



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Department of Education
VAC Chapter Number:	8VAC 20-630-10-70
Regulation Title:	Standards for State-Funded Remedial Programs
Action Title:	Promulgate new regulations
Date:	1/25/02

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package .

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The regulations institute a maximum pupil-teacher ratio for state-funded summer remedial programs. Also, the board requires that local school divisions record and report specified data pertaining to their state-funded remedial programs, and to annually evaluate the success of those programs. The proposed amendments also set forth a formula for funding transportation for state-funded remediation outside regular school hours.

These regulations define state-funded remediation programs as those programs defined in the local school division's remediation plan that serve eligible students from state funding sources (8 VAC 20-630-10). These regulations do not limit the definition of state-funded remedial programs to Standards of Quality remediation, Standards of Learning remediation, and summer remedial programs.

Minimum standards for state-funded programs are established, including staff qualifications, program length, and teacher to student ratios for remedial summer school (8 VAC 20-630-60). This will provide greater flexibility regarding the individuals who will be providing remediation.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The regulations for state-funded remedial programs were approved by the Board of Education on January 14, 2002.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Section 22.1-199.2 of the Code of Virginia requires the Board of Education to promulgate all necessary regulations to implement the provisions of this act for programs of remediation by August 1, 2000.

Section 22.1-253.13:1C: Standard 1 of the Code of Virginia requires local school boards to implement programs of remediation for students educationally at-risk, including, but not limited to, those whose scores are in the bottom national quartile of the Stanford 9, who do not pass the Literacy Passport Test, or who fail to achieve a passing score on any Standards of Learning assessment in grades three, five and eight. This section also requires the Board of Education to establish standards for full funding of state-funded remedial summer school programs that shall include, but not be limited to, the minimum number of hours and an assessment system designed to evaluate program effectiveness.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this regulation is to (i) establish standards and evaluate state-funded remedial programs and (ii) establish a formula for determining the appropriate level of funding necessary to assist school divisions in providing transportation services to students required to attend state-funded remedial programs. These regulations will assist the Department in reporting the effectiveness and efficiency of state-funded remedial programs to the General Assembly.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Key provisions of the regulations:

1. Define state-funded remedial programs as those programs defined in the local school division's remediation plan that serve eligible students from state funding];
2. Define students eligible for state-funded remedial programs as those who meet either (i) the criteria identifying students who are educationally at risk that has been established by the local school board or (ii) the state criteria identifying students who are educationally at risk as specified in §22.1-253.13:1 of the Code of Virginia;
3. Require each local school division to develop a remediation plan designed to strengthen and improve the academic achievement of eligible students, school divisions shall submit these plans at a time to be determined by the Superintendent of Public Instruction for approval by the Board of Education. Following approval of the plan, each local school division shall submit a budget for the remediation plan that identifies the sources of state funds in the plan (§22.1-253.13:1 of the Code of Virginia)];
4. Require each school division to record for each eligible student attending a state-funded remedial program: (i) the state or local criteria used to determine eligibility; (ii) the expected remediation goal for the student in terms of a target score on a locally designed or selected test which measures the SOL content being remediated;

and (iii) whether the student did or did not meet the expected remediation goal (§22.1-199.2 of the Code of Virginia);

5. Require each local school division to annually evaluate and modify, as appropriate, their remediation plan based on the percentage of students meeting their remediation goals. The pass rate on Standards of Learning assessments shall also be a measure of the effectiveness of the remedial program (§22.1-199.2 of the Code of Virginia);
6. Require that each local school division report to the Department of Education data elements for students enrolled in state-funded remedial programs as specified in §22.1-199.2 of the Code of Virginia;
7. Establish standards for state-funded remedial summer school in terms of pupil-teacher ratios, the minimum number of hours, and teacher qualifications (§22.1-253.13:1 of the Code of Virginia); and
8. Establish a funding formula for determining the level of funding necessary to assist school divisions in providing transportation services to students required to attend state-funded remedial programs (§22.1-199.2 of the Code of Virginia).

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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 include a sentence to that effect.

Advantages. The General Assembly and Board of Education will have consistent data to assist in assessing the effectiveness and efficiency of state-funded remedial programs.

The General Assembly will have a formula for determining the funding necessary for transportation of students required to attend state-funded remedial programs. This formula will provide a system to insure that each local school division will have equity in providing resources to students who attend state-funded remedial programs.

Establishing individual student records will tailor state-funded remedial programs to meet each student's specific needs and will provide a vital assessment and intervention tool for schools with highly mobile populations.

Disadvantages. There is an increased burden of reporting the required data to the Department of Education.

The establishment of a funding formula for determining the level of funding necessary to assist school divisions in providing transportation for students enrolled in state-funded remedial programs may result in an expectation that funds will be provided.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

After receiving initial public comments, the Board of Education made substantive changes to the original regulations and reopened public comment for an additional thirty days. See “Detail of Changes” below for a section-by section explanation of the changes made in the proposed regulation.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Below is a summary of the public comments, followed by a statement regarding the agency’s response to the comments.

