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Fast-Track Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8VAC20-23-360
VAC Chapter title(s)	Chapter 23. Licensure Regulations for School Personnel
Action title	Amendments to the Licensure Regulations for School Personnel to reflect changes with ASL national certifications
Date this document prepared	March 3, 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 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 *Licensure Regulations for School Personnel* ("Licensure Regulations"; 8VAC20-23-10 et seq.) set standards for the licensure of teachers, principals, superintendents, and other professional personnel. Among other things, the *Licensure Regulations* set endorsement requirements for foreign language preK-12 in American Sign Language ("ASL"). In this regulatory action, the Board of Education ("Board") is making changes to the requirements for an endorsement in foreign language preK-12 in ASL in order to align the requirements with industry-standard national certifications in ASL.

The regulatory changes are prompted by changes to the structure of national certifications for ASL. In the past, the American Sign Language Teachers' Association ("ASLTA") issued only Provisional, Qualified, or Professional certifications to demonstrate proficiency in ASL, and the *Licensure Regulations* required an applicant for the ASL endorsement to hold one of these certifications. The proposed amendment strikes these older certifications and reflects the acceptance of all certifications issued by ASLTA. The change

will make the regulatory requirements more durable while also keeping with the high-standard certifications issued by ASLTA.

In 2003, Registry of Interpreters for the Deaf (“RID”) began to recognize interpreters who hold National Association of the Deaf (“NAD”) certifications, which included the Level IV certifications prescribed in the *Licensure Regulations*. These credentials were offered by NAD between the early 1990s and late 2002, and NAD no longer issues certifications. In order to continue to maintain their certification, NAD-credentialed interpreters must have had an active certification and have registered with RID prior to June 30, 2005. These interpreters are required to comply with all aspects of RID’s Certification Maintenance Program, including the completion of professional development. In addition, RID fully recognizes the National Interpreter Certification (“NIC”), Certificate of Interpretation (“CI”), Reverse Skills Certification (“RSC”), and the Comprehensive Skills Certificate (“CSC”); these certifications have been discontinued and no longer have exams available. The proposed amendment strikes the language of the older certifications and reflects the historical changes in the organizations and certifications, while keeping to the same high-standard of certifications required for the ASL endorsement.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

“ASL” means American Sign Language.

“ASLTA” means the American Sign Language Teachers’ Association.

“Board” means the Virginia Board of Education.

“CI” means Certificate of Interpretation.

“CSC” means Comprehensive Skills Certificate.

“*Licensure Regulations*” means the *Licensure Regulations for School Personnel* (8VAC20-23-10 et seq.).

“NAD” means the National Association of the Deaf.

“NIC” means National Interpreter Certification.

“RID” means the Registry Interpreters for the Deaf.

“RSC” means Reverse Skills Certification.

Statement of Final Agency Action

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.

The Board of Education approved the amendments to the *Licensure Regulations* at its April 21, 2022, meeting.

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."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The regulatory changes are prompted by changes to the structure of national certifications for ASL. In the past, the ASLTA issued only Provisional, Qualified, or Professional certifications to demonstrate proficiency in ASL, and the *Licensure Regulations* required an applicant for the ASL endorsement to hold one of these certifications. The proposed amendment strikes these older certifications and reflects the acceptance of all certifications issued by ASLTA. The change will make the regulatory requirements more durable while also keeping with the high-standard certifications issued by ASLTA.

In 2003, RID began to recognize interpreters who hold NAD certifications, which included the Level IV certifications prescribed in the *Licensure Regulations*. These credentials were offered by NAD between the early 1990s and late 2002, and NAD no longer issues certifications. In order to continue to maintain their certification, NAD-credentialed interpreters must have had an active certification and have registered with RID prior to June 30, 2005. These interpreters are required to comply with all aspects of RID's Certification Maintenance Program, including the completion of professional development. In addition, RID fully recognizes the NIC, CI, RSC, and CSC; these certifications have been discontinued and no longer have exams available. The proposed amendment strikes the language of the older certifications and reflects the historical changes in the organizations and certifications, while keeping to the same high-standard of certifications required for the ASL endorsement.

This rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process because the Board is not making discretionary changes. Rather, the Board is seeking to update the current regulatory language in order to align with changes to the industry-standard national certifications.

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'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."

The Board's regulatory authority over licensing requirements for school personnel is found in § [22.1-253.13:2](#) A of the *Code of Virginia*, which states that "[t]he Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel." See also § [22.1-298.1](#) B (stating that "[t]he Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license.")

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The rationale for the regulatory change is to align the requirements for an endorsement in foreign language preK-12 in ASL with industry-standard national certifications in ASL.

