



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: I

Date: July 21, 2022

Title: Final Review of Notice of Intended Regulatory Action (NOIRA) for Proposed Revisions to the *Regulations Governing School Activity Funds*

Presenter: Jim Chapman, Regulatory and Legal Coordinator

Email: jim.chapman@doe.virginia.gov

Phone: 804-225-2540

Purpose of Presentation:

Action required by state or federal law or regulation

Executive Summary

The Virginia Board of Education (Board) has one of the largest regulatory catalogs in the Commonwealth of Virginia. As part of a new effort to undergo regular reviews of the Board’s promulgated regulations, VDOE staff has begun reviewing regulatory chapters that may not have had a recent opportunity to pass under the Board’s eye in order to consider whether such regulations are (a) necessary for the protection of public health, safety, and welfare; (b) clearly written and easily understandable; and (c) reflect the Board’s expectations for best practice and sound policy. Such regular review of regulation will come before the Board in the standard regulatory process with the exception that staff will likely bring suggested changes along with the Notice of Intended Regulatory Action (“NOIRA”) in order that the public may be properly informed of all changes under consideration at the earliest possible stage.

The *Regulations Governing School Activity Funds* ([8VAC20-240](#)) sets standards for the classification, administration, and audit of funds derived from extracurricular school activities. The chapter is of enduring importance to the protection of funds raised by students and schools and maintained by public servants. Although the chapter was first promulgated by the Board in 1980, it has remained unaltered since that time. VDOE staff has made a modest round of initial suggestions to update the *Regulations Governing School Activity Funds* to include with the NOIRA.

Action Requested:

Final review: Action requested at this meeting.

Superintendent’s Recommendation

The Superintendent of Public Instruction recommends that the Board of Education approve the Notice of Intended Regulatory Action for the *Regulations Governing School Activity Funds*.

Rationale for Action:

Board action is required to initiate the process to receive public comment, consider changes, and ultimately update and maintain the Board’s regulations.

Previous Review or Action:

No previous review or action.

Background Information and Statutory Authority:

Section 22.1-16 of the *Code of Virginia* gives the Board broad authority to “promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.”

The *Regulations Governing School Activity Funds* became effective on September 1, 1980. The Virginia Register of Regulations online archive does not contain records before October 15, 1984, and has not yet been able to locate documentation to provide insights into the development of the chapter. Accordingly, the current action should be considered a ground-up reconsideration of the underlying policies advanced under the Board’s authority.

Timetable for Further Review/Action:

After approval by the Board, the NOIRA will be submitted for executive branch review pursuant to the requirements of the Administrative Process Act. After the NOIRA is published in the Register of Regulations and public comment is received, the action will return to the Board for consideration before moving to the Proposed Stage of the regulatory process.

Impact on Fiscal and Human Resources:

This action will not affect VDOE resources, nor will it impact the resources of local school divisions.

Project 7301 - NOIRA

State Board of Education

Updates to the Regulations Governing School Activity Funds

Chapter 240

Regulations Governing School Activity Funds

8VAC20-240-10. Classification; responsibility for administration of regulations, exclusion of specific funds.

All funds derived from extracurricular school activities, such as entertainment, athletic contest, cafeteria, club dues, etc., and from any and all activities of the school involving personnel, students, or property are by this chapter classified as school activity funds (~~internal accounts~~). The local school boards shall be responsible for the administration of this chapter in the schools under their control and may determine which funds in any school may be excluded from those subject to this chapter. (~~Funds defined by law as public funds are not subject to this chapter and are to be handled as provided by law.~~)

8VAC20-240-20. Records, school finance officer, bonds.

Each school shall keep an accurate record of all receipts and disbursements so that a clear and concise statement of the condition of each fund may be determined at all times. It shall be the duty of each principal to see that such records are maintained in accordance with this chapter and rules promulgated by the local school board. The principal or person designated by him shall perform the duties of school finance officer or central treasurer. The school finance officer shall be bonded, and the local school board shall prescribe rules governing such bonds for employees who are responsible for these funds.

