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

## **Date: March 22, 2018**

### **Title:** First Review of the Proposed Repeal of the Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool-Age or Younger in Public Schools (8 VAC 20-590) and the Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School-Age Children Offered in Public Schools (8 VAC 20-600)

#### Presenter: **Cheryl Strobel, Associate Director of Early Childhood Education**

#### Email:**Cheryl.Strobel@doe.virginia.gov** **Phone: 804-371-7578**

## Purpose of Presentation:

Action required by state or federal law or regulation.

## Executive Summary:

The Board of Education had the authority to regulate child day programs in public school and adopted The *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool-Age or Younger in Public Schools* (8VAC20-590) and the *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School-Age Children Offered in Public Schools* (8VAC20-600). During the 2016 General Assembly session, Senate Bill 467 was passed, which removed the Board of Education’s authority to regulate all child day programs in public schools and placed the authority with the Board of Social Services. 8VAC20-590 and 8VAC20-600 must be repealed to conform to this legislation. The Board of Education no longer has this authority and is required to initiate a fast track regulatory action to repeal these regulations.

## Action Requested:

Other. Specify below:
The Board is requested to waive first review and approve the repeal of the regulations as required by SB467 (2016).

## **Superintendent’s Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education waive first review, approve the repeal of the regulations as required by SB467 (2016), and authorize the Department of Education staff to proceed with the requirements of the Administrative Process Act.

## Rationale for Action:

The *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool-Age or Younger in Public Schools* (8 AC 0-590) and the *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School-Age Children Offered in Public Schools* (8VAC20-600) must be repealed to conform to the 2016 General Assembly legislation.

## Previous Review or Action:

No previous review or action.

## Background Information and Statutory Authority:

The Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools (8VAC20-590) were effective April 5, 1995. They provided the context for reviewing child day program for preschoolers located in public schools based on the State Board of Social Services regulations.

The *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School-Age Children Offered in Public Schools* (8VAC20-600) were effective April 5, 1995. They provided the context for reviewing child day programs for school-age children located within public schools based on the State Board of Social Services regulations.

Senate Bill 467 removed the Board of Education authority to regulate child day programs in public schools.

**Senate Bill 467**

*A BILL to amend and reenact §§* [***19.2-392.02***](http://law.lis.virginia.gov/vacode/19.2-392.02)*,* [***22.1-19***](http://law.lis.virginia.gov/vacode/22.1-19)*, and* [***63.2-1715***](http://law.lis.virginia.gov/vacode/63.2-1715) *of the Code of Virginia, relating to child day programs; exemptions from licensure.*

Be it enacted by the General Assembly of Virginia:

1. That §§ [**19.2-392.02**](http://law.lis.virginia.gov/vacode/19.2-392.02), [**22.1-19**](http://law.lis.virginia.gov/vacode/22.1-19), and [**63.2-1715**](http://law.lis.virginia.gov/vacode/63.2-1715) of the Code of Virginia are amended and reenacted as follows:

§ [**19.2-392.02**](http://law.lis.virginia.gov/vacode/19.2-392.02). National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children, or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means any offense set forth in § [**63.2-1719**](http://law.lis.virginia.gov/vacode/63.2-1719) or [**63.2-1726**](http://law.lis.virginia.gov/vacode/63.2-1726).

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit or voluntary, except organizations exempt pursuant to subdivision A ~~10~~ *9* of § [**63.2-1715**](http://law.lis.virginia.gov/vacode/63.2-1715).

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of $18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

§ [**22.1-19**](http://law.lis.virginia.gov/vacode/22.1-19). Accreditation of elementary, middle, and high schools; nursery schools; recognition of certain organizations; child day center regulation.

The Board shall provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it. The Board may provide for the accreditation of private elementary, middle, and high schools in accordance with standards prescribed by it, taking reasonably into account the special circumstances and factors affecting such private schools. The Board in its discretion may recommend provisions for standards for private nursery schools. Any such accreditation shall be at the request of the private school only.

For the purposes of facilitating the transfer of academic credits for students who have attended private schools and are enrolling in public schools, and to meet the requirements of § [**63.2-1717**](http://law.lis.virginia.gov/vacode/63.2-1717), the Board of Education shall authorize, in a manner it deems appropriate, the Virginia Council for Private Education to accredit private nursery, preschool, elementary, and secondary schools.

~~The Board shall promulgate accreditation regulations that incorporate, but may exceed, the regulations for child day centers promulgated by the State Board of Social Services, for those child day centers described in subdivision A 7 of §~~ [**63.2-1715**](http://law.lis.virginia.gov/vacode/63.2-1715)~~.~~

§ [**63.2-1715**](http://law.lis.virginia.gov/vacode/63.2-1715). Exemptions from licensure.

A. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § [**63.2-1716**](http://law.lis.virginia.gov/vacode/63.2-1716).

