



# Virginia Department of Planning and Budget **Economic Impact Analysis**

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## **8 VAC 20-131 Regulations Establishing Standards for Accrediting Public Schools in Virginia**

**Department of Education**

**Town Hall Action/Stage: 6308 / 10286**

April 12, 2024

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.<sup>1</sup>

### **Summary of the Proposed Amendments to Regulation**

The Board of Education (Board) proposes to repeal 8 VAC 20-131 *Regulations Establishing Standards for Accrediting Public Schools in Virginia*, and replace it with 8 VAC 20-132 *Virginia Standards of Accreditation*.

### **Background**

#### *Merging Two Accountability Systems*

Currently, the Department of Education (DOE) runs two separate accountability systems. The *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131) pertains to state requirements. The agency also runs a separate, but similar, accountability system to meet federal requirements (which is not described in a state regulation, but includes school quality indicators, weighting, and identification of low-performing schools for support and interventions – as well as additional federal funding). Local school divisions and schools

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

currently must navigate and utilize resources for the two different systems although each has the same purpose – identifying low-performing schools and improving school outcomes. The proposed regulation (8 VAC 20-132) would create a school performance framework, starting in the 2025-26 school year, that merges the state and federal requirements into one accountability system.

### *Current Regulation*

The current regulation creates an accreditation system that is focused on one of the eight components in the Standards of Accreditation as outlined in § 22.1-253.13:3 of the Code:<sup>2</sup> student outcomes and growth.<sup>3</sup> In support of this, the regulation identifies and defines a set of school quality indicators,<sup>4</sup> and each school receives a rating of Level One, Level Two, or Level Three for each school quality indicator. Level One is when the school’s achievement on the specific indicator demonstrates acceptable performance or performance above the benchmark or adequate improvement on the indicator. Level Two is when the school’s achievement on the specific indicator is below Level One but is within specified ranges of performance that either represent: (i) achievement near Level One or (ii) improvement from Level Three, within a specified range. Level Three is when the school’s achievement on the specific indicator is below the performance benchmarks for Level One and Level Two. Based on the assigned level, divisions and schools would then develop corrective action plans to address a Level Two or Three school quality indicator. No federal or direct state funds are provided to help develop the corrective action plans.

A school is deemed “Accredited” when each of its school quality indicators are at Level One or Level Two. A school is deemed “Accredited with Conditions” when any school quality indicator is at Level Three, but it adopts and implements school division or school corrective action plans with fidelity. However, if a school is designated “Accredited with Conditions” and

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<sup>2</sup> See <https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13:3/>

<sup>3</sup> The other seven components of the Standards of Accreditation are: 1) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, 2) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, 3) student services, 4) auxiliary education programs such as library and media services, 5) requirements for graduation from high school, 6) community relations, and 7) the philosophy, goals, and objectives of public education in the Commonwealth.

<sup>4</sup> See <https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section380/>

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the school or school division fails to adopt and implement school division or school corrective action plans with fidelity, it may be designated by the Board as “Accreditation Denied.”

### *Separating Accountability from Accreditation*

In the new regulation, the Board proposes to separate accountability from accreditation, creating two separate but inter-related systems. The proposed school accountability system would measure student outcomes and identify schools for support, and the school accreditation system would determine full compliance with each of the eight components of the Standards of Accreditation as outlined in § 22.1-253.13:3 of the Code.

As mentioned above, the proposed regulation would create a school performance framework that merges state and federal requirements into one accountability system. This system would report and differentiate school performance on school quality indicators by (1) calculating an overall performance score (based on a weighted calculation across all indicators); (2) assigning schools an overall performance category for reporting purposes; and (3) identifying low-performing schools for support, aligning that support to federal requirements and federally allocated funds. Schools would be designated as requiring comprehensive support (in the bottom five percent or with low graduation rates), targeted support (schools with student groups performing at the same level as the bottom five percent), and additional targeted support (schools that have been identified as requiring targeted support for three years). These schools would receive federal funds for improvement efforts and develop support plans that include stakeholder engagement, a needs assessment, and evidence-based interventions; the proposed regulation newly requires that parents be included as one of the stakeholder groups to align with federal requirements for support plans.

