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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 20-630
Regulation title	Standards for State-Funded Remedial Program
Action title	Technical Amendment as required by HB 208 approved by the 2010 session of the General Assembly
Date this document prepared	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The 2010 session of the General Assembly enacted House Bill 208, approved on March 9, 2010 that required § [22.1-199.2](#) of the code of Virginia be amended and reenacted as follows:

The Board of Education shall promulgate regulations for establishing standards for Remedial programs that receive state funding, without regard to state funding designations, which shall be designed to strengthen and improve the effectiveness of such programs in increasing the scholastic achievement of students with academic deficiencies. Such standards shall require (i) school divisions to evaluate remediation programs, annually, in terms of the pass rate on the Standards of Learning tests and (ii) that school divisions report, on such forms as may be required by the Board for such purpose, data pertaining to the demographic and educational characteristics of students who have been identified for remediation pursuant to subsection C of § [22.1-253.13:1](#), or clause (ii) of subsection A of § [22.1-254](#), and § [22.1-254.01](#). Data submitted to the Board shall include, but not be limited to, the number of students failing any Standards of Learning assessments for grades three through eight and any end-of-course tests required for the award of a verified unit of credit required for the student's graduation; a demographic profile of the students attending such programs; the academic status of each such student; the types of instruction offered, the length of the program, and the local costs of the program; the number of ungraded and disabled students, and those with limited English proficiency (ESL); and the number of students failing the Standards of Learning assessments for grades three through eight or end-of-course tests required for the award of a verified unit of credit required for the student's graduation who attend remediation programs. School divisions shall also report to the Board the number of students who successfully complete the objectives of remedial programs that they attended due to their performance on the Standards of Learning assessments.

The Board shall also establish in regulations, a formula for determining the level of funding necessary to assist school divisions in providing transportation services to students required to attend remediation programs.

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.

On June 24, 2010, the Virginia Board of Education approved the proposed technical amendments to the 8 VAC 20-630 to conform with the intent and requirements of the 2010 session of the General Assembly enacted House Bill 208, approved on March 9, 2010 and requested that the Virginia Department of Education move forward with the fast track proposed regulatory process.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), 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 2010 session of the General Assembly enacted House Bill 208, approved on March 9, 2010, required that § [22.1-199.2](#) of the Code of Virginia be amended. The Virginia Board of Education subsequently approved a technical amendment to the 8 VAC 20-630 Standards of State-Funded Remedial Programs to strictly conform to changes in § [22.1-199.2](#) and requested that the Virginia Department of Education move forward with the fast track proposed regulatory process.

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 proposed technical amendment to 8 VAC 20-630 will remove reporting requirements for local school divisions as data needed for the Virginia Department of Education to analyze these programs is now available through the department's internal data information management system. Specifically, the department can track and analyze data for students coded as remediation recovery. In the *Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia*, remediation recovery is defined as a voluntary program that schools may implement to encourage successful remediation of students who do not pass certain Standards of Learning (SOL) tests in grades K-8 and high school reading and mathematics. Schools are required to maintain evidence of a student's participation in a remediation recovery program along with the scores of any SOL tests taken following remediation in the student's record. There is no need to burden school divisions with unnecessary reporting as required in 8 VAC 20-630 as a student's participation in a remediation recovery program is now documented within the student's test record. The amendments (see Attachment A) remove the burden of reporting requirements for state-funded remedial programs for school divisions.

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?

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 amendments to 8 VAC 20-630 are technical amendments to conform with the intent and requirements of the Code of Virginia, House Bill 2008, approved on March 9, 2010, of the 2010 General Assembly.

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.)

The amendments remove the burden of reporting requirements for state-funded remedial programs for school divisions. At the time the regulation was approved, data regarding state-funded programs was not available to the department by any other means. Presently, data related to an analysis of state-funded remedial programs can be obtained through the department's internal data information management system.

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 of this regulation is to eliminate the burden of reporting data that can be obtained through the department's internal data management system.

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.

Not applicable

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 localities would be equally affected by the proposed regulation.

Regulatory flexibility analysis

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.

Not applicable

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

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.	None
Projected cost of the regulation on localities.	None
Description of the individuals, businesses or other entities likely to be affected by the regulation.	None
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. <i>Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</i>	None
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	None

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 other viable alternatives for achieving the purpose of the regulation.

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.

Not applicable.

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
8 VAC 20-630-20		Requires the Board of Education to approve all state-funded remedial plans by each local school division. Requires each local school division to submit a budget for the remediation plan that identifies the sources of state funds in the plan.	Removes the requirement for each local school division to submit a state-funded remedial plan to the Board of Education for approval. Removes the requirements for each local school division to submit a budget for the remediation plan that identifies the sources of state funds in the plan.
8 VAC 20-630-50		Requires local school divisions to submit data pertaining to state-funded remedial programs.	Removes the requirement for local school divisions to submit data pertaining to state-funded remedial programs.