| **Virginia Board of Education Agenda Item** | **Seal of the Commonwealth of Virginia** |
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# Agenda Item: D

## Date: September 20, 2018

### Title: Final Review of Revisions to the *Regulations Governing Pupil Transportation* (8VAC 20-70-350. Training.) to Conform to 2018 General Assembly Legislation (Exempt Action)

#### Presenters: Mr. Kent Dickey, Deputy Superintendent for Finance and Operations

 **Mr. Kerry Miller, Associate Director for Pupil Transportation**

#### Email: Kent.Dickey@doe.virginia.gov Phone: (804) 225-2025

 **Kerry.Miller@doe.virginia.gov** **(804) 225-2772**

## Purpose of Presentation:

Action required by state or federal law or regulation.

## Executive Summary: The Board of Education establishes the *Regulations Governing Pupil Transportation* to support the safe and secure transportation of students to and from Virginia public schools. The *Regulations Governing Pupil Transportation* must be revised to conform to various General Assembly legislation that was passed at the 2018 Session, Senate Bill (SB) 229, SB 557, and House Bill (HB) 810.

## Action Requested:

Final review: Action requested at this meeting.

**Superintendent’s Recommendation:**
The Superintendent of Public Instruction recommends the Board of Education approve the proposed revisions to the *Regulations Governing Pupil Transportation* (exempt action).

**Rationale for Action:**

Approving the proposed revisions to the *Regulations Governing Pupil Transportation* will allow the regulations to conform to changes in the *Code of Virginia* resulting from SB 229, and SB 557/HB 810, and for the revised regulations to proceed as an exempt action under the Administrative Process Act.

**Previous Review or Action:**

No previous review or action.

Background Information and Statutory Authority:
In promulgating revisions to these regulations, the Board of Education is ensuring that the *Regulations Governing Pupil Transportation* conforms to SB 229 and SB 557/HB 810. These bills were passed at the 2018 General Assembly Session.

**Senate Bill 229**

SB 229 requires the Board of Education to establish a training program for school board employees who assist in the transportation of students on school buses, including individuals employed to operate school buses and school bus aides, on autism spectrum disorders, including the characteristics of autism spectrum disorders, strategies for interacting with students with autism spectrum disorders, and collaboration with other employees who assist in the transportation of students on school buses. The bill requires each school board employee who assists in the transportation of students with autism spectrum disorders on school buses to participate in such training program.

**CHAPTER 586**

*An Act to amend and reenact § 22.1-298.3 of the Code of Virginia, relating to school bus personnel; training program; autism spectrum disorders.*

**[SB 229]**

**Approved March 30, 2018**

Be it enacted by the General Assembly of Virginia:

1. That § [22.1-298.3](http://law.lis.virginia.gov/vacode/22.1-298.3) of the Code of Virginia is amended and reenacted as follows:

§ [22.1-298.3](http://law.lis.virginia.gov/vacode/22.1-298.3). Students with autism spectrum disorders; training required of personnel.

~~By September 1, 2014, each~~ *A. Each* school board shall ensure that aides assigned to work with a teacher who has primary oversight of students with autism spectrum disorders receive training in student behavior management within 60 days of assignment to such responsibility. ~~School boards may provide such training to other employees, including transportation employees.~~

The Board of Education shall provide training standards that school ~~divisions~~ *boards* may use to fulfill the requirements of this ~~section~~ *subsection*.

*B. The Board of Education shall establish a training program for school board employees who assist in the transportation of students on school buses, including individuals employed to operate school buses and school bus aides, on autism spectrum disorders, including the*

*characteristics of autism spectrum disorders, strategies for interacting with students with autism spectrum disorders, and collaboration with other employees who assist in the transportation of*

*students on school buses. Each school board employee who assists in the transportation of students with autism spectrum disorders on school buses shall participate in such training program.*

**Senate Bill 557/House Bill 810**

SB 557/HB 810 require any school bus operator applicant who does not possess a commercial driver's license to receive (i) a minimum of 24 hours of classroom training and (ii) six hours of behind-the-wheel training on a school bus that contains no pupil passengers and requires any school bus operator applicant who possesses a commercial driver's license to receive (a) a minimum of four hours of classroom training and (b) three hours of behind-the-wheel training on a school bus that contains no pupil passengers. Previous law left the setting of such hourly training requirements to the Board of Education. These bills also contain technical amendments.

