



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

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## **8 VAC 20-81 Regulations Governing Special Education Programs for Children with Disabilities in Virginia**

**Department of Education**

**Town Hall Action/Stage: 6552 / 10445**

October 7, 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**

Pursuant to Chapter 502 of the 2024 *Acts of the Assembly*,<sup>2</sup> the Board of Education (Board) proposes to include a definition for “short term objectives” in regard to the individualized education program (IEP) content, and to amend 8VAC20-81-110 to include student input (when appropriate) as required in the development of an IEP. An additional amendment is made for clarification.

### **Background**

The regulation defines IEP as “a written statement for a child with a disability that is developed, reviewed, and revised in a team meeting in accordance with this chapter. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs.”

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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.

<sup>2</sup> See <https://legacylis.virginia.gov/cgi-bin/legp604.exe?241+ful+CHAP0502>.

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### *Short-term Objectives*

The regulation states that the IEP team shall “Consider the child's needs for benchmarks or **short-term objectives**.” Additionally, it states that the IEP shall include: “If determined appropriate by the IEP team ... a description of benchmarks or **short-term objectives**. For children with disabilities who take alternate assessments aligned to alternate achievement standards, the IEP shall include a description of benchmarks or **short-term objectives**” (emphasis added).<sup>3</sup>

The current regulation does not include a definition for “short-term objectives.” The Board proposes to define it as “measurable intermediate steps that enable an Individualized Education Program (IEP) team to monitor a student's progress toward achieving the annual goals.”

### *Developing the IEP*

The current regulation states that:

In developing each child's IEP, the IEP team shall consider:

- a. The strengths of the child;
- b. The concerns of the parent for enhancing the education of their child;
- c. The results of the initial or most recent evaluation of the child; and
- d. The academic, developmental, and functional needs of the child.

The Board proposes to amend this to:

In developing each child's IEP, the IEP team shall consider **and document in the IEP**:

- a. The strengths of the child;
- b. The concerns of the parent (**and child, whenever appropriate**) for enhancing the education of their child;
- c. The results of the initial or most recent evaluation of the child; and
- d. The academic, developmental, and functional needs of the child.

The proposed new text is in bold.

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<sup>3</sup> The bolded text is for emphasis.

## Estimated Benefits and Costs

By adding a definition for short-term objectives, there is improved clarity for readers of the regulation. According to the Department of Education (DOE), adding the definition is only clarification and does not change requirements.

As indicated above, the current regulation states that the concerns of the parent shall be considered in the development of the IEP. To the extent that adding that the concerns of the child are to be considered in the development of the IEP increases the effectiveness of IEPs, it would be beneficial. DOE has indicated that adding “and document in the IEP” is a clarification of a current requirement.

## Businesses and Other Entities Affected

The proposed amendments potentially affect the 185,651 children who have IEPs in Virginia public schools, as well as the 131 public school divisions.<sup>4</sup>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>5</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>6</sup> As the proposed amendments neither increase net costs nor reduce net benefits, no adverse impact is indicated.

## Small Businesses<sup>7</sup> Affected:<sup>8</sup>

The proposed amendments do not adversely affect small businesses.

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<sup>4</sup> Data source: DOE.

<sup>5</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.

<sup>6</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>7</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>8</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

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**Localities<sup>9</sup> Affected<sup>10</sup>**

The proposed amendments neither disproportionately affect particular localities nor increase costs for local governments.

**Projected Impact on Employment**

The proposed amendments do not appear to affect 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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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>9</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>10</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.