



# **VIRGINIA BOARD OF EDUCATION**

# **AGENDA ITEM**

**Agenda Item:** H

**Date:** April 21, 2022

**Title:** Final Review of Exempt Action to Align the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* with Chapter 552 of the 2020 Acts of the Assembly

**Presenter:** Jim Chapman, Regulatory and Legal Coordinator

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**Purpose of Presentation:**

Action required by state or federal law or regulation.

**Executive Summary**

Chapter [552](#) of the 2020 Acts of the Assembly (“Chapter 552”) amended § [22.1-79.1](#) to standardize the minimum instructional time requirement across grades K–12. Whereas kindergarten previously required a minimum of 540 hours of instructional time, Chapter [552](#) requires a minimum of 990 hours of instructional time.

Chapter [552](#) included a delayed enactment clause such that the amendments would become effective on July 1, 2022, and further required that the Virginia Board of Education (“Board”) adopt regulations establishing standards for accreditation that include a requirement that the standard school day for students in kindergarten average at least 5.5 instructional hours in order to qualify for full accreditation.

In order to comply with Chapter [552](#), the Board must make minor edits to [8VAC20-131-80](#) C and [8VAC20-131-150](#) A and B of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* in order to include kindergarten in the minimum requirement of 990 hours of instructional time. The proposed amendments have been included as an attachment.

This action is being presented as an exempt action because the Board is not exercising discretion in carrying out the requirements of Chapter [552](#) and because the shortened regulatory process that attends the exempt action will allow for the Board to meet the deadlines as required.

**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 exempt action.

**Rationale for Action:**

Board action is necessary to update the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* in order to meet the requirements of Chapter [552](#).

**Previous Review or Action:**

No previous review or action.

**Background Information and Statutory 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."

Chapter [552](#) of the 2020 Acts of the Assembly amended § [22.1-79.1](#) to standardize the minimum instructional time requirement across grades K–12. According to Chapter [552](#), "[i]ndividual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternate school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades kindergarten through 12." Whereas kindergarten previously required a minimum of 540 hours of instructional time, Chapter [552](#) requires a minimum of 990 hours of instructional time.

In order to comply with Chapter [552](#), the Board must make minor edits to [8VAC20-131-80](#) C and [8VAC20-131-150](#) A and B of the *Standards of Accreditation* in order to include kindergarten in the minimum requirement of 990 hours of instructional time. The proposed amendments have been included as an attachment.

Chapter [552](#) included a delayed enactment clause such that the amendments would become effective on July 1, 2022, and further required that the Board adopt regulations establishing standards for accreditation that include a requirement that the standard school day for students in kindergarten average at least 5.5 instructional hours in order to qualify for full accreditation.

**Timetable for Further Review/Action:**

Following Board approval, this regulatory action will be submitted to Town Hall pursuant to the requirements of the Administrative Process Act.

**Impact on Fiscal and Human Resources:**

This action will have no impact on the Department's fiscal resources or human capital. This action will require local school divisions to increase instructional time for kindergarten students from 540 hours per year to 990 hours.

**Exempt action to align the Standards of Accreditation with Chapter 552 of the 2020 Acts of the Assembly**

**8VAC20-131-80. Instructional program in elementary schools.**

A. The elementary school shall provide each student a program of instruction that corresponds to the Standards of Learning for English, mathematics, science, and history and social science. In addition, each school shall provide instruction in art, music, and physical education and health and shall require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the board. In addition, each school shall provide instruction in career exploration in accordance with the provisions of 8VAC20-131-140.

B. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program. Schools shall maintain an early skills and knowledge achievement record in reading and mathematics for each student in grades kindergarten through 3 to monitor student progress and to promote successful achievement on the third grade SOL tests. This record shall be included with the student's records if the student transfers to a new school.

In accordance with the Standards of Quality, local school boards shall implement early identification, diagnosis, and assistance for students with reading and mathematics problems and provide instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

C. To provide students with sufficient opportunity to learn, local school divisions shall provide a minimum of 680 hours of the required 990 hours of instructional time to students in elementary school in the four academic disciplines of English, mathematics, science, and history and social science. ~~Local school divisions shall provide a minimum of 375 hours of the required 540 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science.~~

Students who are not successfully progressing in early reading proficiency or who are unable to read with comprehension the materials used for instruction shall receive additional instructional time in reading, which may include summer school.

In accordance with the Standards of Quality, local school divisions shall provide reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on the SOL reading test or any reading diagnostic test that meets criteria established by the Department of Education. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade 3 to grade 4.

D. Elementary schools are encouraged to provide instruction in world languages.

**8VAC20-131-150. Standard school year and school day.**

A. The standard school year shall be 180 instructional days or 990 instructional hours. The standard school day, including passing time for class changes and excluding breaks for meals, shall average a minimum of five and one-half instructional hours for students in grades ~~4 kindergarten~~ through 12 ~~and a minimum of three hours for kindergarten~~. Recess may be included in the calculation of required instructional hours for elementary school, provided that recess does not exceed 15% of the required instructional hours.

B. All students in grades ~~4 kindergarten~~ through 12 shall maintain a full day schedule of classes (5-1/2 hours), unless a waiver is granted in accordance with policies defined by the local school board.


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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Board of Education
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	8VAC20-131-80; 8VAC20-131-150
<b>VAC Chapter title(s)</b>	Regulations Establishing Standards for Accrediting Public Schools in Virginia
<b>Action title</b>	Exempt action to align the Standards of Accreditation with Chapter 552 of the 2020 Acts of the Assembly
<b>Final agency action date</b>	April 21, 2022
<b>Date this document prepared</b>	March 9, 2022

Although 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 (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.*

Chapter [552](#) of the 2020 Acts of the Assembly ("Chapter 552") amended § [22.1-79.1](#) to standardize the minimum instructional time requirement across grades K–12. Whereas kindergarten previously required a minimum of 540 hours of instructional time, Chapter [552](#) requires a minimum of 990 hours of instructional time.

Chapter [552](#) included a delayed enactment clause such that the amendments would become effective on July 1, 2022, and further required that the Board of Education ("Board") adopt regulations establishing standards for accreditation that include a requirement that the standard school day for students in kindergarten average at least 5.5 instructional hours in order to qualify for full accreditation.

In order to comply with Chapter [552](#), the Board must make minor edits to [8VAC20-131-80](#) C and [8VAC20-131-150](#) A and B of the Standards of Accreditation in order to include kindergarten in the minimum requirement of 990 hours of instructional time.

The Board has not exercised any discretion in making the required changes.

### **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, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "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."*

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This regulatory change is the result of a legislative mandate (Chapter [552](#)).

Chapter [552](#) of the 2020 Acts of the Assembly ("Chapter 552") amended § [22.1-79.1](#) to standardize the minimum instructional time requirement across grades K–12. According to Chapter [552](#), "[i]ndividual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternate school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades kindergarten through 12." Whereas kindergarten previously required a minimum of 540 hours of instructional time, Chapter [552](#) requires a minimum of 990 hours of instructional time.

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### **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.*

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The Board approved this action to amend the Regulations Establishing Standards for Accrediting Public Schools in Virginia on April 21, 2022.