**CHAPTER 203**

An Act to amend and reenact §§ 22.1-181 and 46.2-339 of the Code of Virginia, relating to school bus operators; training.

**[SB 557] - [Identical to HB 810]**

**Approved March 5, 2018**

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-181 and 46.2-339 of the *Code of Virginia* are amended and reenacted as follows:

§ 22.1-181. Training program for school bus operators.

The Board of Education shall develop a training program for persons applying for employment, and employed, to operate school buses and shall promote its implementation. *For applicants not currently possessing a commercial driver's license, such regulations shall require (i) a minimum*

*of 24 hours of classroom training administered pursuant to this section and (ii) six hours of behind-the-wheel training on a school bus that contains no pupil passengers. For applicants currently possessing a commercial driver's license, such regulations shall require (a) a minimum of four hours of classroom training administered pursuant to this section and (b) three hours of*

*behind-the-wheel training on a school bus that contains no pupil passengers. Behind-the-wheel training shall be administered under the direct on-board supervision of a designated school bus driver trainer.*

§ 46.2-339. Qualifications of school bus operators; training; examination.

*A.* No person shall ~~drive~~ *operate* any school bus on a highway in the Commonwealth unless he has had a reasonable amount of experience in ~~driving~~ *operating* motor vehicles~~,~~ and has passed a special examination pertaining to his ability to ~~drive~~ *operate* a school bus with safety to its passengers and to other persons using the highways. Such person shall obtain a commercial driver's license with the applicable classifications and endorsements, issued pursuant to the Virginia Commercial Driver's License Act (§ [46.2-341.1](http://law.lis.virginia.gov/vacode/46.2-341.1) et seq.), if the school bus he ~~drives~~ *operates* is a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act. For the purpose of preparing for the examination required by this section, any person ~~holding a valid driver's license issued under Article 4 of this chapter, may drive, under the direct supervision of a person holding a valid school bus license endorsement, a school bus which contains no other passengers, provided that, on and after April 1, 1992, only persons~~ holding a valid commercial driver's license or instruction permit issued under the provisions of the Virginia Commercial Driver's License Act~~,~~ may operate, under the direct supervision of a person holding a valid commercial driver's license with a school bus endorsement, a school bus ~~which~~ *that* is a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act and ~~which~~ *that* contains no pupil passengers.

*B.* The Department may adopt regulations necessary to provide for the examination of persons desiring to qualify to ~~drive~~ *operate* school buses in the Commonwealth and for the granting of permits to qualified applicants.

*C.* Notwithstanding the provisions of this section ~~otherwise~~, no person shall ~~drive~~ *operate* any school bus on a highway in the Commonwealth during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](http://law.lis.virginia.gov/vacode/9.1-900) et seq.) of Title 9.1.

2. That the State Board of Education and the Department of Motor Vehicles' initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ [2.2-4000](http://law.lis.virginia.gov/vacode/2.2-4000) et seq. of the Code of Virginia), except that the State Board of Education and the Department of Motor Vehicles shall provide an opportunity for public comment on the regulations prior to adoption.

Timetable for Further Review/Action:
The timetable for further action will be governed by the exempt action requirements of the Administrative Process Act (APA). The Department of Education will notify school divisions of the revisions to the regulations when they become final, pursuant to the requirements of the APA. The provisions of the various legislation requiring changes in the *Regulations Governing* *Pupil Transportation* became effective July 1, 2018.