Accreditation would be based on all eight components of the Standards of Accreditation, and all divisions and schools would need to submit evidence of compliance with the Code requirements; schools designated as needing comprehensive support would also need to demonstrate improvement on student outcome and growth measures in order to be “Fully Accredited.” Schools that do not submit satisfactory evidence, as well as comprehensive support schools that do not make sufficient progress on student outcomes, would be designated as “Conditionally Accredited.” There are two situations in which a school may be designated by the Board as “Accreditation Denied.” First, if a school is designated as “Conditionally Accredited”

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and the school or school division fails to submit additional specified documentation. Second, if a school identified for comprehensive support is designated “Conditionally Accredited” and fails to submit, amend, adopt, and implement a revised multi-year support plan with more rigorous actions, the Superintendent of Public Instruction shall review the school for potential designation by the Board as “Accreditation Denied” and shall present the results of such review to the Board with recommendations. If the Board determines that any such school is at not on track to improve student achievement, growth, and performance on other school quality indicators and meet specified the exit criteria due to its failure to adopt and implement a multi-year school support plan and corrective action plan with fidelity, the Board shall designate such school as “Accreditation Denied.”

Some aspects of the new school performance framework, which are referenced in the proposed regulatory text, are not being addressed through this regulatory action. Instead, DOE reports that the Board will finalize certain components through the development of Virginia’s federal Every Student Succeed Act Consolidated State plan, which must be approved by the U.S. Department of Education. These decisions will include final measures within each school quality indicator, the weights of the indicators and individual measures, the number and names for performance categories, final decisions on school identification, exit criteria, and more rigorous interventions

### *School Performance Report*

Both the current and proposed regulation require that parents and the community be annually provided with a school performance report.<sup>5</sup> Both require that the report include indicators of the following: accountability, assessments, enrollment and demographics, college and career readiness, finance, learning environment, and teacher quality. The proposed regulation newly requires that the report include key elements of the newly unified accountability system, particularly “school performance, disaggregated by student reporting groups, on each school quality indicator..., the school’s overall performance category..., and whether the school is identified for improvement.” In particular, the new regulation adds growth in reading and mathematics, as measured by an individual student’s year-over-year progress on

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<sup>5</sup> The current regulation calls this report the school quality profile.

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summative statewide end-of-year tests, for elementary and middle schools to the reported indicators.

### **Estimated Benefits and Costs**

By creating a school performance framework that merges the state and federal requirements into one accountability system, the DOE Office for School Quality resources would be able to focus resources because staff would not have to dilute their services across two sets of schools that have been identified for different reasons and that have different requirements for school improvement. Further, since poorer performing local school divisions are currently required to develop school improvement plans for both systems, the shift to a single accountability system in the proposed regulation would reduce the staff hours required to develop these plans and also reduce duplicative needs assessments, interventions, data collection, and reporting.

The proposal to add to the annual school report each school's overall performance category, school improvement status, and disaggregated information on each school quality indicator, such as growth in reading and mathematics (as measured by an individual student's year-over-year progress on summative statewide end-of-year tests) provides useful information for parents and the community to judge how well their schools are performing. However, because some aspects of the new school performance framework are not being addressed through this regulatory action, the impact of those changes cannot be determined.

### **Businesses and Other Entities Affected**

The proposed amendments affect the 1,823 public schools subject to accountability and accreditation<sup>6</sup> and the 131 public school divisions in the Commonwealth, as well as DOE; students and their parents are also affected.<sup>7</sup>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>8</sup> An adverse impact is indicated if there is any increase in net cost or

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<sup>6</sup> Including local and regional centers, there are 2,216 public schools in the Commonwealth.

<sup>7</sup> Data source: DOE

<sup>8</sup> Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>9</sup> Based upon the information provided by DOE, the proposed regulation does not appear to increase costs or reduce revenue. Thus, no adverse impact is indicated.

### **Small Businesses<sup>10</sup> Affected:<sup>11</sup>**

The proposed regulation does not appear to adversely affect small businesses.

### **Localities<sup>12</sup> Affected<sup>13</sup>**

The proposed regulation may particularly affect those localities that currently must produce school improvement plans for the two different accountability systems. School divisions for these localities would save staff time as described above. The proposed regulation does not appear to increase costs for local governments.

### **Projected Impact on Employment**

The proposed amendments do not appear to affect total employment.

### **Effects on the Use and Value of Private Property**

The proposed amendments do not appear to affect the use and value of private property or real estate development costs.

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<sup>9</sup> Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

<sup>10</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”

<sup>11</sup> If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>12</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>13</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.