



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

## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Education
<b>Virginia Administrative Code (VAC) citation(s)</b>	<u>8 VAC 20-131</u>
<b>Regulation title(s)</b>	<i>Regulations Establishing Standards for Accrediting Public Schools in Virginia</i>
<b>Action title</b>	Revisions to the regulations to comport with legislation approved during the 1999 through 2015 General Assembly sessions
<b>Date this document prepared</b>	June 1, 2015 and July 14, 2015

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 Virginia Board of Education is proposing amendments to these regulations that are needed to ensure that the regulations comport with legislative changes made by the General Assembly during the 2012 through 2015 sessions, and one bill from the 1999 session.

### 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.*

---

N/A

### 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 authorized the Department of Education to proceed with the fast track revision to the regulation at its July 23, 2015, meeting.

### 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 Board of Education's authority for promulgating governing standards for accrediting public schools may be found in § 22.1-253.13:3 of the *Code of Virginia*:

- A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ [2.2-4000](#) et seq.), which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board of Education's overall regulatory authority may be found in § 22.1-16 of the *Code of Virginia*:

The 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.

### 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.*

---

Amendments are needed to comport with the legislative changes made by the following bills during the 2012, 2013, 2014, and 2015 General Assembly Sessions, and one bill adopted during 1999:

- SB 889 (1999)

- HB 642 and SB 514, HB 1107 and SB 656 (2012)
- HB 2028 and SB 989, HB 2344, and HB 2346 (2013)
- HB 1007 (2014)
- SB 1236, HB 1338, HB 1351 and SB 916, HB 1490 and SB 874, HB 1675 and SB 982, HB 1873 and SB 1320, HB 2276, HB 2318, and SB 821 (2015)

### 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 fast track rulemaking process is for regulations expected to be noncontroversial. This revision is noncontroversial because its only purpose is to address legislation that was adopted during the 2012 through 2015 sessions of the General Assembly, and one bill adopted during the 1999 General Assembly session. In addition, time is of the essence in promulgating these regulations because a number of the legislative changes that are addressed impact school safety, provide additional flexibility to school divisions or specify dates by which certain provisions must be implemented or in place.

### 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 following list includes the changes required by legislation adopted during the 2012-2015 General Assembly Sessions, and one bill adopted during the 1999 session:

- SB 889 (1999) requires school boards to ensure that at least two employees have been trained in the administration of insulin and glucagon in school buildings with an instructional and administrative staff of ten or more, if one or more students diagnosed as having diabetes attend the school. When there are fewer than ten such staff members, school boards shall ensure that at least one employee has been trained if one or more students with diabetes attend the school.
- HB 642 and SB 514 (2012) add three points to the Graduation and Completion Index for each student who earns a diploma and a CTE credential.
- HB 1107 and SB 656 (2012) require local school boards to adopt and implement policies for the possession and administration of epinephrine in every school.
- HB 2028 and SB 986 (2013) require students, beginning with the ninth-grade class of 2016-2017, to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators to be awarded a Standard or an Advanced Studies Diploma.
- HB 2344 (2013) requires each school to have a school threat assessment team. The threat assessment teams shall provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the

community.

- HB 2346 (2013) requires at least two lockdown drills every year, one in September and one in January.
- HB 1007 (2014) replaces references throughout the *Code of Virginia* to a General Educational Development (GED) program or test with "a high school equivalency examination approved by the Board of Education" or "a high school equivalency preparation program."
- SB 1236 (2015) eliminates the term "Special Diploma" and replaces it with the term "Applied Studies Diploma."
- HB 1338 (2015) requires the Virginia Department of Education (VDOE), for the purposes of the School Performance Report Card, to include – as part of instructional costs – each school division's expenditures on the hardware necessary to support electronic textbooks.
- HB 1351 and SB 916 (2015) direct the Board to establish criteria for awarding a diploma seal of biliteracy and require the Board to establish criteria for awarding it in time for any student graduating from a public high school in the Commonwealth in 2016 to be awarded such a diploma seal.
- HB 1490 and SB 874 (2015) require the Board to promulgate regulations to provide the same criteria for eligibility for an expedited retake of any Standards of Learning (SOL) test, with the exception of the writing SOL tests, to each student regardless of grade level or course.
- HB 1675 and SB 982 (2015) permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction to earn a standard unit of credit upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant SOL.
- HB 1873 and SB 1320 (2015) require the Board to amend the Standards of Accreditation by the 2016-2017 school year to establish additional accreditation ratings that recognize the progress of schools and student growth.
- HB 2276 (2015) creates an alternative, under certain circumstances, to the current requirement that, in order to receive a standard diploma, a student must earn a Career and Technical Education (CTE) credential.
- HB 2318 (2015) requires the Board, for the purposes of the Standards of Accreditation, to use a graduation rate that excludes any student who fails to graduate because he or she is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. Note: This bill becomes effective on July 1, 2016.

## 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, the agency, or the Commonwealth. These revisions are required by changes in the *Code of Virginia* adopted by the Virginia General Assembly.

### 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.

### 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.*

---

All local school boards and school divisions will be affected.

### 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 amendments are proposed to ensure compliance with the *Code of Virginia*. Therefore, there are no alternative regulatory methods that will accomplish the objectives of the statutory requirements. In addition, there is no adverse impact on small businesses.

### 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.*

<b>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</b>	None
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	Minimum
<b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b>	Local school boards and local school divisions
<b>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.</b> 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.	132 local school divisions and local school boards. No small businesses
<b>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.</b>	None
<b>Beneficial impact the regulation is designed to produce.</b>	The amendments in the regulations are designed to ensure that all local school boards and local school divisions are aware of and in compliance with the pertinent legislation approved during the 2012 through 2015 legislative sessions and one bill approved during 1999.