The regulatory action is essential to protect the health, safety, and welfare of citizens because accurate endorsement requirements ensure that properly qualified individuals will be able to teach ASL in public schools.

The goals of the regulatory action is to maintain accurate requirements for an endorsement in foreign language preK-12 in ASL. The problem that the regulatory action is intended to solve is that the current requirements do not accurately reflect the industry-standard national certifications in ASL.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The Board is proposing to amend [8VAC20-23-360](#), which provides the endorsement requirements for foreign language preK-12 in American Sign Language. The regulations are not current as the national certifications prescribed have been changed by the issuing organizations. For instance, ASLTA has changed the names and structure of their certifications, as has RID. In addition, RID has also incorporated NAD certifications because the NAD no longer issues certifications. These changes within the national organizations necessitate the following amendments to the [8VAC20-23-360](#):

- D. Endorsement requirements for foreign language preK-12 - American Sign Language.
 - ...
 - 2. Native users or candidates who have learned American Sign Language without formal academic credit in a regionally accredited college or university, as explained in subdivision 1 of this subsection, shall complete the following requirements:
 - a. Competency in American Sign Language demonstrated by written documentation of one of the following:
 - (1) Hold a current, valid ~~Provisional, Qualified, or Professional~~ certification issued by the American Sign Language Teachers' Association; or
 - (2) Hold ~~one of the following a~~ current, valid ~~national certificates in interpreting:~~
 - ~~(a) Registry of Interpreters for Deaf certification in at least one of the following: Certificate of Interpretation (CI), Certificate of Deaf Interpretation (CDI), Reverse Skills Certification (RSC), or Comprehensive Skills Certificate (CSC);~~
 - ~~(b) A current, valid National Association for the Deaf Level IV certification or higher; or~~
 - ~~(c) A National Interpreter Certification (NIC) certification issued by the Registry of Interpreters for the Deaf . . .~~

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The regulatory action’s primary advantage to the public, agency, and the Commonwealth is that it will provide accurate requirements for the endorsement in preK-12 foreign language in ASL. The regulatory revisions are necessary to ensure the proper qualifications of individuals teaching ASL in public school.

The primary advantage of the regulatory action is that the public is informed of the revised national certifications and that the Department of Education is still accepting these certifications for licensure purposes.

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

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements or requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

No agency, locality, or entity is particularly affected by this regulatory action.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail;</p>	<p>It is anticipated that any fiscal or programmatic impact can be absorbed within existing agency resources.</p>
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b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There is no anticipated impact on other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The regulatory action's primary advantage to the public, agency, and the Commonwealth is that it will provide accurate requirements for the endorsement in preK-12 foreign language in ASL. The regulatory revisions are necessary to ensure the proper qualifications of individuals teaching ASL in public school.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There is no anticipated impact on localities.
Benefits the regulatory change is designed to produce.	The revisions will provide additional flexibility to licensure requirements.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	This regulatory action will affect individuals seeking ASL endorsements. However, the change will expand the bases for qualification. There is no anticipated impact on businesses or other entities.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are approximately 50 individuals with an ASL endorsement. Over the last six years, VDOE has approved approximately 8 ASL endorsements per year. There is no anticipated impact on small businesses.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There is no anticipated cost on individuals, business, or other entities resulting from the regulatory change.
Benefits the regulatory change is designed to produce.	The regulatory action's primary advantage to the public, agency, and the Commonwealth is that it will provide accurate requirements for the

	endorsement in preK-12 foreign language in ASL. The regulatory revisions are necessary to ensure the proper qualifications of individuals teaching ASL in public school.
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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 proposed regulatory action.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Alternative regulatory methods were not applicable.

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.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Virginia Department of Education is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency’s regulatory flexibility analysis stated in this background document.

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 mail, email or fax to Maggie M. Clemmons, Director of Licensure and School Leadership, PO Box 2120, Richmond, VA 23218, 804-371-2476, Maggie.Clemmons@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.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
8VAC20-23-360		Subdivision 2 a of subsection D requires endorsement candidates to have competency in ASL demonstrated by written documentation through one of three different means. The first is a current, valid Provisional, Qualified, or Professional certification issued by ASTLA. The second is a current, valid national certificate, such as (1) the CI, CDI, RSC, or CSC issued by RID; (2) a NAD Level IV certification or higher; or (3) an NIC.	The new requirement will consolidate the written demonstrations of competency in subdivision 2 a of subsection D to either (1) a current, valid certification issued by the ASLTA or (2) a current, valid certification issued by RID.