2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

6. Instructional programs offered by public and private schools that *serve preschool-age children and receive state funds or that* satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

~~7. Education and care programs provided by public schools that are not exempt pursuant to subdivision A 6 shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the Commissioner.~~

~~8.~~ *7.* Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

~~9.~~ *8.* Practice or competition in organized competitive sports leagues.

~~10.~~ *9.* Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

~~11.~~ *10.* Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

~~12.~~ *11.* A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § [**63.2-1717**](http://law.lis.virginia.gov/vacode/63.2-1717).

~~13.~~ *12.* A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

*13. A child day program offered by a local school division, staffed by local school division employees, and attended by children who are enrolled in public school. Such programs shall be subject to safety and supervisory standards established by the local school board.*

14. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § [**22.1-19**](http://law.lis.virginia.gov/vacode/22.1-19) and administered by the Virginia Council for Private Education.

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

## Timetable for Further Review/Action:

The timetable for further action will be governed by the requirements of the Administrative Process Act.

## Impact on Fiscal and Human Resources:

The repeal of the regulations as proposed is expected to have a minimal to no fiscal or administrative impact on the local school divisions or on the Department of Education.

## Attachment A

~~Board of Education~~

~~8VAC 20-590~~

**~~Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools~~**

~~8VAC20-590-10. Definitions and substitutions.~~

~~A. The terms used in this chapter, except as otherwise defined herein, shall be in accordance with the definitions contained in § 63.1-195 et seq. of the Code of Virginia relating to the regulation of child day centers and Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (22VAC15-30-10 et seq.).~~

~~B. The following additional terms shall be used in administering the statute and regulations as described in subsection A of this section and substitutes for certain other terms in regulations of the Child Day-Care Council where applicable:~~

~~"Board" means the Virginia Board of Education and substitutes for Child Day Care Council.~~

~~"Department" means the Virginia Department of Education and substitutes for Department of Social Services.~~

~~"Superintendent" means the Superintendent of Public Instruction and substitutes for Commissioner of the Virginia Department of Social Services or commissioner.~~

~~Statutory Authority~~

~~§§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR270-01-0060 § 1, eff. April 5, 1995.~~

~~8VAC20-590-20. Exemptions and exceptions.~~

~~A. Instructional programs offered by public schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act (IDEA), vocational child care programs, and extracurricular activities that are focused on single interests such as, but not limited to, music, drama, art, or foreign languages are exempt from the requirements of this chapter.~~

~~B. Other exceptions to the requirements for accreditation may be made by the superintendent for cause which may include, but not be limited to, conflicts with state or federal statutes, or other board or federal regulations. The superintendent shall report to the board at least annually on exceptions made.~~

~~Statutory Authority~~

~~§§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR270-01-0060 § 2, eff. April 5, 1995.~~

~~8VAC20-590-30. Administration.~~

~~A. Child day centers operated by local school boards shall be accredited by the board when the center meets or exceeds requirements established by the Child Day-Care Council in Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (22VAC15-30-10 et seq.).~~

~~B. Regulation of programs operated in accordance with standards described in subsection A of this section shall be the responsibility of the board. The Department of Education shall be responsible for the administration of the regulations.~~

~~Statutory Authority~~

~~§§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR270-01-0060 § 3, eff. April 5, 1995.~~

~~Board of Education~~

~~8VAC 20-600~~

**~~Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools~~**

~~8VAC20-600-10. Definitions and substitutions.~~

~~A. The terms used in this chapter, except as otherwise defined herein, shall be in accordance with the definitions contained in § 63.1-195 et seq. of the Code of Virginia relating to the regulation of child day centers and Minimum Standards for Licensed Child Day Centers Serving School Age Children (22VAC15-40-10 et seq.).~~

~~B. The following additional terms shall be used in administering the statute and regulation as described in subsection A of this section and substitutes for certain other terms in regulations of the Child Day-Care Council where applicable:~~

~~"Board" means the Virginia Board of Education and substitutes for Child Day-Care Council.~~

~~"Department" means the Virginia Department of Education and substitutes for Department of Social Services.~~

~~"Superintendent" means the Superintendent of Public Instruction and substitutes for Commissioner of the Virginia Department of Social Services or commissioner.~~

~~Statutory Authority~~

~~§§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR270-01-0061 § 1, eff. April 5, 1995.~~

~~8VAC20-600-20. Exemptions and exceptions.~~

~~A. Instructional programs offered by public schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act (IDEA), and extracurricular activities that are focused on single interests such as, but not limited to, music, drama, art, sports, or foreign languages are exempt from the requirements of this chapter.~~

~~B. Other exceptions to the requirements for accreditation may be made by the superintendent for cause which may include, but not be limited to, conflicts with state or federal statutes, or other board or federal regulations. The superintendent shall report to the board at least annually on exceptions made.~~

~~Statutory Authority~~

~~§§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR270-01-0061 § 2, eff. April 5, 1995.~~

