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Proposed Regulation Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC 20-100
VAC Chapter title(s)	Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections
Action title	Amendments to the Compulsory Minimum Training Standards
Date this document prepared	07/26/2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapter 6VAC20-100-20 specifies that, under the direction of the board, and pursuant to the provisions of subdivision 9 of § 9.1-102 of the Code of Virginia, the Department establishes the compulsory minimum training standards for full-time and part-time officers of the Department of Corrections. All individuals hired as correctional officers, as defined in § 53.1-1, shall meet or exceed these standards. Through this action, these minimum training standards will be amended and incorporated by reference, to revise not only the number of required training hours, but also to enhance performance outcomes and update outdated language, for effectiveness and efficiency in training new academy recruits within the Department of Corrections.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

BCO- Basic Corrections Officer
Board- Criminal Justice Services Board
DOC- Department of Corrections
DCJS- Department of Criminal Justice Services
Department- Department of Criminal Justice Services

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Though Board approval to amend the compulsory minimum training standards was granted in 2014 and a subsequent regulatory action opened, that action was ultimately withdrawn in 2018 to separate the responsibilities of academies from officers. The Department of Corrections approached the Department of Criminal Justice Services for assistance shortly thereafter in updating and improving the compulsory minimum training standards for new corrections officers, but a new Board approval was never officially sought nor obtained until December 10, 2020.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Chapter 6 VAC 20-100-20 specifies that, under the direction of the board, and pursuant to the provisions of subdivision 9 of § 9.1-102 of the Code of Virginia, the Department establishes the compulsory minimum training standards for full-time and part-time officers of the Department of Corrections. All individuals hired as correctional officers, as defined in § 54.1-1 shall meet or exceed these standards. § 9.1-102 states that the Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers specified within that Code, shall have the power and duty to establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates, which have been included in the amendments made.

DCJS is the appropriate promulgating agency based on the statutory authority stated in § 9.1-102, in that the Department shall Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and

comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The Department of Criminal Justice Services and the Department of Corrections are in agreement that an update to the compulsory minimum training standards for new corrections officers is appropriate, and much needed. Current BCO standards are outdated and, in certain instances, not practical and/or efficient. This action seeks to not only improve clarity, efficiency, and effectiveness by amending performance outcomes and training objectives, but also improves the current minimum training standards for new recruits beginning employment with the Department of Corrections, as basic corrections officers, to include the minimum number of required hours to be trained.

Additionally, legislation established in the 2020 Session of the General Assembly requires specific training and means of dealing with pregnant inmates at DOC facilities. This regulatory action will incorporate this into the revised training standards. The Department has met and worked extensively with the Department of Corrections Curriculum Review Committee, as well as subject matter experts, to revise and improve the current standards in each individual category of training. The revised standards will now be incorporated by reference, replacing the current Document Incorporated By Reference (DIBR), which is no longer applicable. This action will also serve as a periodic review, as it one has not been conducted in some time.

Substance

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.

Substantial changes and improvements have been made and applied to the performance outcomes, training objectives, testing criteria, and lesson plan guides in each individual category of training. These changes will reflect improved and updated language and enhanced training, in addition to amending the existing number of training hours (including field training) required for new corrections officers to improve efficiency and effectiveness.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

There are no issues, nor disadvantages, associated with the regulatory change that effect individual private citizens, businesses, other agencies within the Commonwealth, or government officials.

Advantages of this regulatory change include improved, more efficient training for new corrections officers employed with the Department of Corrections.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no requirements of this regulatory change that are more restrictive than applicable federal requirements, as there are none associated.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

There are no other state agencies, localities, or other entities that are particularly affected by this regulatory change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>There are no projected changes in costs, savings, fees, or revenues associated/resulting from this regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no projected costs, savings, fees, or revenues resulting from this regulatory change associated with any other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>Benefits include the aforementioned improvements to the training standards for new corrections officers employed with the Department of Corrections.</p>

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There are no projected costs, savings, fees, or revenues for localities resulting from this regulatory change.
Benefits the regulatory change is designed to produce.	Localities may benefit, secondarily, by knowing that any DOC facility within their jurisdiction is enhancing the training of corrections officers, thus keeping the community safer. Otherwise, there is no impact to localities.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	There is no impact on other entities.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. 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.	No additional entities will be affected by this regulatory change.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There is no projected costs associated that would affect individuals, businesses, or other entities resulting from this regulatory change.
Benefits the regulatory change is designed to produce.	This regulatory change has no impact on any other entities outside of the Department of Corrections.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

