



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Department of Education
<b>VAC Chapter Number:</b>	8 VAC 20-160-10 et. seq.
<b>Regulation Title:</b>	Regulations Governing the <i>Secondary School Transcript</i>
<b>Action Title:</b>	Revision of the Regulations Governing the <i>Secondary School Transcript</i>
<b>Date:</b>	September 2001

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

Revisions to the Board of Education's *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131-10 et. seq.), September 1997, establish new graduation requirements for students earning high school diplomas in Virginia. Beginning with the ninth-grade class of 2000-2001 (graduating class of 2003-2004), students will be required to earn a prescribed number of verified units of credit. This requirement for verified credits affects students who are currently taking high school credit-bearing courses in grade seven or earlier. Each student in middle and secondary schools shall take all applicable end-of-course Standards of Learning tests following course instruction. Students who achieve a passing score on an end-of-course Standards of Learning test shall be awarded a verified unit of credit in that course. In keeping with the changes in the Standards of Accreditation (SOA), a revision to the board's regulations governing the *Secondary School Transcript* is necessary to account for and denote

verified units of credit on students' transcripts. The following changes have been made to the regulations since the proposed action was published:

- (1) Revised the definition of the word "credit"
- (2) Revised the definition of the "secondary school transcript"
- (3) Added a statement forbidding the accreditation status of a high school from being shown on the student transcript or the school profile data sheet
- (4) Elaborated on the term "type of diploma"
- (5) Added the requirement for "total verified credits earned"
- (6) Eliminated the inclusion of "passing score"
- (7) Clarified items to be included on the test record

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

The Virginia Board of Education accepted for final review and adopted the proposed amended regulations governing the *Secondary School Transcript* on September 26, 2001.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

Article VIII, §4 of the Virginia Constitution vests general supervisory authority for the public schools in the Virginia Board of Education. Additionally, the *Code of Virginia* authorizes the board to promulgate regulations necessary to carry out those powers and duties given to it in §22.1 of the *Code*. Section 22.1-253.13.3 of the *Code of Virginia* authorizes the board to promulgate Standards of Accreditation that include student outcome measures, course and credit requirements for graduation from high school, and assessments to measure student progress. Further, the board is authorized to prescribe requirements for completion of high school programs, (*Code of Virginia* §22.1-253.13:4).

The regulations governing the *Secondary School Transcript* standardize the manner in which schools record and report the courses each student has taken and the student's academic performance in high school. As such, these regulations implement the powers and duties given the board under the above specific statutory provisions (*Code of Virginia* §§22.1-253.13:3 and 22.1-253.13:4) and others. They, therefore, are within the regulatory power given the board under Virginia Code §22.1-1.

**Purpose**

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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In June 1995, the Board of Education adopted new Standards of Learning in the core subject areas of mathematics, science, English, and history and social science, raising the expectations for all students in Virginia’s public schools. Subsequently, in 1997 the Board of Education adopted revised Standards of Accreditation. With these revisions came the need to indicate verified units of credit earned under the new Standards of Accreditation. Thus, the regulations governing the *Secondary School Transcript* must be revised to include the verified units of credit earned by students as well as clarification related to other aspects of the transcript. This revision of the regulations governing the *Secondary School Transcript* is not essential to protect the health, safety, or welfare of citizens.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.*

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The new substantive provision is: Total verified credits earned will be recorded on the student transcript. This provision will indicate whether a student has met all requirements for graduation including this new requirement of the Standards of Accreditation which is verified credits.

**Issues**

*Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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 include a sentence to that effect.*

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There are no disadvantages of said action to the public or the commonwealth. The advantage is that a review of the transcript enables schools, colleges, universities and employers to determine whether a student has met all requirements for graduation including the new requirement of the Standards of Accreditation, which is verified credits.

## Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

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Under 8 VAC 20-160-30. Format options, the following statement was added, The accreditation status of a high school shall not be included on the student transcript provided to colleges, universities, or employers. Item #21 of the proposed regulations has changed since its publication. At the last publication, the item read as follows: Test record, to include results on college performance-related standardized tests such as College Entrance Examination Board or equivalent, excluding Standards of Learning (SOL) Test Scores until beginning Spring 2004. The transcript shall show the highest SOL test score for each test that is taken more than once. The item now reads as follows: Test record, to include results on college performance-related standardized tests such as College Entrance Examination Board or equivalent, excluding Standards of Learning (SOL) test scores. The following changes have been made to the regulations since the proposed action was published:

- (1) Revised the definition of the word “credit”
- (2) Revised the definition of the “secondary school transcript”
- (3) Added a statement forbidding the accreditation status of a high school from being shown on the student transcript or the school profile data sheet
- (4) Elaborated on the term “type of diploma”
- (5) Added the requirement for “total verified credits earned”
- (6) Eliminated the inclusion of “passing score”
- (7) Clarified items to be included on the test record

## Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

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A professor at Virginia Commonwealth University, who has taught and advised teachers in the area of learning disabilities, spoke at the public hearing on September 28, 2000:

- (1) Accreditation status of the high school and the individual student’s Standards of Learning test scores should not be excluded from transcripts sent to colleges, universities or employers. Exclusion of these two items suggests a weakening of the accountability effort that has become a hallmark of education reform efforts in Virginia. Agency response: HB 2144 passed during the 2001 General Assembly Session prevents the governing body of every higher educational institution from considering the accreditation status of a Virginia public high school when making admissions determinations for students who have earned a diploma pursuant to requirements established by the Board of Education. Accreditation status of the high

school and the individual student's Standards of Learning test scores will not be included on the transcript.

- (2) "Passing Score" should be deleted as a requirement for transcripts. Since this term is not defined in the definition section, nor are any details provided for what is meant by "passing score," this requirement seems meaningless and should be deleted. Agency response: "Passing Score" has been deleted as a required item for the transcript.
- (3) The added requirement that the total number of verified credits earned is to be included on the transcript seems to be highly related to individual Standards of Learning test scores and to the type of diploma or certificate the individual would or would not be eligible for. Thus, it appears to be a way to clarify that a student has met graduation and specific diploma requirements. Agency response: Total number of verified credits earned will go on the transcript to further clarify that a student has met graduation and specific diploma requirements.

The speaker stated that the most significant concern with the proposed regulations is the absence of specific guidance concerning identification of disabilities and accommodations for individual students on high school transcripts.

As a result of an additional 30-day comment period, four additional comments were received. A coordinator of guidance for a local school division expressed the following concerns:

- (1) A requirement to show only the highest SOL scores on a student's transcript would not be consistent with the way other test scores are displayed. For instance, PSAT, ACT, and SAT labels are all recorded on the transcript regardless of how many times the tests are taken. Agency response: The requirement to show Standards of Learning (SOL) scores has been deleted as a transcript item.
- (2) Clerical time required to put the SOL test score labels on the transcript would increase if someone had to verify whether or not each test had already been taken. Agency response: Refer to the previous response. Agency response: Refer to the previous response.

A director of research and planning for a local school division asked the following questions:

- (1) Do we show scores only for courses where a verified credit is earned, or show all end-of-course scores in a content area? In other words, if a score is not tied to a verified credit, should it be reflected on the transcript? Under current LPT requirements, transcripts do not reflect scores or pass/fail status. Agency response: Standards of Learning scores will not be shown on the student transcript.
- (2) What is the value of showing the SOL test scores when identification of earned verified credits documents that graduation requirements have been met? Agency response: Refer to the previous response.

- (3) How will scores from substitute tests be reflected on the transcript? A passing AP score is a “3”, however, the state recognizes a “2” for verified credit. If a “2” shows on a transcript, colleges will view this as a failing score. Agency response: SOL and substitute assessment scores will not be recorded on the transcript.
- (4) If we proceed with scores on transcripts, do school systems have to wait until 2004 to show any SOL test scores or can we begin now? Our understanding is that after 2004 scores will be added to the transcript as they are earned. Agency response: Refer to response no. 1.

An organization working with persons having learning disabilities offered the following comments:

- (1) “Transcripts are most often used for employment opportunities and gaining admission to higher education programs . . . First, pre-admission and pre-employment inquiries regarding the handicapping conditions are prohibited. Second, it is up to the candidate for admission or applicant for employment to identify relevant information regarding a handicapping condition . . . The purpose of these regulations, in part, is to prevent the unwarranted disclosure of an individual’s handicap at the pre-admission and pre-employment states.” Agency response: The Board of Education defined diploma type as follows: Type of diploma, to include “Advanced Studies” or “Other Diplomas Authorized by the Board of Education”.
- (2) “Variation in wording may not necessarily be a violation of Section 504 or Title II (of the Americans with Disabilities Act) so long as the variation is not based on disability as a category of students . . . If different diploma wording is used, . . . the requirements for being awarded a particular diploma must be available to all students on a nondiscriminatory basis.” Agency response: Refer to the previous response.