~~8VAC20-600-30. Administration.~~

~~A. Child day centers operated by local school boards shall be accredited by the board when the center meets or exceeds requirements established by the Child Day-Care Council in Minimum Standards for Licensed Child Day Centers Serving School Age Children (22VAC15-40-10 et seq.).~~

~~B. Regulation of programs operated in accordance with standards described in subsection A of this section shall be the responsibility of the board. The Department of Education shall be responsible for the administration of the regulations.~~

~~Statutory Authority~~

~~§§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR270-01-0061 § 3, eff. April 5, 1995.~~

## Attachment BDecorative Logo

[**Link:townhall.virginia.gov**](http://townhall.virginia.gov/)

**Fast-Track Regulation
Agency Background Document**

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| --- | --- |
| **Agency name** | Virginia Department of Education |
| **Virginia Administrative Code (VAC) citation(s)**  |  8VAC20-590 and 8VAC20-600 |
| **Regulation title(s)** | *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools* and *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools* |
| **Action title** | Repeal *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools* and *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools* (8VAC20-590 and 8VAC20-600) |
| **Date this document prepared** | February 16, 2018 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

**Brief summary**

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Board of Education had the authority to regulate child day programs in public school and adopted 8VAC20-590 and 8VAC20-600. These regulations must be repealed to conform to 2016 General Assembly Senate Bill 467. This bill removed the Board of Education authority and placed the authority to regulate all child day programs under the Board of Social Services. The Board of Education no longer has this authority and needs to initiate a fast track regulatory action to eliminate this from its regulations.

**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.*

There are no technical terms used in the background document.

**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 repealed *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools* and *Regulations Governing Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools* on March 22, 2018.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including:*

*1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person.  Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

The legal basis for this regulatory action is Chapter 442 of the 2016 Act of Assembly. This action eliminated the Board’s authority to promulgate these regulations.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

No new or amended regulations are proposed. This regulatory action is to repeal existing regulations as required by Chapter 442 of the 2016 Acts of Assembly.

**Rationale for using fast-track process**

*Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

The repeal of this regulation is required by legislative action (Chapter 442, 2016 Acts of Assembly) and is not controversial.

**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.*

The existing regulations are being repealed as required by Chapter 442 of the 2016 Acts of Assembly.

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

There are no disadvantages to the public in repealing this legislation.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

There are no applicable federal requirements that impact this action.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

Localities will be unaffected by the repeal of these regulations.

**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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.*

These regulations are being repealed as required by Chapter 442 of the 2016 Acts of Assembly.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

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| **Projected cost to the state to implement and enforce the proposed regulation, including:** **a) fund source / fund detail; and** **b) a delineation of one-time versus on-going expenditures** | None. This regulation is being repealed. |
| **Projected cost of the new regulations or changes to existing regulations on localities.** | None. This regulation is being repealed. |
| **Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.** | None. This regulation is being repealed. |
| **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 businessmeans 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.  | None. This regulation is being repealed. |
| **All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities.  Please be specific and include all costs including:****a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and****b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.** | None. This regulation is being repealed. |
| **Beneficial impact the regulation is designed****to produce.** | Consolidates the responsibility for regulating child care to the Virginia Department of Social Services. |

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.*

The only alternative is to retain an unnecessary regulation that does not require local school divisions to take any action.

**Public participation notice**

*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.*

**Periodic review and small business impact review report of findings**

*If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the 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.*

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| **Commenter**  | **Comment**  | **Agency response** |
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This fast-track is not a result of a periodic review/small business impact review.

**Family impact**

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

There are no family impacts.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is 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 action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.*

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Current section number** | **Proposed new section number, if applicable** | **Current requirement** | **Proposed change, intent, rationale, and likely impact of proposed requirements** |
|  |  |  |  |

If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

|  |  |  |  |
| --- | --- | --- | --- |
| **Current chapter-section number** | **Proposed new chapter-section number, if applicable** | **Current requirement** | **Proposed change, intent, rationale, and likely impact of proposed requirements** |
|  |  |  |  |

If a new regulation is being promulgated, that is not replacing an existing regulation, please use this chart:

|  |  |  |  |
| --- | --- | --- | --- |
| **Section number** | **Proposed requirements** | **Other regulations and law that apply** | **Intent and likely impact of proposed requirements** |
|  |  |  |  |

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation is identical to the emergency regulation, please choose and fill out the appropriate chart template from the choices above. In this case “current section number” or “current chapter-section number” would refer to the **pre**-emergency regulation.

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation includes changes since the emergency regulation, please create two charts: 1) a chart describing changes from the **pre-emergency** regulation to the proposed regulation as described in the paragraph above, and 2) a chart describing changes from the **emergency** regulation to the proposed regulation. For the second chart please use the following title: “Changes from the Emergency Regulation.” In this case “current section number” or “current chapter-section number” would refer to the **emergency** regulation.

There are no changes to this regulation. It is being repealed.

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