No viable alternatives exist to this regulatory change. The agency maintains that this action will be neither burdensome nor intrusive to the Department of Corrections, and, on the contrary, will improve the efficiency and effectiveness of training.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Pursuant to 2.2-4007.1B of the Code of Virginia, DCJS maintains there are no alternative regulatory methods that will accomplish the objectives of applicable law while minimizing the adverse impact on small businesses, because this regulatory change will not affect other entities or localities other than the Department of Corrections.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

DCJS is utilizing this regulatory change to serve as a comprehensive periodic review of the regulation, as one has not been conducted in some time. This was announced during the NOIRA stage. The agency has considered the continued need for this regulation and its necessity for the protection of public health, safety, and welfare, and has determined that this regulation is crucial to the Department of Corrections. The regulation itself, along with all performance outcomes, training objectives, testing criteria, and lesson plan guides, are clearly written and easily understandable, while maintaining no impact on small businesses or outside entities. 6 VAC 20-100 does not overlap or duplicate any federal or other state law or regulation, and amendments made only enhance training for new recruits. DCJS maintains that the regulatory change benefits both new recruits, but also training staff within DOC.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No comments were received during the previous regulatory stage.

Commenter	Comment	Agency response

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Department of Criminal Justice Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kristi Shalton, 1100 Bank St, Richmond, VA 23219, (804) 786-7801, (804) 786-0410 (fax), or kristi.shalton@dcjs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
100-20	N/A	6 VAC20-100-20 B(1) requires that new corrections officers employed with DOC successfully complete basic correctional officer training at a certified criminal justice training academy, external training location, or satellite facility, which includes receiving a minimum of 400 hours of department approved training in several listed categories of training.	Changes are being made to 6 VAC20-100-20 B(1) in the number of minimum required training hours, which is also referred to as "basic training," requiring specific performance outcomes, training objectives, and testing criteria to be met in the following categories: Security and supervision; Communication; Safety; Emergency response; Conflict and crisis management; Law and legal; Legal Issues; Duty Assignments and Responsibilities; Professionalism; Basic Corrections Officer Firearms Training; and Physical Fitness Training. While the categories of training will remain the same, the number of training hours will be reduced from 400 to 320 for efficiency purposes. While this is only a minimum requirement and certain academy classes may choose to extend this number at their discretion, the rationale behind this reduction is that less time will be spent "idle," just to fulfill a required number. While the specific standards and individuals performance outcomes for these basic categories of training are not currently detailed the regulation, DCJS provides these standards on their website at https://www.dcjs.virginia.gov/law-enforcement/manual/standards-performance-outcomes/basic-corrections-officer . This regulatory action will add these performance outcomes to the regulation as an incorporated document. Additionally, the current regulation incorporates the field training standards for the correctional officer employed by the Department of Corrections, as well as other officers such as civil process, courtroom security, jail officer, etc. This regulatory action would repeal and replace the currently incorporated document with an incorporated document that includes both the basic training standards and the field training standards for the correctional officer. Both the basic training standards (from the website) and the field training standards (from the website and the currently incorporated document) will be revised and updated.

			A summary detailing the change, category-by-category, can be found below.
100-20	N/A	6 VAC20-100-20 B(2) requires that new corrections officers employed with DOC successfully complete a minimum of 200 hours of approved training in the category of field training identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.	6 VAC20-100-20 B(2) will change to also reflect a reduction in the number of minimum required hours in field training. This number will be amended from the previous 200 hours, to 120 hours for efficiency purposes. Additionally, as mentioned above, the current regulation incorporates the field training standards for the correctional officer employed by the Department of Corrections, as well as other officers such as civil process, courtroom security, jail officer, etc. This regulatory action will repeal and replace the currently incorporated document with an incorporated document that includes both the basic training standards and the field training standards for the correctional officer.

Detail of Changes to DOC BCO Compulsory Minimum Training Standards

Category 1- Security and Supervision

- Revised wording of POs and eliminated redundancy
- Changed several practical exercises to written exercises
- Added several Training Objectives to better reflect revised Performance Outcomes for clarity
- Revised and significantly enhanced content in LPGs (Lesson Plan Guides) to be taught to new officers
- Added additional information and removed redundancy (i.e. added types of counts to the LPG of PO 1.1)
- Created new PO 1.4 dealing with inmate disciplinary procedures, new 1.9 to identify abnormal behavior among inmate population, new PO 1.10 for better identification of high-risk behavior(s) and how to handle them while maintaining professionalism, and 1.12 identifying management of abnormal behavior(s)
- Created new PO 1.8 to address and identify inmate employment opportunities within the correctional setting
- Created new PO 1.11 dealing with suicidal ideation, prevention, and intervention strategies

