



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Department of Education
<b>VAC Chapter Number:</b>	8 VAC 20-630-10-50
<b>Regulation Title:</b>	Regulations for State Supported Remedial Programs
<b>Action Title:</b>	Proposed regulation
<b>Date:</b>	May 1, 2001

This information is required pursuant 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*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The regulations will require the collection of the minimum data necessary to comply with the intent of the legislation and the data specified in the Code. The Department will provide a reporting format, guidelines and technical assistance to school divisions with the implementation of this requirement.

This data shall be collected, analyzed and reported to accomplish a statewide assessment of state funded remedial programs. The Board shall report its analysis, assessment and any recommendations to the Governor and General Assembly annually, beginning on December 1, 2000 [§22.1-199.2.B].

The Board shall establish in regulations, a 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.A].

## 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 must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

The web site address for amendments to §22.1-199.2 is <http://leg1.state.va.us/cgi-bin/legp504.exe?001+ful+CHAP716>

The web site address for amendments to §22.1-253.13:1 is <http://leg1.state.va.us/cgi-bin/legp504.exe?001+ful+CHAP684>

§22.1-199.2 of the Code of Virginia (Code) 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. The Code requires the Board of Education to evaluate remediation programs annually in terms of the pass rate on Standards of Learning assessments. The Code further specifies certain data elements to be reported by local school divisions to the Board of Education in order for the Board to analyze the data, assess the remediation programs and to make any recommendations to the Governor and General Assembly annually, beginning on December 1, 2000. The Code also specifies that the Board of Education determine the level of funding necessary to assist school divisions in providing transportation services to students required to attend remediation programs.

§22.1-253.13:1C: Standard 1 of the Code 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 which 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 proposed 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 (1) establish standards and evaluate state funded remedial programs, and (2) 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 to the General Assembly the effectiveness and efficiency of state funded remedial programs.

## 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 providing detail of the regulatory action's changes.*

Key provisions of the proposed regulations are:

- defines state funded remedial programs as Standards of Learning Assessment Remediation, Remedial Summer School, and Standards of Quality Remediation [§22.1-253.13:1];
- defines students eligible for state funded remedial programs as those who meet either : (1) the criteria identifying students who are educationally at-risk which has been established by the local school board, or (2) the state criteria identifying students who are educationally at-risk as specified in §22.1-253.13:1 [§22.1-253.13:1];
- requires each local school division to develop a remediation program designed to strengthen and improve the academic achievement of those students who demonstrate substandard performance. Annually, local school divisions shall submit these plans to the Department for review and approval [§22.1-253.13:1] [§22.1-199.2];
- requires each school division to record for each eligible student attending a state funded remedial program: (1) the state or local criteria used to determine eligibility; (2) the expected remediation goal for the student in terms of measurable student performance. In the case of failure to pass a Standards of Learning test, the goal will be to pass the test; (3) ~~the student's level of performance on an assessment tool administered at the conclusion of the remedial program;~~ the pre-and post- test

scores assessing the level of student performance before remediation and at the conclusion of the remedial program. In the case of students in grades 3, 5, 8 and for those taking end-of-course tests in high school, the pre-and post-test instrument will be the appropriate Standards of Learning test; and (4) whether the student did or did not meet the expected remediation goal [§22.1-199.2];

- requires each local school division to evaluate the success of their state funded remedial programs in terms of the percentage of eligible students meeting their remediation goals, and, as appropriate required in 8 VAC 20-630-30, the pass rate on Standards of Learning assessments [§22.1-253.13:1] [§22.1-199.2];
- requires 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;
- establishes 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]; and
- establishes 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].

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary 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.

**Fiscal Impact**

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

The three state supported remedial programs are funded at approximately \$75.9 million in fiscal year 2001. Local school personnel would be required to report the specified data and track the progress for students who attend state funded remedial programs. To the degree that the locality is not already collecting data, there may be a fiscal impact.

The Department of Education would have to review and approve remedial plans for 132 school divisions utilizing a process similar to that used to approve each locality's plan for gifted education. There would be a cost to convene a peer review panel to conduct the approval process. A specialist would supervise the review process and provide technical assistance to local school divisions, as needed.

Although there is no cost to the state for developing a proposed funding formula for transportation, if adopted and funded by the General Assembly, the total state and local cost per student for transportation for Standards of Learning assessment remedial programs held before or after school, based on an average school calendar year, is estimated at \$1.57 per day per student. The cost is based on the current cost for transportation for regular school year programs funded through Basic Aid. State funding would be adjusted by the composite index.

The cost of funding transportation for a 30 day summer remedial program is estimated at \$47 per student. It is impossible to determine the actual cost per school division until school divisions report the actual enrollment and the duration of the programs; however, based on the current estimates of remedial summer school attendance and a 30 day program, the state share for funding remedial summer school transportation is estimated at \$2,600,562 for 2000-2001 and \$3,560,532 for 2001-2002.

The state share for funding SOL remediation assessment and SOQ remediation could be as much as \$2.9 million in both 2000-2001 and 2001-2002 based on an estimated number of students receiving remedial services outside the regular instructional day. Actual cost could differ from estimates based on actual division practice.

### 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 cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

The only existing regulations are emergency regulations which are no longer in effect after July 1, 2000. The emergency regulations address Standards of Learning assessment remediation and remedial summer school programs. These regulations define and address state funded remedial programs as Standards of Learning assessment remediation, remedial summer school programs and Standards of Quality remediation [8 VAC 20-630-10].

These regulations require local school divisions to keep individual student records for students enrolled in state funded remedial program. Although this is less difficult for Standards of Learning assessment remediation and remedial summer school programs, the proposed regulations require more complex record keeping on the part of local school divisions to comply with the requirements for Standards of Quality remediation. For the most part, Standards of Learning assessment remediation and remedial summer school programs are offered after the regular instructional day or regular school year. However, students assigned to Standards of Quality remediation receive remedial services by the classroom teacher during the day and these students may be distributed throughout a number of classrooms [8 VAC 20-630-20].

These regulations require that each local school division develop a remedial plan designed to strengthen and improve the academic achievement of those students who demonstrate substandard performance and submit this plan annually to the Department of Education for review and approval [8 VAC 20-630-15].

These regulations require school divisions to evaluate data related to program effectiveness. Evaluating data from Standards of Quality will be difficult to assess as the program is offered as an integral part of the total instructional program and not as a separate service delivery [8 VAC 20-630-30].

The regulations require school divisions to report data regarding student achievement and program design of state funded remedial programs. Reporting data regarding Standards of Learning assessment remediation and remedial summer school programs

will be less burdensome for local school divisions than Standards of Quality remediation. Local school divisions will have to collect data from more teachers, thus, compiling data will be more complex [8 VAC 20-630-40].

These regulations establish minimum standards for state funded remedial summer school including staff qualifications, program length, and teacher to student ratios [8 VAC 20-630-50].

The General Assembly requested a formula to determine the appropriate level of funding for transportation for students assigned to state funded remedial programs. These regulations provide that formula [8 VAC 20-630-60].

**Alternatives**

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

Recognizing that data collection and reporting on all students enrolled in state funded remedial programs would be burdensome to school divisions, the Department of Education carefully considered that more effective program evaluation is provided by requiring school divisions to consider both the number of students who met their remediation goals and, as required, the pass rate of Standards of Learning assessments as measures of program effectiveness. This process also maximizes the flexibility of local school divisions in establishing individual student remediation goals. the following:

- ~~A. More effective program evaluation is provided by requiring school divisions to consider both the number of students who met their remediation goals and, as appropriate, the Standards of Learning pass rate as measures of program effectiveness. This process also maximizes the flexibility of local school divisions in establishing individual student remediation goals.~~
- ~~B. The department considered the alternative of using only pass rate for those students who attended state funded remediation programs on Standards of Learning assessments as an indication of program effectiveness. Three reporting difficulties were evident if the department only required local school divisions to report on the pass rate for those students who attended state funded remediation programs on Standards of Learning assessments:
 
  - ~~1. When data could be collected, it would be two or three years after the remediation program. If a student failed an SOL assessment in grade 3, he/she would not be assessed again until grade 5, two years later. In the case of the 5<sup>th</sup> grade student, the assessment would not be required again until grade 8, or three years later.~~~~

- ~~2. Data collected would not accurately reflect the effects of the remedial program for students who were required to attend remediation due to failing the Standards of Learning test and then did not take another Standards of Learning test until two years or three years later. It would be difficult to determine if success or failure on the Standards of Learning test was due to the remediation program or regular classroom instruction which had been provided between the two Standards of Learning test administrations.~~
- ~~3. It would be difficult for school divisions to track highly mobile student populations. Records may not indicate if students attended programs of remediation, and even if the records did indicate such, it would be impossible to calculate which program of remediation was effective.~~

### Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

There were no public comments.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

Two focus groups, comprised of representatives from over a dozen school divisions, have reviewed the proposed regulations with the specific purpose of minimizing the burden of the proposed regulations. The proposed language has been determined to be the minimal requirements necessary to satisfy the data elements and expectations of the General Assembly, as specified in §22.1-199.2 of the Code.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

All specific regulatory goals of these proposed regulations will be reviewed and re-evaluated to determine if the regulation should be continued, amended, or terminated prior to July, 2003.



## Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential 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.