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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8VAC20-360
VAC Chapter title(s)	Rules Governing General Education Development Certificates
Date this document prepared	October 24, 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.
"GED" means General Education Development.

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].”

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.

The alternative is to repeal the regulation. This regulation is no longer necessary as it references a single high school equivalency (HSE) assessment and publisher. Since 2014, there have been multiple HSE assessments published by test vendors. VDOE has been running an annual or now biannual no-cost procurement process to recognize HSE assessments that meet the guidelines set forth by the Board of Education, ensuring a high-quality adult learning experience and rigorous credential. Vendors’ HSE assessments and testing protocols are reviewed against the guidelines by a panel of VDOE and outside experts. To date, only the GED(R) has met the guidelines sufficiently to be approved to award HSE certificates in Virginia and has been awarded multi-year MOUs. VDOE staff then use the publisher’s policy and guidance manual to implement the test at approved testing sites affiliated with adult education grantees, partners, and private testing providers.

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 regulatory chapter is no longer necessary for the protection of public health, safety, and welfare due to the fact it is no longer required. The regular no-cost procurement process ensures that the approved assessment(s) and testing protocols remain compliant with the Board guidance and the credential retains its rigorous value.

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 will be repealed.

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.

The Board is required by Virginia statute to promulgate regulations allowing for adult education and for the testing of high school equivalency thus creating a continued need for regulation concerning the subject matter area. With this being said, the statutory and regulatory framework has since evolved since this specific regulation was promulgated and it is now out of date. The nature or existence of any complaints is unknown, and no comments were received during the periodic review. The regulatory chapter was last revised in 2005 and it no longer reflects the current statutory framework. The agency's decision does not impact small business.
