



townhall.virginia.gov

Periodic Review and Small Business Impact Review Report of Findings

| | |
|---|---|
| Agency name | State Board of Education |
| Virginia Administrative Code (VAC) Chapter citation(s) | 8VAC20-521 |
| VAC Chapter title(s) | Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours |
| Date this document prepared | May 8, 2024 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

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

"Board" means the Virginia Board of Education.

"Department" means the Virginia Department of Education

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 or 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.

The Board’s overall regulatory authority is found in § 22.1-16 of the Code of Virginia, which states that “[t]he Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of [Title 22.1 of the Code of Virginia].”

§ 22.1-98 of the Code of Virginia provides a specific mandate concerning the reduction of state aid when school terms drop below 180 teaching days or 990 teaching hours.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

No alternatives to regulation were considered. However, the regulation appears largely duplicative of § 22.1-98.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

| Commenter | Comment | Agency response |
|-----------|---------|-----------------|
| none | none | none |

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is not necessary for the protection of public health, safety, and welfare because it essentially is a duplicate of § 22.1-98. With this being said, fails to reflect the 2021 changes to the statute. Specifically, the current regulation fails to include the language in § 22.1-98 which provides that when severe weather or other emergency situations result in a school closure a school division may elect to have an unscheduled remote learning day as an option to make up time. The statute further states that school divisions may schedule no more than 10 unscheduled remote learning days a school year unless the Superintendent of Public Instruction grants an extension, which is provided in 8VAC20-521-40(E). This subsection could be moved to 8VAC20-510-10.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The regulation should be repealed as duplicative of § 22.1-98, and the authorization provided in 8VAC20521-40(E) could be moved to 8VAC20-510-10. The periodic review found that 8VAC20-521 no longer reflects the current statutory framework and simply repeats the requirements found in the prior iteration of the code section.

Small Business Impact

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.

There is no longer a continued need for the regulation. The department is currently unaware of any complaints or comments concerning the regulation. The regulation is fairly complicated and may confuse regulated parties. The regulation essentially duplicates § 22.1-98, but fails to include the 2021 language concerning unscheduled remote school days. 8VAC20-521-10, 8VAC20-521-20, and 8VAC20-521-30 all appear to not have been amended since they became effective in 2006. 8VAC20-521-40 and 8VAC20521-50 were last amended in 2019. 8VAC20-521-60 was last amended in 2009. The agency's decision will likely have little to no economic impact on small businesses.