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

## Date: April 26, 2018

### Title: Final Review of Proposed *Regulations Governing the Designation of School Divisions of Innovation* (Proposed Stage)

#### Presenter: Dr. Cynthia A. Cave, Assistant Superintendent for Policy and Communications

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## Purpose of Presentation:

Action required by state or federal law or regulation.

## Executive Summary:

The 2017 Virginia General Assembly approved HB 1981 (Greason), directing the Board to develop regulations for the designation of School Divisions of Innovation (SDI). To be eligible for designation, a local school board would submit a plan of innovation according to Board criteria as presented in these proposed regulations. The legislation defines “innovation” as a new or creative alternative to existing instructional or innovative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.

The legislation requires the Board to establish expectations for plans of innovation, including goals and performance targets, which could include reducing achievement and opportunity gaps, implementing high standards for student performance and balanced assessments, increasing learning opportunities through integrated coursework, and providing additional learning choices, such as personalized learning opportunities and experiences through community service projects and work-based learning. The plan of innovation could also include requests for exemptions from selected regulations, allowing school divisions to implement alternative policies to address local needs. The Board would also be required to establish a procedure for the ongoing evaluation of a SDI.

The Board approved a Notice of Intended Regulatory Action (NOIRA) at its September 28, 2017 meeting. The NOIRA was subsequently approved by the Governor pursuant to the Administrative Process Act, and published in the Virginia Register on December 11, 2017, opening a 30-day public comment period. No comments were received during the public comment period.

The proposed regulations would establish the procedure and criteria for the designation of a SDI, and provide that the Superintendent of Public Instruction establish a format and timelines for local school boards to submit plans of innovation. The proposed regulations would prohibit any exemptions to regulations that are mandated by state or federal law or are designed to promote health or safety, special education regulations, and certain provisions in the Standards of Accreditation. The regulations also include provisions to evaluate the performance of a SDI, including revocation in the event that performance expectations are not met.

At the Board’s March 22, 2018 meeting, amendments to the regulations were discussed to clarify whether an SDI must implement related innovations in every school in a school division, and to permit divisions to request waivers from teacher licensure regulations if not required by state and federal law. The proposed regulations have been amended to provide that innovative programs may be implemented in one or more schools within a school division, and to permit school divisions to request waivers to teacher licensure regulations. These changes are highlighted in the attached revisions.

These proposed regulations align with several of the goals outlined in the Board’s Comprehensive Plan. In promulgating these regulations, the Board will help provide high-quality, effective learning environments for all students (Priority 1) by allowing alternative policies to be developed and implemented to address the diverse needs of students. Additionally, the proposed regulations will assist with the implementation of the Profile of a Virginia Graduate and the revised accountability system (Priority 3) through the implementation of innovative practices, and the utilization of evaluative data to identify additional measures impacting student achievement or school quality.

## Action Requested:

Final review: Action requested at this meeting.

## Superintendent’s Recommendation:

The Superintendent of Public Instruction recommends the Board of Education approve the proposed *Regulations Governing the Designation of School Divisions of Innovation.*

## Rationale for Action:

The proposed regulations fulfill the requirements of HB 1981 (2017) and encourage school divisions to implement innovative practices to improve student learning and educational performance.

## Previous Review or Action:

Previous review and action. Specify date and action taken below:

Date: September 28, 2017

Action: Final Review of Notice of Intended Regulatory Action (NOIRA) for *Regulations Governing the Designation of School Divisions of Innovation*

Date: March 22, 2018

Action: First Review of Proposed *Regulations Governing the Designation of School Divisions of Innovation* (Proposed Stage)

## Background Information and Statutory Authority:

The 2017 Virginia General Assembly approved HB 1981 (Greason), amending the Code of Virginia by adding §§ 22.1-212.28 through 22.212.32 relating to the designation of School Divisions of Innovation (SDI).

Article 1.5.

School Divisions of Innovation.

§ 22.1-212.28. Definitions.

As used in this article, unless the context requires a different meaning:

"School Division of Innovation" or "SDI" means a school division in which the local school board has developed and for which the Board has approved pursuant to regulations as set forth in this article a plan of innovation to improve student learning; educational performance; and college, career, and citizenship readiness skills in each school in the local school division.

"Innovation" means a new or creative alternative to existing instructional or administrative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.

§ 22.1-212.29. Purpose.

The Board shall promulgate regulations for the designation of School Divisions of Innovation in which the local school board in the local school division so designated shall, pursuant to a plan of innovation, be exempted from selected regulatory provisions and be permitted to adopt alternative policies for school administrators, teachers, and staff to meet the diverse needs of students.

§ 22.1-212.30. Board regulations; procedure.