8VAC20-240-30. ~~Forms.~~ (Repealed.)

~~The use of forms prescribed by the Board of Education is not mandatory but the basic information required by the uniform system must be incorporated in any system substituted for that designed by the Board of Education.~~

8VAC20-240-40. Audits; monthly and annual reports.

School activity funds (~~internal accounts~~) shall be audited at least once a year by a duly qualified accountant or accounting firm approved by the local school board and a copy of the audit report shall be filed in the office of the division superintendent. Monthly reports of such funds shall be prepared and filed in the principal's office, and annual reports shall be filed in the office of the principal or division superintendent. The cost of such an audit is a proper charge against the school operating fund or school activity funds.

8VAC20-240-50. ~~Interpretation of regulations and forms.~~ (Repealed.)

~~Nothing in this chapter or suggested forms shall be construed as superseding or modifying the federal state plan for operation of cafeterias under the National School Lunch Act, 42 USC § 1751 et seq.~~



townhall.virginia.gov

**Notice of Intended Regulatory Action (NOIRA)
Agency Background Document**

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8VAC20-240
VAC Chapter title(s)	<i>Regulations Governing School Activity Funds</i>
Action title	Proposed Revisions to the <i>Regulations Governing School Activity Funds</i>
Date this document prepared	July 8, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The *Regulations Governing School Activity Funds* ([8VAC20-240](#)) sets standards for the classification, administration, and audit of funds derived from extracurricular school activities. The chapter is of enduring importance to the protection of funds raised by students and schools and maintained by public servants. Although the chapter was first promulgated by the Board in 1980, it has remained unaltered since that time.

The Board has made a modest round of initial suggestions to update the *Regulations Governing School Activity Funds*, which have been included with the NOIRA as Attachment A. The present suggestions eliminate phrases and a section that are no longer believed to be necessary. The Board hopes that disclosing these suggestions with the NOIRA will allow the public more time to consider the regulatory change and offer substantial public comment in advance of the Proposed Stage.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

“Board” means the Virginia Board of Education.

“GASB 84” means Governmental Accounting Standards Board Statement No. 84, *Fiduciary Activities*.

“National School Lunch Act” or “NSLA” means the provisions of Public Law 396, 79th Congress and any successor act or amendment thereto.

“VDOE” means the Virginia Department of Education.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The impetus for this regulatory change is a regular review of the Board’s regulations in consultation with VDOE staff.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The Board of Education’s overall regulatory authority is found in § [22.1-16](#) of the *Code of Virginia*, which states that “[t]he Board of Education may 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.”

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The *Regulations Governing School Activity Funds* ([8VAC20-240](#)) sets standards for the classification, administration, and audit of funds derived from extracurricular school activities. The chapter is of enduring importance to the protection of funds raised by students and schools and maintained by public servants.

The Board is aware that there have been significant changes in accounting standards since these regulations were promulgated, most notably GASB 84.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The initial suggestions from the Board included in Attachment A offer the removal of language no longer deemed essential to the regulatory purpose. This includes the striking of phrases in 8VAC20-240-10 and 8VAC20-240-40.

The Board also suggests repealing 8VAC20-240-30 and 8VAC20-240-50. Section 30 does not mandate the use of the Board's forms, and the methods of data collection and transmission have changed considerably since 1980 such that the regulation may be obsolete. Additionally, GASB 84 promulgates appropriate accounting standards for school activity funds.

Similarly, Section 50 concerns funds received from the National School Lunch Act, but school activity funds are sufficiently differentiated from funds received under the NSLA such that the regulation may not serve a discernable purpose. Additionally, § 22.1-24 of the Code of Virginia designates the Superintendent of Public Instruction as the state educational agency for disbursement of funds received under the NSLA.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

There are no alternatives to the regulatory change, as review of the regulations necessitates engaging the regulatory process.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the

Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Board is providing an opportunity for comments on this regulatory proposal, including (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by email to Jim Chapman, Regulatory and Legal Coordinator, at jim.chapman@doe.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.