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Regulatory
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Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-680-10 et seq.
Regulation title	Regulations for the General Achievement Diploma
Action title	Permanent regulations to replace emergency regulations
Document preparation date	March 16, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

The 2003 General Assembly approved House Bill 1464 that amends §§22.1-253.13.4 and 22.1-254.2 of the Code of Virginia requiring the Board of Education to establish a General Achievement Diploma. The Board of Education regulations on awarding a high school diploma (8 VAC 20-200-10) states: "The awarding of a high school diploma shall be based upon statute, regulations of the Board of Education, and those requirements which may be prescribed by the local school board. Other forms of recognition shall be awarded at the discretion of the local school board."

The regulation establishes an individual's eligibility and the course/credit/assessment requirements for the diploma. It replaces emergency effective from November 4, 2003 through November 4, 2004 with very minor changes except in format.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The most relevant law governing the promulgation of these regulations is:

§22.1-253.13.4. Standard 4. Diplomas and certificates; class rankings.

“E. By September 1, 2003, the Board shall establish, by regulation, requirements for the award of a general achievement diploma for those persons who have (i) achieved a passing score on the GED examination; (ii) successfully completed an education and training program designated by the Board of Education; and (iii) satisfied other requirements as may be established by the Board for the award of such diploma.”

The Board of Education is promulgating permanent regulations to replace emergency regulations effective from November 4, 2003 through November 4, 2004 under the mandatory authority granted by the above statute and the requirements of the Administrative Process Act.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail 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.

The Board of Education is promulgating permanent regulations to replace emergency regulations adopted May 28, 2003 to meet the requirements of the Administrative Process Act (APA) and newly enacted legislation. The APA says, in section 2.2-4011, that "pursuant to § 2.2-4012, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations." The emergency regulations are effective from November 4, 2003 through November 4, 2004. The APA requires that permanent regulations be adopted if the requirements are to continue.

The regulation is essential to protect the welfare of citizens because it defines the requirements for individuals who do not meet the requirements for other diplomas described in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131-10 et. seq.) or the *Regulations Governing Adult High School Programs* (8 VAC 20-30-10 et seq.) and wish to earn a General Achievement Diploma. The proposal satisfies the requirements of state law.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Please note: If an objection to the use of the fast-track process is received within the 60-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 (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The rationale for using the fast-track process is that the emergency regulations expire in November 2004. The normal time frame for the promulgation of new regulations is a minimum of 18 months. Even with filing the Notice of Intended Regulation Action (NOIRA) at the same time the emergency regulations were adopted, there would be a lapse in regulatory oversight for awarding these diplomas if the fast-track process is not used.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

There are no new substantive provisions or changes to the existing emergency regulations except in format.

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.*

The primary advantage to the public by adopting these regulations is that clear and concise direction is given to those who seek to earn this diploma. A secondary advantage is that this diploma provides another option to improve the status of citizens who otherwise may not have an opportunity to earn a high school diploma.

The advantage to the Commonwealth is that the promulgation of this regulation satisfies the statutory requirement imposed by the General Assembly.

There are no disadvantages to the public or the Commonwealth.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

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	The cost to the state to implement the regulation is minimal. The regulation will be posted on the appropriate state web sites and disseminated electronically to local school divisions. The cost will
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expenditures	be absorbed into the existing cost for maintaining the web sites. There are no costs for enforcement.
Projected cost of the regulation on localities	The number of diplomas awarded by local school boards will determine the cost to localities.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Local school divisions, local school boards, guidance counselors and other educators will be affected by the regulation.
Agency’s best estimate of the number of such entities that will be affected	136 school divisions and local school boards may be affected. The number of guidance counselors or other educators potentially affected cannot be determined.
Projected cost of the regulation for affected individuals, businesses, or other entities	The projected cost cannot be determined. The number of diplomas awarded by local school boards will determine the cost.

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.

Alternatives from the public will be given significant consideration during the review process. The Board of Education must establish, by regulation, the requirements for the general achievement diploma. No alternatives were suggested during the comment period following the publication of the Notice of Intended Regulatory Action (NOIRA) or during the time the emergency regulations have been in effect.

Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The proposed regulation could have impact on the institution of the family or family stability by allowing more individuals an opportunity to obtain a high school diploma and therefore will encourage economic self-sufficiency and increase disposable family income.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
2	8VAC 20-680-10	1. Diploma candidates may be individuals who are of the age ¹ to enroll in a public school whether they choose to enroll or not; or individuals who because of their age are not eligible to enroll in a public school.	This language was determined to be confusing and was deleted for clarity. The new language reads as follows: "Individuals who meet one of the following criteria shall be eligible to earn the General Achievement Diploma: 1) Individuals who are at least 18 years of age and not enrolled in public school; or 2) Individuals who are not otherwise subject to the compulsory school attendance requirements set forth in §22.1-254 of the Code of Virginia."

There are no other changes to the existing emergency regulations except in format.