**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.*

There are no viable alternatives to revisions of the regulations.

**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 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.*

Commenter	Comment	Agency response

This is not the result of a periodic review/small business impact review and will not affect small businesses.

**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.*

This regulatory action is expected to impact the family by providing opportunities for all public school children to gain strong academic and career skills to become productive citizens and be prepared for career and college education. The amendments are also expected to improve school safety and to protect children from harm while they attend school.

**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 list separately: (1) all differences between the **pre-emergency** regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
8VAC20-131-280	Same	Each school shall be accredited based, primarily, on achievement of the criteria established in 8VAC20-131-30 and in 8VAC20-131-50 as well as the requirements specified in 8VAC20-1131-280.	This change will add three points to the Graduation and Completion Index for each student who earns a diploma and a career and technical education (CTE) credential. HB 642 and SB 514 (2012)
8VAC20-131-260	Same	The school administration shall ensure that the school has written procedures to follow in emergencies such as fire, injury, illness, allergic reactions, and violent or threatening behavior.	This revision will require local school boards to adopt and implement policies for the possession and administration of epinephrine in every school. HB 1107 and SB 656 (2012)
8VAC20-131-260	Same	There is no current requirement specified in the regulations. This requirement was proposed in the 2013 comprehensive review of the SOA, which was withdrawn.	The revision will document in regulations the requirement school boards ensure that at least two employees have been trained in the administration of insulin and glucagon in school buildings with an instructional and administrative staff of ten or more, if one or more students diagnosed as having diabetes attend the school. When there are fewer than ten such staff members, school boards shall ensure that at least one employee has been trained if one or more students with diabetes attend the school. SB 889 (1999)
8VAC20-131-50 and 60	Same	There is no current requirement specified in the regulations.	Beginning with the ninth-grade class of 2016-2017, in order to be awarded a Standard or an Advanced Studies Diploma, students are to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. HB 2028 and SB 986 (2013)
8VAC20-131-260	Same	There is no current requirement specified in the	In school buildings with an instructional and administrative staff of 10 or more,

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
		regulations.	school boards shall ensure that at least three employees have current certification or training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of an automated external defibrillator (AED). In school buildings with an instructional and administrative staff of fewer than 10, school boards shall ensure that at least two employees have current certification or training in emergency first aid, CPR, and the use of an AED. HB 2028 and SB 986 (2013).
8VAC20-131-260	Same	There is no current requirement specified in the regulations.	This revision requires each school to have a school threat assessment team. The threat assessment teams shall provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community. HB 2344 (2013)
8VAC20-131-260	Same	The school administration shall conduct fire drills at least once a week during the first month of school and at least once each month for the remainder of the school term. Evacuation routes for students shall be posted in each room.	The amendment requires at least two lockdown drills every year, one in September and one in January. HB 2346 (2013)
8VAC20-131-50 8VAC131-270 8VAC131-280	Same	The current term used is General Educational Development (GED) program or test.	The amendment replaces the term General Educational Development (GED) program or test with "a high school equivalency preparation program" or "a high school equivalency examination approved by the Board of Education." HB 1007 (2014)
8VAC20-131-5 8VAC20-131-50 8VAC20-131-60	Same	The current term used is Special Diploma.	The revision eliminates the term Special Diploma and replaces it with the term Applied Studies Diploma. SB 1236 (2015)
8VAC20-131-50	Same	The regulations currently provide for several diploma seals available to graduating students who meet specified criteria.	The revision requires the Board to establish criteria for awarding a diploma seal of biliteracy in time for any student graduating from a public high school in 2016 to be awarded such a diploma seal. HB 1351 and SB 916 (2015)
8VAC20-	Same	The regulations currently	The revision requires the Board to

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
131-30		provide that, with such funds as are appropriated by the General Assembly, the Board of Education will provide opportunities for students who meet criteria adopted by the Board to have an expedited retake of an SOL test to earn verified credit. This provision does not apply to students in grades three through eight who are not earning verified credit.	promulgate regulations to provide the same criteria for eligibility for an expedited retake of any Standards of Learning test, with the exception of the writing SOL tests, to each student regardless of grade level or course. HB 1490 and SB 874 (2015)
8VAC20-131-110	Same	The standard unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and successful completion of the requirements of the course.	The revision permits local school divisions to waive the requirement for students to receive 140 clock hours of instruction to earn a standard unit of credit upon providing the Board of Education with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning. HB 1675 and SB 982 (2015)
8VAC20-131-300 8VAC20-131-310 8VAC20-131-315	Same	Schools that meet the preaccreditation eligibility requirements prescribed in 8VAC20-131-280 F shall be assigned ratings as described in this regulation, including Fully Accredited, Accredited with Warning, Accreditation Denied, Conditionally Accredited, and Provisionally Accredited–Graduation Rate.	The revision establishes additional accreditation ratings that recognize the progress of schools and student growth. HB 1873 and SB 1320 (2015) and deletes the outdated accreditation rating of Provisionally Accredited–Graduation Rate. The rating of “Partially Accredited” is added in various categories.
8VAC20-131-50	Same	In order to receive a standard diploma, a student must earn a CTE credential that has been approved by the Board of Education.	The revision provides an alternative when a CTE credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency. Under such circumstances, the student must receive competency-based instruction in the subject area to satisfy the standard diploma requirements. HB 2276 (2015)
8VAC20-280	Same	The Board of Education's graduation and completion index shall include weighted points for diploma graduates who fall within specified	The revision requires the Board of Education, for the purposes of the Standards of Accreditation, to use a graduation rate that excludes any student who fails to graduate because he or she

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
		categories in the regulation.	is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. Note: This requirement becomes effective on July 1, 2016. HB 2318 (2015).