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Proposed Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8VAC20-23
VAC Chapter title(s)	Licensure Regulations for School Personnel
Action title	Amend the Licensure Regulations for School Personnel (8VAC20-23) to include instruction in cultural competency for initial licensure and renewal of a license
Date this document prepared	04/21/2022

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.

This regulatory action is to amend the *Licensure Regulations for School Personnel* ("the regulations") to include instruction in cultural competency for initial licensure and renewal of a license.

During the 2021 Session, the Virginia General Assembly passed House Bill [1904](#) (Jenkins) and Senate Bill [1196](#) (Locke) requiring every person seeking initial licensure or renewal of a license to complete instruction or training in cultural competency, as prescribed by the Board. The Board approved the Notice of Intended Regulatory Action ("NOIRA") for this regulatory change at the June 17, 2021, meeting. The NOIRA was submitted for executive branch review and the public comment period closed on February 16, 2022. Pursuant to the requirements of this legislation, the Board approved the *Guidance on Cultural Competency Training for Teachers and Other Licensed School Board Employees in Virginia Public Schools* at the November 18, 2021, meeting. Following a 30-day public comment period, the guidance became effective January 6, 2022.

The proposed amendments to the regulations will incorporate changes to enact the legislation.

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.

"Board" means the Virginia Board of Education.

"NOIRA" means Notice of Intended Regulatory Action.

"The regulations" means the *Licensure Regulations for School Personnel* (8VAC20-23-10 et seq.).

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."

Section [22.1-298.1](#) of the *Code of Virginia* requires the Board to amend the regulations to require that any person seeking initial licensure or renewal of a license complete instruction or training in cultural competency as prescribed by the Board.

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 has the statutory authority to prescribe requirements for the licensure of teachers and school personnel.

Section [22.1-298.1](#) of the *Code of Virginia* states 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." The 2021 Virginia General Assembly approved House Bill [1904](#) (Jenkins) and Senate Bill [1196](#) requiring that any person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency as prescribed by the Board.

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 in part 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 proposed regulatory action is essential to protect the health, safety, or welfare of citizens as the regulations set forth the requirements for instructional personnel to become licensed by the Board of Education and thereby maintain a high-quality educational system.

Virginia’s objective for developing a culturally responsive and inclusive educator workforce is to provide all students opportunities to learn in ways that are relevant to their lived experiences and create cultures of inclusivity and belonging in Virginia schools. Culturally responsive educators see the diversity in their classrooms as an asset and use their knowledge of student backgrounds to enrich educational experiences. These educators possess a thorough understanding of the specific cultures of the students they teach or serve, how those cultures affect student-learning behaviors, and how teachers can change classroom interactions and instruction to embrace difference.

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 2021 Virginia General Assembly approved House Bill [1904](#) (Jenkins) and Senate Bill [1196](#), which in part amends § 22.1-298.1 of the *Code of Virginia*.

House Bill [1904](#) (Jenkins) and Senate Bill [1196](#) were identical bills that support a culturally competent educator workforce in the Commonwealth. Specifically, this legislation requires that any person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency as prescribed by the Board.

The proposed amendments to the regulations will enact the legislative requirement.

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 primary advantage of this action to the public, the regulated community, the agency, and the Commonwealth is that it will enact the requirements set in state law by the Virginia General Assembly.

This action has no disadvantages to the public 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 federal applicable 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.

Other State Agencies Particularly Affected

There are no other state agencies that are particularly affected.

Localities Particularly Affected

There are no localities that are particularly affected.

Other Entities Particularly Affected

No other entities are particularly affected by this regulatory action. Although individuals seeking an initial license or renewal of a license will be required to complete instruction or training in cultural competency, this is already a requirement in the *Code of Virginia* and the action is simply aligning the regulations with statutory requirements.

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

<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	There is no specific economic impact other than the administrative time for the Department of Education to develop and implement the regulatory changes.
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<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 specific economic impact on other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The regulatory change will help ensure a culturally competent educator workforce that is capable of meeting the needs of diverse school communities.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There is no projected costs on localities as a result of this regulatory change.
Benefits the regulatory change is designed to produce.	The regulatory change will help ensure a culturally competent educator workforce that is capable of meeting the needs of diverse school communities.

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.	Individuals seeking initial licensure or renewal of a license will be required to complete instruction or training in cultural competency.
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.	No small businesses will be affected.
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 specific economic impact other than the administrative time for the Department of Education to develop and implement the new regulatory language. Individuals seeking a license or renewal of a license will need to complete instruction or training in cultural competency. No small businesses will be affected.
Benefits the regulatory change is designed to produce.	The regulatory change will help ensure a culturally competent educator workforce that is capable of meeting the needs of diverse school communities.

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.

