is established and maintained in Virginia’s public schools and the regulations are applicable to all public schools in Virginia. The provisions in these regulations are geared to traditional “brick and mortar” public schools and do not specifically address public virtual schools that enroll students full-time. SOA standards, such as those related to health and physical education, library media, staffing requirements, hours of instruction, extracurricular activities, and school facilities and safety, need to be examined for virtual schools and for appropriate service delivery in a full-time virtual environment.

As the options available to Virginia’s public school students through virtual learning programs continue to expand, students enrolled in public schools may be able to take all coursework virtually and may not be

required to attend the traditional “brick and mortar” schools at all. Therefore, the Board must establish standards governing public virtual schools that will maintain a level of student achievement commensurate with instruction delivered in traditional “brick and mortar” schools.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

[HB 1215](#) amends § [22.1-253.13:3.A](#) of the *Code of Virginia* to state: “The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.”

In addition, § [22.1-16](#) of the *Code* authorizes the Board of Education 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 this title.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed regulatory action is essential to protect the health, safety, or welfare of citizens in that it will ensure that public virtual schools will maintain a level of student achievement commensurate with instruction delivered in traditional “brick and mortar” schools. Currently, the provisions in these regulations are geared to traditional “brick and mortar” public schools and do not specifically address public virtual school programs that enroll students full-time. Therefore, SOA standards, such as those related to health and physical education, library media, staffing requirements, hours of instruction, extracurricular activities, and school facilities and safety, need to be examined for virtual schools and for appropriate service delivery in a full-time virtual environment.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

Section 22.1-253.13:3 of the *Code of Virginia* requires the Virginia Board of Education to promulgate regulations establishing standards for the accreditation of public schools. The Board’s [Regulations Establishing the Standards for Accrediting Public Schools in Virginia](#) (SOA) are designed to ensure that an effective educational program is established and maintained in Virginia’s public schools. The Board will review these regulations for potential amendments in order to examine differences in service delivery that exist between a “brick and mortar” public school and a virtual public school that enrolls students full-time. The proposed changes will ensure that public virtual schools that will maintain a level of student achievement commensurate with that delivered in traditional “brick and mortar” schools.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Because [HB 1215](#) requires the promulgation of regulations “establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time,” no other alternative has been considered.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action including, but not limited to 1) ideas to be considered in the development of this proposal; 2) the costs and benefits of the alternatives stated in this background document or other alternatives; and 3) potential impact of the regulation. The agency is also seeking information on impacts on small businesses as defined in § [2.2-4007.01](#) of the *Code of Virginia*. Information may include: 1) projected reporting, recordkeeping and other administrative costs; 2) the probable effect of the regulation on affected small businesses; and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation. A regulatory advisory panel will not be used.

Anyone wishing to submit comments may do so via the Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>), or by mail, fax, or e-mail to Michelle Vucci; P.O. Box 2120; Richmond, Va. 23218-2120; (p) 804-225-2092; (f) 804-530-4502; or SOACOMMENTS@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar Web site (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

Family impact

Assess the potential 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 proposed amendments will address instructional service delivery for both “brick and mortar” and virtual schools, further ensuring educational quality for Virginia’s public school students.