



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: I

Date: July 25, 2024

Title: First and Final Review of Finalization of Periodic Reviews of Regulations Schedule

Presenter: Jim Chapman, Director of Board Relations

Purpose of Presentation

Action required by state law and regulation.

Executive Summary

The Board has stated in [8VAC20-11-110](#) that the agency shall conduct a periodic review of regulations consistent with

1. An executive order issued by the governor pursuant to § [2.2-4017](#) of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § [2.2-4007.1](#) of the Administrative Process Act regarding regulatory flexibility for small businesses.

With each periodic review, the published notice will invite public comments on the entire regulatory chapter. The Department of Education (“VDOE”) will abide by [8VAC20-11-110](#) and follow the procedures laid out by Governor Youngkin’s Executive Order 19.

In December 2023, the Board approved opening periodic reviews on twenty-one regulatory chapters. Each periodic review was published on Town Hall and results of the following chapters are being presented to the Board for finalization:

- 8VAC20-11 Regulations Governing Public Participation
- 8VAC20-23 Licensure Regulations for School Personnel
- 8VAC20-25 Technology Standards for Instructional Personnel

- 8VAC20-30 Regulations Governing Adult High School Programs
- 8VAC20-180 Regulations Governing School Community Programs
- 8VAC20-210 Classification of Expenditures
- 8VAC20-240 Regulations Governing School Activity Funds
- 8VAC20-420 Regulations Governing Personnel in Public School Libraries Operated under Joint Contract under Control of Local School Board or Boards
- 8VAC20-490 Regulations Governing School Board Local
- 8VAC20-521 Regulations Governing Reduction of State Aid when Length of School Term Below 180 Teaching Days or 990 Teaching Hours
- 8VAC20-543 Regulations Governing the Review and Approval of Education Programs in Virginia
- 8VAC20-720 Regulations Governing Local School Boards and School Divisions

By closing the periodic reviews, the Board will fulfill its statutory obligation. Additionally, the reviews initiated by the periodic reviews will result in future regulatory actions that will count toward the agency's regulatory reduction requirements as outlined in Executive Order 19.

Action Requested

Final review: Action requested at this meeting.

Superintendent's Recommendation

The Superintendent of Public Instruction recommends that the Board waive first review and approve closing the periodic reviews on the regulatory chapters identified in this item as presented to the Board.

Previous Review or Action

None

Background Information and Statutory Authority

Section [2.2-4007.1](#)(D) of the Code of Virginia requires that "all regulations shall be reviewed every four years to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law."

Section [2.2-4007.1](#)(E) requires that the regulatory review include consideration of the following:

1. The continued need for the rule;

2. The nature of complaints or comments received concerning the regulation from the public;
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.

In addition, the Board has stated in [8VAC20-11-110](#) that the agency shall conduct a periodic review of regulations consistent with

1. An executive order issued by the governor pursuant to § [2.2-4017](#) of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § [2.2-4007.1](#) of the Administrative Process Act regarding regulatory flexibility for small businesses.

VDOE staff recommends closing the periodic reviews identified below, which includes summaries of the findings:

8VAC20-11 Regulations Governing Public Participation

The Department of Planning and Budget has model public participation guidelines. These regulations should be retained. However, VDOE staff recommends a regulatory action for a minor correction to the citation in 8VAC20-11-90. The DPB Model Policies appear to refer incorrectly to subsection D when the proper citation should be subsection E.

8VAC20-23 Licensure Regulations for School Personnel

The chapter is required by statute. VDOE staff recommends that the regulation is retained “as is” since no comments were received.

8VAC20-25 Technology Standards for Instructional Personnel

It appears that this regulatory chapter may be repealed. 8VAC20-23-40 used to require that individuals seeking initial licensure demonstrate proficiency in the use of “education technology for instruction.” However, this requirement was removed in [April 2021](#). It does not appear that this chapter is used by the field.

8VAC20-30 Regulations Governing Adult High School Programs

This chapter is still necessary and should be retained. However, upon completion of the periodic review, VDOE staff recommends a regulatory action to broaden language in [8VAC20-30-20\(3\)\(c\)](#) in order to remove the specific reference to the National External Diploma Program Competencies (“NEDPC”) promulgated by CASAS. The regulations refer

to an outdated version of the NEDPC, which is also a document incorporated by reference (“DIBR”).

8VAC20-180 Regulations Governing School Community Programs

It appears that this regulatory chapter may be repealed. 8VAC20-180 appears to have been promulgated in order to codify [subsection B of Standard 6 of the SOQ](#). However, the chapter has not been updated in conjunction with Standard 6, resulting in regulatory language that is at variance with the statute. The chapter does not appear to have an independent, regulatory enforcement mechanism and reporting on compliance with the SOQ is already required by law.

8VAC20-210 Classifications of Expenditures

This chapter should be retained. However, upon completion of the periodic review, VDOE recommends that the chapter should be amended to conform to the underlying statute and add an expenditure classification for technology.

8VAC20-240 Regulations Governing School Activity Funds

This chapter should be retained. VDOE staff has identified minor amendments that will be brought in a future regulatory action.

8VAC20-420 Regulations Governing Personnel in Public School Libraries Operated under Joint Contract under Control of Local School Board or Boards

This chapter should be retained. However, the requirements of this chapter should be consolidated into another chapter, such as [8VAC20-720](#).

8VAC20-490 Regulations Governing School Boards Local

There is a continued need for some of the sections in the regulation. However, there is some overlap between some of the sections and current state law. The requirements of this chapter should be consolidated into another chapter, such as [8VAC20-720](#).

8VAC20-521 Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours

It appears that this chapter is duplicative of statutory requirements in § [22.1-98](#)—with the exception of [8VAC20-521-40\(E\)](#), which provides an authorization to SOPI to approve reductions in school terms in accordance with the statute. The chapter may be repealed, and the authorization to SOPI in [8VAC20-521-40\(E\)](#) moved to [8VAC20-510-10](#).

8VAC20-543 Regulations Governing the Review and Approval of Education Programs in Virginia

The chapter is required by statute. VDOE staff recommends that the regulation is retained “as is.” One comment was received during the public comment period, which will be considered in any subsequent revisions.

8VAC20-720 Regulations Governing Local School Boards and School Divisions

This chapter should be retained as is.

Implementation and Communication

Upon approval, VDOE staff will close the periodic reviews on Town Hall in accordance with the Administrative Process Act and the procedures published by the Governor's Office of Regulatory Management. Any regulatory actions recommended by VDOE staff will be brought to the Board in a separate action at a future Board meeting.

Impact on Fiscal and Human Resources

There is no impact on the agency's fiscal or human resources.