The requirement was mandated by the Code of Virginia. There are no alternatives to the regulatory change.

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.

The requirement was mandated by the Code of Virginia. There are no alternatives to the regulatory change.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulatory action will not affect small businesses. The action was not used to conduct a periodic review/small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment
Carrie-Ann Mendoza	Against the required training
Eleanor Greenway	Against the required training
Anonymous (119350)	Prefers communication competency.
Parent	Against the required training
West	Against the required training
Anonymous (119347)	Not germane to NOIRA
Michael F Karabinos	Supports the required training
Kari Wilton	Against the required training
Anonymous (119344)	Against the required training
Anonymous (119343)	Against the required training
Dominique Chatters	Supports the required training
Dawn A	Against the required training
Anonymous (119340)	Against the required training
Anonymous (119339)	Against the required training
Anonymous (119338)	Against the required training
Shamari Guest	Against the required training
Anonymous (119336)	Against the required training
Concerned parent	Against the required training
Charlie C	Against the required training
Heathwr	Against the required training
Anonymous (119332)	Against the required training
Darlana Mickens	Against the required training
Damian Trent	Against the required training
Anonymous (119329)	Against the required training
Anonymous (119328)	Against the required training
E H	Against the required training
Anonymous (119326)	Against the required training
Mumma Bear	Against the required training
Jenn Cable	Not germane to NOIRA

Jackie Garbe	Against the required training
Anonymous (119322)	Against the required training
Anonymous (119321)	Supports the required training
Martin Misjuns	Against the required training
KWebb	Against the required training
43 year veteran teacher	Against the required training
4r year veteran teacher	Against the required training
Velvet Broughton	Against the required training
Marion Talent	Against the required training
Anonymous (119314)	Against the required training
Sara Anne Johnson-Ward	Supports the required training
Laquisha Battle	Against the required training
Anonymous (119311)	Supports the required training
Maria	Against the required training
ANONYMUA	Against the required training
Marci Young	Against the required training
Anonymous (119307)	Against the required training
Carrie Kahwajy	Supports the required training
Randall Wenger	Against the required training
B. Cole	Against the required training
West	Against the required training
Leslie-Ann Sturtz	Against the required training
Tina Dunn	Against the required training
Anonymous (119300)	Against the required training
Belinda Dickerson	Against the required training
Jason Blackstone	Against the required training
Anonymous (119297)	Against the required training
Anonymous (119296)	Against the required training
Tanya	Against the required training
West	Against the required training
Anonymous (119293)	Supports the required training
Public HS teacher	Against the required training
JJ	Against the required training
Eloise West	Against the required training
Anonymous (119289)	Against the required training

Carrie L	Against the required training
Teacher's wife.	Not germane to NOIRA
Kelly Edwards	Against the required training
Vicki Hurt	Against the required training
Tracey Good	Against the required training
Kevin Strakal	Against the required training
Anonymous (119282)	Against the required training
Tonia Peake	Against the required training
Anon	Against the required training
Rimm Temple, HCPS Teacher	Against the required training
Ann Parker	Against the required training
Anonymous (119277)	Against the required training
Anonymous (119276)	Against the required training
Wendy Phillips	Against the required training
Anonymous (119274)	Against the required training
Anonymous (119273)	Against the required training
Anonymous (119272)	Against the required training
Anonymous (119271)	Against the required training
Anonymous (119270)	Against the required training
Tammy Wilson	Against the required training
Matthew e McNeill	Against the required training
JWC	Against the required training
John Ward	Against the required training
Anonymous (119264)	Against the required training
Virginia	Against the required training
Yael Levin	Against the required training
Doris Knick	Against the required training
Amanda Jackson	Against the required training; suggests training was optional for teachers
Mary Keith	Against the required training

Agency Response: Public comment was focused on either supporting or not supporting the cultural competency training. Moreover, the comments did not touch upon the manner in which the Board was enacting the legislation in its regulatory language. The training is required by state law, and the proposed amendments will align the regulations with state law.

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.

The 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, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of 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 to Maggie M. Clemmons, Director of Licensure and School Leadership, by email to maggie.clemmons@doe.virginia.gov or by mail to the following address:

Maggie M. Clemmons
101 N. 14th St.
James Monroe Bldg, 24th Floor
Richmond, VA 23219

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 this stage of this regulatory action.

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
8VAC20-23-40			"Every person seeking initial licensure shall complete instruction or training in cultural competency consistent with guidelines prescribed by the Board." This requirement will align the regulations with the current requirements in the <i>Code of Virginia</i>.
8VAC20-23-110			"Every person seeking renewal of a license shall complete instruction or

			training in cultural competency consistent with guidelines prescribed by the Board.” This requirement will align the regulations with the current requirements in the <i>Code of Virginia</i>.
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