This organization suggests that the Department of Education has a number of choices:

- (1) Delete #9, “Diploma Type” under the required information under 8 VAC 20-160-30 Format Options or
- (2) Change #9 “Diploma Type” under the required information under 8 VAC 20-160-30 to a question “Did the student receive a diploma?” The course work, grades, and total number of verified credits are enough to provide information about the student’s education. Agency response: “Diploma Type” as listed in the previous regulations has been changed as follows: Type of diploma, to include “Advanced Studies” or “Other Diplomas Authorized by the Board of Education”.
- (3) If the student is to receive a Modified Standard or Special Diploma, before being asked to give permission prior to sending a transcript to a post-secondary institution or a potential employer, the student must be told, in writing, that disclosure of receipt of a Modified Standard or Special Diploma will identify the student as a student with

a disability which could be used to discriminate against the student. Agency response: Refer to response no. 1 of the previous set of comments.

An organization that provides support to students with disabilities and their families made the following comments:

- (1) Confidential information about a disability must be disclosed only when the person with a disability chooses to disclose that information. Secondary school transcripts should not disclose that the individual has a disability. Agency response: Refer to the two previous sets of comments and responses.
- (2) The Americans with Disabilities Act prohibits potential employers or colleges from asking disability-specific information before a job offer is made or college admission is confirmed. Some federal and state employers collect disability information from applicants to assist the employer in collecting data regarding affirmative action. If state or federal employers collect this type of information, the information must be on a tear-off form from the application so that the people who make the employment decisions do not have access to that information. Potential employees are not required to disclose this information; it would be voluntary disclosure. The same standard applies to college admission. Colleges can ask for disability information, but they are prohibited from using the information when making admission decisions. If the person with a disability requires an accommodation to perform the essential functions of the job or to participate in the college's programs, the person will then necessarily disclose that he or she has a disability when making the accommodations requests. Persons must be qualified for the job or college admission based on whatever qualifying standards the employer or college establishes. Agency response: Refer to previous responses.
- (3) For some people with a disability, it is important that information about the disability not be disclosed until they are selected for the job or college admission, and then they will disclose their disability as part of the accommodations process if they need an accommodation. Of course many students will not need accommodations for employment and/or college and disclosure of disability information could be detrimental. Agency response: Refer to previous responses.
- (4) Disclosing that a student has earned a Modified Standard Diploma versus a Standard Diploma will be a disclosure automatically to the entity reading the transcript since the Modified Standard Diploma is available only to students with disabilities. Agency response: Refer to previous responses.
- (5) The transcript information related to the SOL tests should not include any information about accommodations since that would be a disclosure of disability. Agency response: No information about SOL test accommodations will be recorded on the transcript.

- (6) Diplomas and certificates should not indicate any reference to a disability. The Modified Standard Diploma should be listed as a Standard Diploma on transcripts to avoid disclosure that the student has a disability. The total number of verified credits will be listed on the transcript and will be an indication of what requirements the student earned towards graduation. Agency response: Refer to previous responses.
- (7) The Board of Education is to be commended for establishing the Modified Standard Diploma as an option for the small number of students with disabilities who are unable to achieve the academic requirements of a Standard Diploma. It is important not to penalize or discriminate against students due to the awarding of this diploma. We appreciate this opportunity to comment on the Secondary School Transcript regulations. Agency response: Refer to previous responses.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

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(1) The item, “Total verified credits earned,” was added to 8 VAC 70-160-30. Format options, in keeping with the changes in the Standards of Accreditation. (2) The item “passing score” has been deleted from the same section. (3) The statement, “The accreditation status of a high school shall not be included on the school profile data sheet,” has been added to 8 VAC 20-160-40. Profile data sheet.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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 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.*

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The revision of the regulations governing the *Secondary School Transcript* will not have an impact on the institution of the family and family stability.