



townhall.virginia.gov

Fast-Track Regulation Agency Background Document

| | |
|--|--|
| Agency name | Board of Education |
| Virginia Administrative Code citation | 8VAC20-131 |
| Regulation title | <i>Regulations Establishing Standards for Accrediting Public Schools in Virginia</i> |
| Action title | Revisions to the regulations to comport with 2018 legislation passed by the General Assembly |
| Date this document prepared | October 18, 2018 |

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 (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 Virginia Board of Education is proposing amendments to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* that are necessary for the regulations to comport with legislative changes made by the General Assembly during the 2018 Session and 2018 Special Session I.

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.

- **Standards of Accreditation** or **SOA** – 8VAC20-131, the Board of Education’s *Regulations Establishing the Standards for Accrediting Public Schools in Virginia*

- **STEM** – Science, Technology, Engineering, and Mathematics

Statement of Final Agency Action

Please 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 these amendments to the SOA under the fast-track provision of the Administrative Process Act at its public meeting on October 18, 2018.

Mandate and Impetus

Please 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, board decision, etc.). 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, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

These amendments to the SOA are mandated by legislation enacted by the General Assembly during the 2018 Session and 2018 Special Session I. This regulatory action is noncontroversial because its only purpose is to comport the regulations to align with legislation.

Legal Basis

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

The Board of Education is the promulgating entity.

The Board’s authority to establish regulations establishing standards for accrediting public schools is established in § 22.1-253.13:3 of the Code:

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

Purpose

Please 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.

This regulatory action is necessary to amend the SOA to comport with legislation that was enacted by the General Assembly during the 2018 Session and 2018 Special Session I, which includes HB 167 (Miyares), HB 329 (Yancey), HB 1419 (Delaney) and SB 273 (Petersen), and Item 130.D of the 2018 Appropriation Act.

Substance

Please 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.

This regulatory action is necessary to amend the SOA to comport with legislation that was enacted by the General Assembly during the 2018 Session and 2018 Special Session I, which includes:

- HB 167 (Miyares), which requires the Board of Education to establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics;
- HB 329 (Yancey), which permits students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at the institution;
- HB 1419 (Delaney) and SB 273 (Petersen), which permit unstructured recreational time to be included in the calculation of required instructional time for elementary schools, provided that the unstructured recreational time does not exceed 15 percent of total instructional time. The bill also reduces the minimum required instructional time in elementary schools for English, mathematics, science, and history and social science; and
- Item 130.D of the 2018 Appropriation Act, which prohibits verified credit in history and social studies from being awarded using a performance-based assessment, and also provides that the only way to earn a verified credit in history and social science is through successfully completing: (i) a Standards of Learning assessment; (ii) a substitute test that incorporates or exceeds the course content; or (iii) a locally awarded verified credit.

Issues

Please 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.

There are no disadvantages to the public, the agency, or the Commonwealth. These revisions are required by changes in the Code of Virginia adopted by the Virginia General Assembly.

Requirements More Restrictive than Federal

Please 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.

Agencies, Localities, and Other Entities Particularly Affected

Please 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.

Other State Agencies Particularly Affected

N/A

Localities Particularly Affected

All local school boards and school divisions will be affected.

Other Entities Particularly Affected

All local school boards and school divisions will be affected.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please 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. Please 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; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p> | <p>None</p> |
| <p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-</p> | <p>None</p> |

| | |
|---|------|
| time versus on-going expenditures. | |
| <i>For all agencies:</i> Benefits the regulatory change is designed to produce. | None |

Impact on Localities

| | |
|--|------|
| Projected costs, savings, fees or revenues resulting from the regulatory change. | None |
| Benefits the regulatory change is designed to produce. | None |

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. | All local school boards and school divisions will be affected. |
| 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: 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. | 132 local school boards and school divisions. No small businesses should be affected. |
| All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please 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. | None |
| Benefits the regulatory change is designed to produce. | The amendments in the regulations are designed to ensure that all local school boards and local school divisions are aware of and in compliance with the pertinent legislation |

Alternatives

Please 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.

These amendments are proposed to ensure compliance with the Code of Virginia. Therefore, there are no alternative regulatory methods that will accomplish the objectives of the statutory requirements. In addition, there is no adverse impact on small businesses.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) 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.