Summary of public comments:

- Consider constructing a template to record all demographic data. Consider developing software to help school divisions collect required data.
- Define academic status, ungraded students, and demographic profile.
- Revise §8 VAC 20-630-30 to say “locally developed or selected assessment tools.”
- Recommend that locally designed or selected tests be stricken and use the SOL test as a post-test.
- Remediation should be based on multiple factors, including teacher recommendations, grades and other test scores as well as SOL test scores.

- Consider having the SOL test technical advisory committee determine whether it is appropriate to use the SOL tests as the pre and post data to determine if remediation has been successful.
- Revise §8 VAC 20-630-20 to reflect the passing on SOL tests as one of the determinants in students reaching the remediation goal.
- Consider allowing paraprofessionals and tutors supervised by trained staff to provide remediation.
- Consider what will be accepted as verification of training in remediation techniques for the teacher instructing in the remediation program.
- Consider using a funding formula for transportation that does not rely solely on the local composite index. Consider capping the local share at .5000.
- Consider the level of attendance that must be maintained to support funding of all students for whom the remediation is planned.
- Consider the cost to both large and small school divisions of maintaining and keeping individual student records and recording demographic profile information required by the regulations.
- Request that the state not lose the primary purpose of remediation programs—remediating students. The implementation of gathering and reporting data compromises the purpose—teaching and improving student achievement.
- Current Appropriation Act includes language that negates the reporting requirements, this needs to be changed in order to maintain and evaluate various intervention and remedial programs.
- Incorporate HJR 608 recommendations into the regulations for state-funded remedial programs.
- Initiate budget requests for transportation as soon as possible.
- Consider a lower pupil to teacher ratio of 10:1, preferably 6:1. Real gains cannot be expected with a ratio of 18:1.
- Align the requirements of §8 VAC 20-630-30 with the requirements of §8 VAC 20-630-50.
- Consider the timelines recommended. If plans are due February 1, and budgets by July 1, there may not be enough time to receive feedback from the staff before implementing the programs.

- Consider the remediation recovery program with regard to the proposed regulations. Remediation recovery only allows re-testing in two areas, the regulations are not clear in this regard. Consider how many times a student can re-test.
- Consider funding for remedial summer school to be retroactive to the beginning of the fiscal year. Funding should be available for service delivery during the entire year, not just during the summer.

Summary of agency response:

Number of times the comment was offered	Constituent(s) making the comment	Comment	Agency Response
2	School Divisions Va. Beach Franklin City	Consider constructing a template to record all demographic data. Consider developing software to help school divisions collect required data.	See §8 VAC 20-630-40 and §8 VAC 20-630-50. This consideration will be included as part of the template to be provided to localities to develop and evaluate remediation plans.
2	School Divisions Va. Beach Fairfax	Define academic status, ungraded students, and demographic profile.	
2	School Divisions Fairfax Norfolk	Revise §8 VAC 20-630-30 to say “locally developed <u>or selected</u> assessment tools.”	The proposed regulations have been revised in §8 VAC-20-630-30 to state: “record...the expected remediation goal for the student in terms of a target score on a locally designed or selected test which measures the SOL content being remediated.”
1	School Division York County	Recommend that locally designed or selected tests be stricken and use the SOL test as a post-test.	
1	Parent Group	Remediation should be based on multiple factors, including teacher recommendations, grades and other test scores as well as SOL test scores.	See Section §8 VAC 20-630-10 in the proposed regulations. The definition of “eligible students” includes options for locally established criteria.
1	Parent Group	Consider having the SOL test technical advisory committee determine whether it is appropriate to use the SOL test as the pre- and post-data to determine if remediation has	For certain students such as those in remediation recovery or those re-tested on end-of-course tests, the Standards of Learning assessment is required as

1	School Division Fairfax	been successful. Revise §8 VAC 20-630-30 to reflect the passing on SOL test as one of the determinants in students reaching the remediation goal.	the criterion of success. §8 VAC 20-630-30 satisfies this concern through the language: “the expected remediation goal for the student in terms of a target score on a locally designed or selected test which measures the SOL content being remediated.”
2	School Divisions Va. Beach Poquoson	Consider allowing paraprofessionals and tutors supervised by trained staff to provide remediation.	§8 VAC-20-630-60 was revised to state: “Individuals who provide instruction in the state-funded remedial programs shall be licensed to teach in Virginia or work under the direct supervision of an individual who is licensed to teach in Virginia; be qualified to provide instruction in area to be remediated; and be trained in remediation techniques. “
1	School Division Norfolk	Consider what will be accepted as verification of training in remediation techniques for the teacher instructing in the remediation program.	
1	School Division Fairfax	Consider using a funding formula for transportation that does not rely solely on the local composite index. Consider capping the local share at .5000. Consider the level of attendance that must be maintained to support funding of all students for whom the remediation is planned.	Funding is based on the use of the composite index as included in the Appropriation Act, which supercedes these regulations.
1	School Division Norfolk		
5	School Divisions Norfolk Fairfax Poquoson Va. Beach Franklin City	Consider the cost to both large and small school divisions of maintaining and keeping individual student records and recording demographic profile information required by the regulations.	Only data required by §22.1-199.2 has been included as a requirement in §8 VAC 20-630-50.
2	School Divisions Fairfax Franklin City	Request that the state not lose the primary purpose of remediation programs—remediating students. The implementation of gathering	

