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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)	8VAC20-580
VAC Chapter title(s)	Regulations for the School Breakfast Program
Date this document prepared	May 22, 2025

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].”

The Board’s specific regulatory authority over school breakfast programs is found in § 22.1-207.3 of the Code of Virginia, which states in part that “[t]he Board shall promulgate regulations for the implementation of the [school breakfast] program. Such regulations shall include, but not be limited to, criteria for eligibility and exemptions; a reporting system for the compilation and analysis of information concerning the number and socioeconomic characteristics of participating school-age children; standards for food services; program evaluation; the investigation of complaints; an appeals process; notification of parents and guardians of the availability of the school breakfast program; and provision to teachers, children, and their parents or guardians of nutrition information describing the relationship between good nutrition, learning, and health.”

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 this regulation were considered as part of the periodic review. The Board is required by § 22.1-207.3 to have regulations governing the school breakfast program.

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
N/A	N/A	N/A

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.

Although the underlying policy in chapter 580 contributes to the protection of public health, safety, and welfare this regulatory chapter does not need to be an independent chapter because it primarily notifies local education agencies of the need to follow state and federal law as pertaining to the federal School Breakfast Program administered by the U.S. Department of Agriculture and to make breakfast available pursuant to such programs to any student who requests such a meal. Chapter 580 could be streamlined under 8VAC20-720, which will enhance the clarity and reduce the number of Board’s regulatory chapters. The underlying policy of the regulatory chapter is clearly written and easily understandable.

Further, the chapter no longer reflects current Virginia law, as § 22.1-79.7:1 was promulgated in 2020 and requires “[e]ach local school board to require each public elementary and secondary school to participate in . . . the federal School Breakfast Program.” As a result, certain sections of the chapter that reference eligibility criteria are no longer aligned with the Code of Virginia.

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. The underlying policy of 8VAC20-20-580 will be moved to 8VAC20-720. Moving the required policy in 8VAC20-580 to 8VAC20-720 will enhance the clarity and streamline VDOE's regulatory catalogue. Additionally, subsections that conflict with § 22.1-79.7:1 will be removed.

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 a continued need for parts of the regulation as it provides rules governing the federal School Breakfast Program administered by the U.S. Department of Agriculture and to make breakfast available pursuant to such programs to any student who requests such a meal. At this time, VDOE has received no comments concerning the regulation and is unaware of any complaints. The regulation is not overly complex. Chapter 580 was derived from VR270-01-0059 § 10, and was made effective July 1, 1994. Chapter 580 has not been updated to remain current with federal and state laws, particularly § 22.1-79.7:1. The agency's decision to repeal the chapter and retain the underlying policy in Chapter 720 will have no impact on small business.