These amendments are proposed to ensure compliance with the *Code of Virginia*. Therefore, there are no alternative regulatory methods that will accomplish the objectives of the statutory requirements. In addition, there is no adverse impact on small businesses.

Public Participation

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.

Detail of Changes

Please 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.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

For changes to existing regulation(s), please use the following chart:

| Current section number | New section number, if applicable | Current requirement | Change, intent, rationale, and likely impact of new requirements |
|------------------------|-----------------------------------|---------------------|--|
|------------------------|-----------------------------------|---------------------|--|

| Current section number | New section number, if applicable | Current requirement | Change, intent, rationale, and likely impact of new requirements |
|------------------------|-----------------------------------|--|--|
| 8VAC20-131-5 | N/A | References 8VAC20-131-110(B)(5), which provides for the receipt of a verified credit in history and social science through performance assessment. | Amends the definitions of authentic performance assessment and verified credit by eliminating reference to 8VAC20-131-110(B)(5), which was eliminated after removing reference to the receipt of a verified credit in history and social science through performance assessment. |
| 8VAC20-131-5 | N/A | Defines recess as a segment of free time exclusive of time provided for meals during the standard school day in which students are given a break from structured classroom instruction. Requires that recess time be excluded from the calculation of the instructional day, instructional hours, and the standard school day. | Amends the definitions of recess, instructional day, instructional hours, and standard school day. These definitions are modified to reflect that recess no longer needs to be excluded from calculation of instructional hours. |
| 8VAC20-131-51 | N/A | Requirements for graduation (effective with the students who enter the ninth grade in the 2018–2019 school year). | Removes references to the receipt of a verified credit in history and social science through performance assessment. Removes provision permitting a verified credit in history and social science to be conferred for a standard diploma when a student completes a career and technical education course sequence and earns more than one career and technical education credential. |
| 8VAC20-131-51 | N/A | The Board of Education's Seal of Advanced Mathematics and Technology shall be awarded to students who | Replaces the Board of Education's Seal of Advanced Mathematics and Technology with the Seal of Science, Technology, Engineering, and Mathematics. |

| Current section number | New section number, if applicable | Current requirement | Change, intent, rationale, and likely impact of new requirements |
|------------------------|-----------------------------------|---|--|
| | | <p>earn either a Standard Diploma or an Advanced Studies Diploma and (i) satisfy all of the mathematics requirements for the Advanced Studies Diploma with a "B" average or better and (ii) pass an examination in a career and technical education field that confers certification from a recognized industry, or trade or professional association; acquire a professional license in a career and technical education field from the Commonwealth of Virginia; or pass an examination approved by the board that confers college-level credit in a technology or computer science area.</p> | |
| 8VAC20-131-80 | N/A | <p>The minimum number of instructional hours in elementary school that must be given to instruction in English, mathematics, science, and history and social science is 742.5 hours.</p> | <p>Amends the minimum number of instructional hours in elementary school that must be given to instruction in English, mathematics, science, and history and social science from 75 percent of 990 hours (742.5 hours) to 680 hours.</p> |
| 8VAC20-131-110 | N/A | <p>References 8VAC20-131-110(B)(5), which provides for the receipt of a verified credit in history and social science through performance assessment.</p> | <p>Removes reference to 8VAC20-131-110(B)(5), which was eliminated after removing reference to the receipt of a verified credit in history and social science through performance assessment.</p> |
| 8VAC20-131-140 | N/A | <p>Requires students to be counseled on opportunities for</p> | <p>Adds provision stating that students participating in courses offered by an institution of higher education are</p> |

| Current section number | New section number, if applicable | Current requirement | Change, intent, rationale, and likely impact of new requirements |
|------------------------|-----------------------------------|--|--|
| | | beginning postsecondary education prior to high school graduation and requires students to be encouraged, wherever possible, to take college courses simultaneously for high school graduation under certain conditions. | permitted to exceed a full course load in order to participate in courses that lead to a degree, certificate, or credential at such institution. |
| 8VAC20-131-150 | N/A | Provides that the standard school year excludes times for recess. | Amends the provision regarding the standard school year such that recess may be included in the calculation of instructional hours for elementary school, provided that recess does not exceed 15 percent of the required instructional hours. |