		and reporting data compromises the purpose—teaching and improving student achievement.	
1	Delegate Van Yahres	Current Appropriation Act includes language that negates the reporting requirements, this needs to be changed in order to maintain and evaluate various intervention and remedial programs.	The Governor or General Assembly may modify the Appropriation Act.
1	Delegate Van Yahres	Incorporate HJR 608 recommendations into the regulations for state-funded remedial programs.	Recommendations in HJR 608 were considered in developing the proposed regulations for state-funded remedial programs. (i.e. transportation, teacher qualifications, immediacy of the remediation, etc.)
1	Delegate Van Yahres	Initiate budget requests for transportation as soon as possible.	Any proposal for implementation of a transportation formula for state-funded remedial programs will be considered by the Board of Education with other 2002 budget proposals.
1	Principal (Does not wish to identify school division)	Consider a lower pupil to teacher ratio of 10:1, preferably 6:1. Real gains cannot be expected with a ratio of 18:1.	The regulations indicate the maximum pupil to teacher ratio of 18:1, school divisions can elect to use a lower pupil to teacher ratio.
1	School Division Virginia Beach	Align the requirements of §8 VAC 20-630-30 with the requirements of §8 VAC 20-630-50.	The individual student record and reporting requirements are required in Section 22.1-199.2 of the <u>Code of Virginia</u> . The data form for reporting will include only aggregated data required in §8 VAC 20-630-50.
1	School Division Virginia Beach	Consider the timelines recommended. If plans are due February 1, and budgets by July 1, there may not be enough time to receive feedback from the staff before	The proposed regulations have revised §8 VAC 20-630-30 to read: Each local school division shall develop a remediation plan designed

		implementing the programs.	to strengthen and improve the academic achievement of eligible students. Local school divisions shall submit these plans at a time to be determined by the Superintendent of Public Instruction for approval by the Board of Education. Following approval of the plan, each local school division shall submit, a budget for the remediation plan that identifies the sources of state funds in the plan.
1	School Division Norfolk	Consider the remediation recovery program with regard to the proposed regulations. Remediation recovery only allows re-testing in two areas, the regulations are not clear in this regard. Consider how many times a student can re-test.	The proposed regulations have revised §8 VAC 20-630-30 to read Each local school division shall record, for each eligible student attending a state-funded remedial program: (i) the state or local criteria used to determine eligibility; (ii) the expected remediation goal for the student in terms of a target score on a locally designed or selected test which measures the SOL content being remediated; and (iii) whether the student did or did not meet the expected remediation goal.
1	School Division Albemarle County	Consider funding for remedial summer school to be retroactive to the beginning of the fiscal year. Funding should be available for service delivery during the entire year, not just during the summer.	The Governor or General Assembly may modify the Appropriation Act, which supercedes these regulations.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

After receiving initial public comments, the Board of Education made substantive changes to the original regulations and reopened public comment for an additional thirty days. The following changes have been made to the original proposed regulations as a result of the public comment during the public comment periods:

Definitions:

Rather than limit the definition of state-funded remedial programs to Standards of Quality remediation, Standards of Learning remediation, and summer remedial programs, these regulations define state-funded remediation programs as those programs defined in the local school division's remediation plan that serve eligible students from state funding sources. This will allow local school divisions greater flexibility in providing remediation programs to eligible students (8 VAC 20-630-10).

Remediation plan development and approval:

"Plan" was substituted for "program" as a clarification.

Individual student record:

By allowing school divisions to use the pre-and post-test score on a locally designed or selected test, rather than waiting for the score on the Standards of Learning test, local school divisions will be able to immediately assess if the remediation program was effective. This change was made as result of response to public comment from school divisions and aligns to the current prevailing practice of local school divisions. The reliance on only the post-test Standards of Learning score would be cumbersome for school divisions to implement.

Program evaluation:

This change was made as a result of public comment. The changes clarify the components of the program evaluation.

Reporting requirements:

The change aligns the required components of 8 VAC 20-630-40 with the reporting requirements. This change was made as a result of public comment received from Virginia Beach City Public Schools.

Teacher qualifications and staffing ratios:

This change was made in response to public comment received from local school divisions. The change will reduce the burden of fiscal impact and provide more flexibility in designing programs of remediation.

Transportation formula:

The change clarifies that the regulation is dependent on provisions of the state's Appropriation Act.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.

This regulation requires local school divisions to record for each individual student enrolled in state-funded remedial programs: (1) the objective data used to determine eligibility for remediation; (2) the expected goal for the student at the conclusion of the remediation program in terms of measurable student performance; (3) the level of performance of the student on an assessment tool administered at the conclusion of the remediation program; and (4) an indication that the student did or did not meet the expected remediation goal [§22.1-253.13:1].

This information could be used to inform parents of the progress their child is making in meeting specific goals while attending programs of remediation that will lead to the child's success in passing Standards of Learning assessments.