Any local school board may apply to the Board for the local school division or any school therein to be designated as an SDI. Such application shall consist of a plan of innovation for the local school division. The Board shall include in regulations promulgated pursuant to § 22.1-212.29:

1. The procedure and timeline for application, review, amendment, approval, renewal, and revocation of SDI designation;

2. The procedure for the ongoing evaluation of an SDI; and

3. Any other process or procedure that the Board deems appropriate.

§ 22.1-212.31. Board regulations; application; expectations.

The Board shall establish in regulations promulgated pursuant to § 22.1-212.29 expectations for the plan of innovation of an SDI applicant, including:

1. Establishing goals and performance targets that may include:

a. Reducing achievement and opportunity gaps among groups of public school students by expanding the range of engaging and relevant learning experiences for students who are identified as academically low-achieving;

b. Increasing student learning through the implementation of high, rigorous standards for student performance and balanced assessments that measure both student growth and achievement;

c. Creating opportunities for students to demonstrate mastery of learning at different points in the learning process based on readiness;

d. Increasing student participation in opportunities that enhance students' preparation for college, career, and citizenship;

e. Increasing the number of students who are college, career, and citizenship ready;

f. Increasing opportunities for students to learn from content experts through integrated course opportunities; and

g. Motivating students at all levels by offering additional curricular choices, personalized learning opportunities, and relevant student learning experiences such as community service projects, internship opportunities, and job shadowing.

2. Identifying divisionwide and school-level policies that will lead students to be better prepared for success in work and life.

3. Describing the ways in which all schools will incorporate innovative practices.

4. Incorporating relevant professional development.

5. Providing evidence of collaboration, support, and shared leadership among teachers in the school division.

6. Providing evidence of the support and engagement of educators, parents, the local community, and the local business community in the development of the plan of innovation and of the capacity of such individuals and entities to support the implementation of innovation.

7. Providing the rationale for requests for waivers from regulatory and statutory provisions.

8. Identifying specific measures of student success that may include alternate assessments or approved substitute tests that will be used to determine if students have met graduation requirements, as applicable.

§ 22.1-212.32. SDI designation; duration; renewal.

A. The initial designation of an SDI shall be for a five-year period.

B. The initial designation of an SDI may be renewed for subsequent periods not to exceed five years each.

The Board is already authorized to grant waivers to its regulations, as § 22.1-253.13:3(H) of the *Code* states, in part:

…Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety…

The Board has only received one waiver request in recent years pursuant to this language. Albemarle County Public Schools requested a waiver to the requirement in the Board’s *Regulations Governing Secondary School Transcripts* to provide weighted grades on transcripts for Advanced Placement and International Baccalaureate courses, which it approved at its January 28, 2018 meeting.

Since 2015, the *Appropriation Act,* at [Item 138 (U)](https://budget.lis.virginia.gov/item/2017/1/HB1500/Chapter/1/138/), has provided funding for High School Program Innovation planning grants to encourage experimental or innovative programs. Applicants have been encouraged to seek waivers of Board regulations that prevent reform efforts. Some applicants expressed desire for waivers; however, none of the waivers desired are permissible by law.

At the Board’s March 22, 2018 meeting, an amendment was suggested to clarify that innovative programs do not need to be implemented in every school in a school division in order for the division to be designated a SDI. There was also concern that by excluding the teacher licensure regulations from waivers, possible innovative learning approaches may be prohibited. The proposed regulations have been amended to provide that innovative programs may be implemented in one or more schools within a school division, and to permit school divisions to request waivers to teacher licensure regulations. These changes are highlighted in the attached revisions.

*Summary of Major Provisions.* The proposed regulations include the mandatory components of the legislation. In addition, the regulations would provide that:

* applications must conform to a format and timeline developed by the Superintendent of Public Instruction, including deadlines for a pre-application conference with department staff and submission;
* regulatory waivers are not available for any regulations that are mandated by state or federal law or are designed to promote health or safety, special education regulations, and provisions in the Standards of Accreditation related to assessments, graduation requirements, instructional programming, and accreditation;
* the Board may grant all or a portion of a waiver and designate appropriate conditions for approval;
* the five-year term of a SDI designation period would begin with the school year following the Board’s approval;
* ongoing evaluation of a SDI would occur through the annual submission of information showing adequate progress toward meeting identified goals and targets; and
* a procedure for the revocation of the SDI designation for reasons the Board deems appropriate, including failure to meet the goals and targets identified in the plan of innovation, or failure to maintain accredited schools.

## Timetable for Further Review/Action:

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

## Impact on Fiscal and Human Resources:

The administrative impact required in promulgating these regulations will be absorbed within existing resources at the department.

# ATTACHMENT A

## REGULATIONS GOVERNING THE DESIGNATION OF SCHOOL DIVISIONS OF INNOVATION

### 8VAC20-760-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“Board of Education” or “board” means the board responsible for the general supervision of the public schools system in Virginia as prescribed in Section 4 of Article VIII of the Constitution of Virginia and § 22.1-18 of the Code of Virginia.