## Impact on Fiscal and Human Resources:

The administrative impact required in promulgating these regulations will be absorbed within existing agency resources.

**ATTACHMENTS**

1. Proposed Revisions to the *Regulations Governing Pupil Transportation* 8VAC20-70-350
2. Exempt Action Final Regulation Agency Background Document

# Attachment A

## Proposed Amendments to the

## Regulations Governing Pupil Transportation, 8VAC20-70-350

**8VAC20-70-350. Training.**

No person shall operate a school or activity bus transporting pupils unless the person has:

1. Received classroom, demonstration, and behind-the-wheel instruction in accordance with a program developed by the Department of Education pursuant to *§* [*22.1-181*](https://law.lis.virginia.gov/vacode/22.1-181/) of the *Code of Virginia*.

2. For persons not currently possessing a commercial driver’s license, the individual shall a minimum of 24 classroom hours and six hours of behind-the-wheel training on a school bus that contains no pupil passengers. For persons currently possessing a commercial driver’s license, the individual shall complete a minimum of four hours classroom training and three hours of behind-the-wheel training on a school bus that contains no pupil passengers. Behind-the-wheel training shall be administered under the direct on-board supervision of a designated bus driver trainer. All drivers shall receive training in the operation of buses representative of the type used in the school division in which they will be employed and in the transportation of students with special needs. Classroom instruction means training provided by a qualified driver instructor through lectures, demonstrations, audio-visual presentations, computer-based instruction, driving simulation devices, or similar means. Instruction occurring outside a classroom qualifies as classroom instruction if it does not involve actual operation of a school bus and its components by the trainee. Behind-the-wheel training does not include time spent riding in a school bus or observing the operation of a school bus when the trainee is not in control of the vehicle.

The superintendent or his designee shall maintain a record showing that the applicant has completed the training and has been approved to operate a school or activity bus.

3. New transportation directors/supervisors employed by school divisions shall complete the “New Director/Supervisor” class conducted by the Department of Education within a year after being employed in this position.

Each local school board employee who assists in the transportation of students on school buses, including individuals employed to operate school buses and school bus aides, shall participate in an autism training program established by the Board of Education. Such employees shall receive training on autism spectrum disorders including the characteristics of autism spectrum disorders, strategies for interacting with students with autism spectrum disorders, and collaboration with other employees who assist in the transportation of students on school buses.

**Attachment B**

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Exempt Action

Proposed Regulation

Agency Background Document

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| **Agency name** | Virginia Department of Education (Virginia Board of Education) |
| **Virginia Administrative Code (VAC) citation(s)**  |  8VAC-20-70-350 |
| **Regulation title(s)** | Regulations Governing Pupil Transportation |
| **Action title** | New regulations to govern the training requirements of school division school bus drivers and school bus aides as required by Chapters 203, 389, and 586 of the 2018 Acts of Assembly |
| **Date this document prepared** | August 17, 2018 |

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The intent of this proposed action is to adopt new minimal training requirements for public school bus drivers and school bus aides. SB 229 requires the Board of Education to establish a training program for school board employees who assist in the transportation of students on school buses, including individuals employed to operate school buses and school bus aides, on autism spectrum disorders, including the characteristics of autism spectrum disorders, strategies for interacting with students with autism spectrum disorders, and collaboration with other employees who assist in the transportation of students on school buses. The bill requires each school board employee who assists in the transportation of students with autism spectrum disorders on school buses to participate in such training program.

SB 557/HB 810 requires any school bus operator applicant who does not possess a commercial driver's license to receive (i) a minimum of 24 hours of classroom training and (ii) six hours of behind-the-wheel training on a school bus that contains no pupil passengers and requires any school bus operator applicant who possesses a commercial driver's license to receive (a) a minimum of four hours of classroom training and (b) three hours of behind-the-wheel training on a school bus that contains no pupil passengers. Previous law left the setting of such hourly training requirements to the Board of Education.

Periodic Review

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.