



Virginia
Regulatory
Town Hall

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Proposed Regulation Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	<u>8VAC20-131</u>
Regulation title	<i>Regulations Establishing the Standards for Accrediting Public Schools in Virginia</i>
Action title	Permanent regulations to replace the emergency regulations comporting with legislative changes made by HB 1061 and SB 489 (2012)
Date this document prepared	June 17, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The 2012 General Assembly passed, and the Governor signed into law, HB 1061 and SB 489, which amend § 22.1-253.13:4 of the *Code of Virginia* to strengthen postsecondary education and workplace readiness opportunities for all students, and to consolidate the number of Board of Education-approved diplomas. The bills eliminate the Standard Technical, Advanced Technical, and Modified Standard Diplomas, and change the graduation requirements for the Standard and Advanced Studies Diplomas. The legislation required the Board of Education to promulgate emergency regulations to effect these changes, and the emergency regulations became effective on June 5, 2013. This action will make the emergency regulations permanent.

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.

Not applicable.

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 regulations governing standards for accrediting public schools may be found in § 22.1-253.13:3 of the *Code of Virginia*:

“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 by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

These amendments would make the emergency regulations permanent. The emergency regulations simply comport with the provisions of HB 1061 and SB 489, as passed by the General Assembly and signed by the Governor.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the “Detail of changes” section.)

The following provisions in the emergency amendments to the *Regulations Establishing the Standards for Accrediting Public Schools in Virginia* would be made permanent:

- The regulations would require that students must earn a career and technical education credential that has been approved by the Board in order to graduate with a Standard Diploma. This credential could include, but not be limited to, the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.
- The regulations would fold the Modified Standard Diploma into the Standard Diploma, and would establish credit accommodations for students with disabilities. Such credit accommodations for students with disabilities may include:
 - Approval of alternative courses to meet the standard credit requirements;
 - Modifications to the requirements for local school divisions to award locally awarded verified credits;
 - Approval of additional tests to earn a verified credit;
 - Adjusted cut scores required to earn verified credit; and
 - Allowance of work-based learning experiences.
- The proposed regulations would require that students pursuing a Standard or Advanced Studies Diploma successfully complete one virtual course, which may be a noncredit-bearing course.
- The Standard Technical Diploma and the Advanced Technical Diploma would be eliminated. These diplomas have not yet been implemented.
- Consistent with the legislation, the regulations would specify that the Advanced Studies Diploma shall be the recommended diploma for students pursuing baccalaureate study. Both the Standard and the Advanced Studies Diploma shall prepare students for postsecondary education and the career readiness required by the Commonwealth's economy.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

This regulatory action comports with the Code and poses no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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.

No locality would be disproportionately affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the *Code of Virginia*. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>), or by mail, e-mail or fax to Anne Wescott, Assistant Superintendent for Policy and Communications, Virginia Department of Education, P. O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, e-mail Anne.Wescott@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar Web site (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

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. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.

<p>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal. Think broadly, e.g., these entities may or may not be regulated by this board</p>	<p>All local school divisions in Virginia would be affected by this regulation.</p>
<p>Agency’s best estimate of the number of (1) entities that will be affected, including (2) small businesses affected. Small business means a</p>	<p>132 local school divisions would be affected. It is not expected that any small businesses would be affected.</p>

<p>business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.</p>	
<p>Benefits expected as a result of this regulatory proposal.</p>	<p>This regulatory action will provide opportunities for all public school children to gain strong academic and career skills to become productive citizens and be prepared for postsecondary education and for employment in the workplace. The increased rigor of the diplomas as addressed in the legislation will increase economic self-sufficiency and pride in student accomplishments. The enhanced academic and workplace training for all students should provide the basis for securing highly-skilled employment opportunities after graduation and greater success in postsecondary education.</p>
<p>Projected cost to the <u>state</u> to implement and enforce this regulatory proposal.</p>	<p>Any additional cost is expected to be insignificant and can be absorbed within current resources.</p>
<p>Projected cost to <u>localities</u> to implement and enforce this regulatory proposal.</p>	<p>Any additional cost is expected to be insignificant and can be absorbed within current resources.</p>
<p>All projected costs of this regulatory proposal for <u>affected individuals, businesses, or other entities</u>. Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.</p>	<p>None.</p>

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 alternatives to this regulatory action.

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 do not affect small businesses. The deadlines and reporting requirements specified in these regulations are required by HB 1061 and SB 489. No additional deadlines or reporting requirements are proposed.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
None	N/A	N/A

Family impact

Please assess the impact of the proposed 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 will 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 postsecondary education and for employment in the workplace. The increased rigor of the diplomas as addressed in the legislation will increase economic self-sufficiency and pride in student accomplishments. The enhanced academic and workplace training for all students should provide the basis for securing highly-skilled employment opportunities after graduation and greater success in postsecondary education.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. 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.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, and likely impact of proposed requirements
8 VAC 20-131-5		Definitions	Adds the definition of “credit accommodations” to mean adjustments to the standard and verified credit requirements for earning a Standard

			<p>Diploma for students with disabilities, as specified in the legislation.</p> <p>Removes references to the Standard Technical, Advanced Technical, and Modified Standard Diplomas, which are being eliminated.</p>
<p>8 VAC 20-131-50</p>		<p>Requirements for Graduation</p>	<p>Includes language from the legislation that the Advanced Studies Diploma shall be the recommended diploma for students pursuing baccalaureate study, and that both the Standard and the Advanced Studies Diploma shall prepare students for postsecondary education and the career readiness required by the Commonwealth's economy.</p> <p>Specifies that the new requirements for the Standard and Advanced Studies Diplomas will begin with the ninth-grade class of 2013-2014.</p> <p>Requires students pursuing a Standard Diploma to earn a career and technical education credential approved by the Board that could include, but not be limited to, the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.</p> <p>Requires students pursuing a Standard or Advanced Studies Diploma to complete one virtual course, which may be a noncredit-bearing course and could be a semester course, an elective course, or a full-credit course to satisfy a graduation requirement.</p> <p>Provides for credit accommodations for students with disabilities that would be established by the Board of Education and could include:</p> <ul style="list-style-type: none"> • Approval of alternative courses to meet the standard credit requirements; • Modifications to the requirements for local school divisions to award locally awarded verified credits; • Approval of additional tests to earn a verified credit; • Adjusted cut scores required to earn verified credit; and • Allowance of work-based learning

			<p>experiences.</p> <p>Eliminates the Standard Technical, Advanced Technical, and Modified Standard Diplomas.</p> <p>Makes technical changes to remove references to the Standard Technical, Advanced Technical, and Modified Standard Diplomas.</p> <p>All of these changes are specified in the legislation.</p>
8 VAC 20-131-60		Transfer Students	Makes technical changes to remove references to the Standard Technical, and Advanced Technical, and Modified Standard Diplomas.
8 VAC 20-131-110		Standard and Verified Units of Credit	Makes technical changes to remove a reference to the Modified Standard Diploma.
8 VAC 20-131-270		School and Community Communications	Makes technical changes to remove references to the Standard Technical, and Advanced Technical, and Modified Standard Diplomas.
8 VAC 20-131-280		Expectations for School Accountability	Makes technical changes to remove references to the Standard Technical, and Advanced Technical, and Modified Standard Diplomas.
8 VAC 20-131-360		Effective Date	<p>Establishes the effective date for the new requirements for the Standard and Advanced Studies Diplomas. Pursuant to the legislation, the new requirements are effective with the ninth-grade class of 2013-2014.</p> <p>Eliminates the effective dates for the Standard Technical and Advanced Technical Diplomas.</p>