"Innovation" means a new or creative alternative to existing instructional or administrative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.

"School Division of Innovation" or "SDI" means a school division in which the local school board has developed and for which the board has approved a plan of innovation to improve student learning; educational performance; and college, career, and citizenship readiness skills in ~~each school~~ one or more schools, for the benefit of all schools in the school division.

### 8VAC20-760-20. School Division of Innovation Designation.

A. Any local school board may apply to the board for the local school division ~~or any school therein~~ to be designated as an SDI.

B. Pursuant to a plan of innovation, an SDI shall be exempted from selected regulatory provisions and permitted to adopt alternative policies for school administrators, teachers, and staff to meet the diverse needs of students.

C. An application for an SDI designation shall consist of a plan of innovation for the local school division, following a format prescribed by the Superintendent of Public Instruction. The plan of innovation shall include:

1. Goals and performance targets that may include:

a. Reducing achievement and opportunity gaps among groups of public school students by expanding the range of engaging and relevant learning experiences for students who are identified as academically low-achieving;

b. Increasing student learning through the implementation of high, rigorous standards for student performance and balanced assessments that measure both student growth and achievement;

c. Creating opportunities for students to demonstrate mastery of learning at different points in the learning process based on readiness;

d. Increasing student participation in opportunities that enhance students' preparation for college, career, and citizenship;

e. Increasing the number of students who are college, career, and citizenship ready;

f. Increasing opportunities for students to learn from content experts through integrated course opportunities; and

g. Motivating students at all levels by offering additional curricular choices, personalized learning opportunities, and relevant student learning experiences such as community service projects, internship opportunities, and job shadowing.

2. Division-wide and school-level policies that will lead students to be better prepared for success in work and life;

3. A description of the ways in which ~~all~~ ***designated*** schools will incorporate innovative practices;

4. ***A description of how schools in the division will benefit from innovative practices;***

***5.*** The incorporation of relevant professional development;

~~5~~***6***. Evidence of collaboration, support, and shared leadership among teachers in the school division;

~~6~~***7***. Evidence of the support and engagement of educators, parents, the local community, and the local business community in the development of the plan of innovation and of the capacity of such individuals and entities to support the implementation of innovation;

~~7~~***8***. Any requests for waivers from regulatory provisions as provided in 8VAC20-740-30, including the rationale for such waivers and alternative policies; and

~~8~~***9***. Specific measures of student success that may include alternate assessments or approved substitute tests that will be used to determine if students have met graduation requirements, as applicable.

D. Applications for SDI designation shall conform to a format and timeline prescribed by the Superintendent of Public Instruction. ~~Such~~ ***The*** timeline shall include deadlines for: (i) a pre-application conference to be held with staff if any waivers are requested; and (ii) submission for consideration by the board.

### 8VAC20-760-30. Exemptions from Regulatory Provisions.

A. In conjunction with the designation of an SDI, the board may exempt a local school board from board regulations as requested in a school division’s plan of innovation. However, the board shall not grant exemptions from the following provisions:

1. Regulations mandated by state or federal law

2. Regulations designed to promote health or safety

3. ***~~Licensure Regulations for School Personnel (8VAC20-22-5 et seq.)~~***

~~4.~~ Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81-5 et seq.)

~~5~~***4***. Student Achievement Expectations (8VAC20-131-30)

~~6~~***5***. Requirements for Graduation (8VAC20-131-50 and 8VAC20-131-51)

~~7~~***6***. Program of instruction and learning objectives (8VAC20-131-70)

~~8~~***7***. Part VIII of the Regulations Establishing Standards for Accrediting Public Schools in Virginia, School Accreditation (8VAC20-131-370 through 8VAC20-131-430)

B. The board may grant all or a portion of any request for such an exemption and designate conditions as appropriate.

### 8VAC20-760-40. Approval, Amendment, and Renewal.

A. The designation of an SDI shall be for a five-year period beginning with the school year following the board’s approval.

B. SDI designations may be renewed for subsequent periods not to exceed five years each.

C. School boards seeking to amend a plan of innovation shall be required to seek board approval following the same procedure as provided in 8VAC-740-20.

### 8VAC20-760-50. Evaluation.

A. Each SDI shall annually submit to the Department of Education, prior to a date designated by the Superintendent of Public Instruction, information demonstrating progress toward meeting the goals and performance targets included in the approved plan of innovation.

B. Such information shall be considered by the board ~~for consideration with~~ ***when possible*** SDI designation renewals ***are being reviewed***.

C. The board may revoke an SDI designation prior to the end of the five-year approval period in circumstances where it deems appropriate, including, but not limited to:

1. Continued failure to meet goals and performance targets established in the plan of innovation.

2. Continued failure to maintain “Accredited” status for any school subject to the SDI designation.