Category 2- Communications

- Changed several written exercises to practical exercises
- Clarified effective interpersonal verbal and non-verbal communication skills

- Enhanced communication barriers section and elaborated for more effective content and measurability by creating new PO 2.5 identifying different levels of understanding and language barriers among individuals within a correctional setting
- Renumbered and fixed multiple technical errors (i.e. punctuation, spelling, etc.)
- Enhanced LPGs and added additional content to be taught (but not necessarily to be tested)

Category 3- Safety

- Revised practical and written TOs (Training Objectives)
- Amended and enhanced language in POs for better clarity and understanding
- Removed redundancy
- Revised Criteria sections to better reflect POs and TOs
- Renumbered entire category to fix errors
- Ensured TOs utilize language that makes them measurable
- Created new PO 3.4 dealing with transportation of inmates, new PO 3.7 for inventorying keys and locking devices, new PO 3.14 dealing with the disbursement of unlawful assemblies, 3.15 that addresses use of force, and 3.17 for weapons retention
- Included less lethal force options in the new (renumbered) PO 3.13 that deals with identification of chemical agents

Category 4- Emergency Response

- Revised practical and written TOs for more effective instruction
- Amended and enhanced language in POs for better clarity and understanding
- Ensured language used created measurability for testing and auditing purposes
- Renumbered entire category and fixed multiple technical errors
- Added content to LPGs for enhanced classroom teaching
- Created new PO 4.2 dealing with hostage situational awareness and survival, new 4.6 that teaches and tests on terrorism and weapons of mass destruction in the workplace, new 4.7 dealing with response to an escaped inmate, and new PO 4.8 that addresses active shooter response within a correctional setting

Category 5- Conflict and Crisis Management

- Removed redundant and outdated language, as well as content that appears elsewhere in other categories
- Renumbered entire category; made category smaller in content more training more efficient

Category 6- Law and Legal Issues

- Reworded and restructured language in POs for clarity and understanding of intended task(s)
- Reorganized written and practical exercises
- Removed redundant information and testing Criteria
- Increased information taught on Federal Code and the Constitutional rights of inmates

- Created new PO 6.5 to identify established federal and state standards for the prevention, detection, and response to sexual abuse, sexual assault, and/or harassment
- Created new PO 6.6 to identify established federal law(s) concerning the protection of religious exercise by institutionalized persons

Category 7- Duty Assignments and Responsibilities

- Removed redundancy
- Renumbered entire category and fixed various technical errors
- Reorganized practical and written exercises for better clarity
- Created new PO 7.7 dealing with the operation of electrical detection equipment designed to detect contraband within a correctional facility, and new 7.8 dealing with food distribution procedures to inmates

Category 8- Professionalism

- Created new PO 8.2 requiring the student to identify various aspects and elements of the criminal justice system, as well as new 8.3 addressing performing duties in a positive, professional manner
- Removed redundancy and renumbered category

Category 9- BCO Firearms Training

- Created new 9.1 addressed safety procedures while students are at the range, as well as the identification of the cardinal rules of firearms
- Added additional content to LPGs
- Revised wording for clarity and understanding of specific intent of tasks and also to ensure measurability
- Revised firearms qualification courses and struck through the old ones
- Created new PO 9.6 dealing with duty rifle, ammunition, and equipment, and well at 9.7 dealing with department-issued shotgun(s) and qualification with each
- Revised 9.8 to better incorporate less-lethal launchers
- Renumbered category for more efficiency and put new qualification courses as appendices, listed after the performance outcomes

Category 10- Physical Fitness Training

- Removed outdated and redundant language and essentially rewrote entire category to include much more relevant information
- Created new PO 10.1 addressing the identification of the importance and benefits of establishing and maintaining overall physical wellness for officers, as well as new 10.2 relating to physical exercise
- Added additional content in LPGs to ensure all students were being taught the same information, especially if some are not familiar with specific exercises
- Created new PO 10.3 that deals with the identification of workplace stressors and its causes and impacts, as well as reduction strategies

Category 11- Field Training

- Reduced number of field training hours to 120 for efficiency

- Reworded and revised current POs and tasks to ensure measurability for auditing purposes
- Included/added updated information in reference to DOC’s electronic inmate record system
- Added additional information to better address the transportation of inmates, to include specific populations, such as pregnant inmates, or those with special needs (i.e. medical illness, non-ambulatory persons, etc.)
- Revised and enhanced 11.18 in its entirety dealing with weapons handling
- Renumbered, clarified content, and better organized entire category

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage