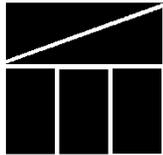


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget **Economic Impact Analysis**

8 VAC 20-131 Regulations Establishing Standards for Accrediting Public Schools in Virginia

Department of Education

Town Hall Action/Stage: 4019 / 7814

July 12, 2017 (revised November 20, 2017)

Summary of the Proposed Amendments to Regulation

The Board of Education (Board) proposes numerous amendments, most prominently adding several new school quality indicators to be used in determining accreditation. The proposal includes three defined performance levels for each school quality indicator and actions to be taken dependent on each performance level. Additionally, the Board proposes to: state that some rules may be changed via guidance to school divisions, amend graduation requirements, require that schools provide additional career exposure and exploration, require new elements be included in the School Performance Report Card/ School Quality Profile, amend other requirements, and add clarifying language.

Result of Analysis

The benefits likely exceed the costs for most proposed amendments.

Estimated Economic Impact

School Quality Indicators

Under the current regulation, schools receive their accreditation rating based on the pass rates of their students on statewide examinations, and in the case of high schools their graduation

and completion index (GCI).¹ The Board proposes to add the following additional school quality indicators upon which schools would be rated, and which would affect accreditation status: Academic Achievement Gaps, Dropout Rate, Chronic Absenteeism, and the College, Career, and Civic Readiness Index.

Academic Achievement Gaps

The advent of accountability testing has resulted in overall improvements in test scores on national assessments, but has also resulted in some widening in achievement gaps between groups.² Schools, particularly those in higher socioeconomic areas, can maintain relatively high assessment pass rates without devoting extra efforts to helping their most disadvantaged and/or poorest performing students. Schools can most effectively increase their overall pass rates by focusing their efforts on students who are close to passing and just need a small improvement, not those who are farther away from passing.

The Board proposes to measure pass rates on English and mathematics exams for separate reporting groups among the test takers at each school. Reporting groups are defined in the proposed regulation as subgroups “of students who are identified as having common characteristics such as: students identified as belonging to major racial and ethnic groups, economically disadvantaged students, students with disabilities, and English language learners.” Disaggregating the school population into separate reporting groups who are each assessed independently for a school quality indicator would be beneficial in that there would greater incentive to put forth additional effort in helping a greater range of students, and the performance of separate reporting groups would become more transparent.

Dropout Rate

Dropping out of high school has long-term negative social and economic consequences. One must have a high school diploma to enroll in postsecondary schools and even to obtain many minimum-wage jobs.³ Thus schools that, all other factors being equal, are relatively

¹ $GCI = [(\# \text{ of diploma graduates} \times 100) + (\# \text{ of high school equivalency recipients} \times 75) + (\# \text{ of students not graduating but still in school} \times 70) + (\# \text{ of students receiving certificates of completion} \times 25)] / [(\# \text{ of students in ninth-grade cohort four years earlier}) + (\text{transfers in}) - (\text{transfers out, deceased students, and incarcerated students})]$

² See Hanushek and Raymond (2004)

³ See Glennie et al (2012)

successful at limiting or reducing dropping out are better serving their students. Including dropout rates as a school quality indicator is thus beneficial.

Nevertheless, there currently exists a disincentive for schools to put out effort to retain students at risk of dropping out since their dropping out would in most cases boost their pass rates.⁴ Students who have dropped out are not included in testing and consequently academic achievement indicators. A school whose worst students drop out would have higher assessment pass rates than a comparable school that has fewer dropouts. Consequently, including the dropout rate as a school quality indicator is also beneficial in helping counteract the above described disincentive.

*Chronic Absenteeism*⁵

Research on the technology of skill formation routinely finds evidence of a direct causal relationship between character skills and long-run socioeconomic outcomes.⁶ For example, character skills such as conscientiousness, motivation, and self-discipline predict important socioeconomic outcomes such as educational attainment, employment, earnings, marriage, and crime.⁷ Attendance is an objectively measurable behavior that is correlated with character skills identified by psychologists: attendance is positively associated with conscientiousness⁸ and negatively associated with neuroticism and low levels of agreeableness.⁹ Conscientiousness is a character skill that is valued in the labor market¹⁰ and regular attendance is highly valued by employers.¹¹ Similarly, regular school attendance is positively associated with academic

⁴ See Figlio and Getzler (2002)

⁵ Chronically absent students are defined as those who are enrolled in a given school who miss ten percent or more of the school year. Students receiving homebound instruction are excluded from the chronic absenteeism rate.

⁶ See Heckman, Stixrud, and Urzua (2006) and Cunha, Heckman, and Schennach (2010)

⁷ See Jacob (2002), Borghans et al (2008), Almlund et al (2011), Lundberg (2012, 2013), Heckman and Kautz (2013), and Jackson (2013)

⁸ See Duckworth et al (2007)

⁹ See Lounsbury et al (2004)

¹⁰ See Heckman and Kautz (2013)

¹¹ See Morrison et al (2011), Lerman (2013), and Pritchard (2013)

achievement¹² and negatively associated with grade retention,¹³ drug use,¹⁴ and dropping out of school.¹⁵

The overwhelming focus on standardized tests to the exclusion of other measures is potentially problematic for several reasons: It may cause teachers and schools to divert resources away from non-tested topics and skills,¹⁶ and it potentially biases estimates of teacher quality by ignoring teachers' effects on students' character skills and related behaviors (attendance, study habits, etc.).¹⁷ Teachers have been found to have a statistically significant effect on student absences that persist over time.¹⁸ Additionally, character skills and related behaviors have been found to be more malleable than cognitive skills,¹⁹ and consequently have the potential for significant "bang for the buck" in terms of positive impact for time and resources expended. Thus, including chronic absenteeism as a school quality indicator would be beneficial in that attendance is an objectively measurable behavior that can be affected by schools and is correlated with character skills that help produce long-run positive outcomes.

College, Career, and Civic Readiness Index (CCCRI)²⁰

The College, Career, and Civic Readiness Index measures the extent to which a school's students successfully complete advanced coursework, Career and Technical Education (CTE) coursework and credentialing, and work- and service-based learning. Including the CCCRI as a school quality indicator is beneficial in that it reflects post-graduation preparedness. The currently used school quality indicators are only indicative of competence in high school level knowledge.

¹² See Gottfried (2009) and Gershenson, Jackowitz, and Brannegan (2015)

¹³ See Nield and Balfanz (2006)

¹⁴ See Hallfors et al (2002)

¹⁵ See Rumberger and Thomas (2000)

¹⁶ See Baker et al (2010) and Harris (2011)

¹⁷ See Heckman (2000)

¹⁸ See Gershenson (2016)

¹⁹ See Cunha and Heckman (2008) and Heckman (2000)

²⁰ CCCRI = (unduplicated count of students in graduation cohort who: received credit for advanced coursework, or earned Career and Technical Education credential and completed a CTE sequence, or completed a work-based learning experience, or completed a service-based learning experience) / total number of students in graduation cohort

Performance Levels

Under the Board's proposal, there are three performance levels for each school quality indicator: Level One for at or above standard, Level Two for near standard, and Level Three for below standard. The specifics for the three performance levels for each school quality indicator are listed in the Appendix.

For the most part, Level One is achieved either through exceeding a set benchmark or by improving upon the previous year's Level Two performance by more than a set percentage amount. Positively labelling the performance level for marked improvement can be particularly beneficial for lower socioeconomic and other disadvantaged schools in that it can provide reward for realistic strong improvement that the benchmark alone could not realistically provide in the short run.

For the majority of school quality indicators, Level Two is achieved by exceeding a set benchmark (that is lower than the Level One benchmark) or by improving upon the previous year's Level Three performance by more than a set percentage amount. Here again, positively labelling the performance level for marked improvement can be beneficial in that seeing that a realistic goal can be potentially met through improvement may encourage stronger efforts. For most of the indicators, schools cannot receive a Level Two performance designation for more than four consecutive years.

Other than for the Academic Achievement Gaps school quality indicators, schools are given the Level Three label if the school does not meet either Level One or Level Two. For the Academic Achievement Gaps school quality indicators, the school is listed as Level Three if it has two or more reporting groups demonstrating Level Three performance.

Accreditation Ratings

Under the proposed regulation, when a school has each of its school quality indicators at Level One or Level Two, it shall be "Accredited." When a school has any school quality indicator at Level Three, it shall be "Accredited with Conditions." If a school is designated "Accredited with Conditions," and the school or school division fails to adopt and implement

school division or school corrective action plans with fidelity, it may be designated by the Board as "Accreditation Denied."

Required Actions Based on Performance Levels and Accreditation Ratings

In determining required actions for schools and school divisions, levels of performance would be considered separately for each school quality indicator. If a school quality indicator is at Level One, the school and its school division would continue to monitor the indicator and the multi-year school improvement plan for continuous improvement. If a school quality indicator is at Level Two, the school and its school division would have primary responsibility to revise and implement its multi-year school improvement plan. School divisions with indicators at Level Two also undergo an academic review conducted by the Department of Education (Department).

If any school quality indicator is at Level Three, the school and school division would be required to work cooperatively and in consultation with the Department to develop a corrective action plan, which would be incorporated as a component of the school's comprehensive, unified, long-range plan. All schools with indicators at Level Three must undergo an academic or other review, as appropriate, conducted by the Department, or under its guidance, to further identify required actions to improve student achievement and the school quality indicators which are at Level Three. The level of direction and intervention from the Department may include requiring the local school division superintendent and the state Superintendent of Public Instruction to enter into an agreement which would delineate the responsibilities for the school division staff, school staff, and Department staff and shall also include required essential actions to improve student achievement and to improve performance on school quality indicators.

School divisions that do not demonstrate evidence of progress in adopting or implementing corrective action plans for a school or schools with indicators at Level Three would be required to enter into a Memorandum of Understanding between the local school board and the Board. The Memorandum of Understanding would delineate responsibilities for the local school board, the Board, school division staff, school staff, and Department staff and shall also include required essential actions to improve student achievement and to improve performance on school quality indicators.

If a school is designated "Accredited with Conditions," and the school or school division fails to adopt and implement corrective action plans with fidelity as specified by this section, the Superintendent of Public Instruction shall review the school for potential designation by the Board as "Accreditation Denied" and shall present the results of such review to the Board with recommendations. If the Board determines that any such school is at Level Three on any school quality indicator due to its failure to adopt and implement corrective action plans with fidelity as required by this section, the Board shall designate such school as "Accreditation Denied." The local school board would be given an opportunity to correct such failure, and if successful in a timely manner, the school's "Accreditation Denied" designation may be rescinded at the Board's discretion.

Amendments through Guidance Documents

The Board proposes to specify in the regulation that it may adjust benchmarks delineating performance levels through guidance sent to local school boards, and adopt special provisions related to the measurement and use of a school quality indicator. The Board would also be enabled to alter the inclusions and exclusions from the performance level calculations by providing adequate notice to local school boards.

Changing benchmarks and performance level calculations without going through the process statutorily required to amend regulatory language could potentially be beneficial in that the Board could more quickly make sensible adjustments. On the other hand, the Governor of Virginia would have less direct control over details of education policy. The Governor and his policy staff review and decide on approval of proposed changes of regulations. Changes to benchmarks and performance level calculations in practical effect made through the issuance of guidance documents or other notifications could be done outside of gubernatorial review and with far less public participation than is required by the Administration Process Act for amending regulatory language. Further, changing benchmarks and performance level calculations in practical effect without amending the regulation would cause readers of the regulation to be misinformed concerning the rules used in practice. Thus it is not clear that the benefit of being able to relatively quickly adjust rules and parameters outweigh the disadvantages of doing so outside of the regulatory process.

Graduation Requirements

For students who enroll in the ninth grade as of the 2018-2019 school year, the number of verified credits required for the Standard and Advanced Studies Diplomas would be reduced to five, and students would be expected to demonstrate competency in each of: critical thinking, creative thinking, communication, collaboration, and citizenship. Additional methods of achieving a verified credit are also established, including the use of authentic performance assessments in certain subjects, and expansion of the subjects for which a locally awarded verified credit may be offered. For students who transfer into Virginia public schools, amendments clarify whether the existing or proposed graduation requirements will be applicable. These are all significant changes which will move the focus in Virginia's public schools from standardized testing to continuous improvement and academic progress.

Career Exposure and Exploration

Career exploration is expanded in the proposed regulation by requiring the development of academic and career planning portfolios to be established and maintained for each student to document career interests, and to be used to develop the academic and career plan by the end of the first semester of eighth grade. All middle school students would be required to complete a career investigation course that will be used as the foundation to develop academic and career plans. Exposing students to career options and what is needed to reach career goals is beneficial. Adding additional requirements such as the middle school career investigation course will be an additional time demand on school hours and will necessitate less time on other subject matter.

School Performance Report Card/ School Quality Profile

Under the current regulation, each public school in the Commonwealth must annually provide to parents and the community the School Performance Report Card. The Report Card contains much information including the school's accreditation rating, attendance rates, information related to school safety, information related to the qualifications and educational attainment of the teaching staff, etc. The Board proposes to rename the School Performance Report Card as the School Quality Profile, and to add the following required elements: accountability, assessments, enrollment and demographics, college and career readiness, finance, learning environment, and teacher quality. The Department publishes the School Performance

Report Cards/ School Quality Profiles on its website and anticipates a cost of \$300,000 to reprogram/reformat data collections, reports, dashboards, etc. to align with the requirements of the proposed regulation.

Other

The Board proposes to require secondary schools to incorporate knowledge of regional workforce needs and opportunities into career and technical education. This is beneficial in that it may increase the likelihood that CTE students are prepared for open jobs that exist locally.

The amended regulation states that: 1) students shall not be required to take an end-of-course Standards of Learning (SOL) test in a subject after they have earned the number of verified credits required for that academic content area for graduation, unless the test is necessary in order for the school to meet federal accountability requirements, and 2) expedited retakes of tests are an exemption to the prohibition of students taking more than one test in any content area in each year. Both of these amendments help students without creating bias in the Academic Achievement Indicator.

The Board also proposes to require that division superintendents certify that division policy prevents changes in students' course schedules to avoid end-of-course SOL assessments. This helps keep the integrity of the Academic Achievement Indicator in that potentially lower-performing students are not kept out of the testing pool.

The proposed changes in accreditation methodology may increase the number of schools that qualify for the Virginia e-Learning Backpack Initiative. The Virginia e-Learning Backpack Initiative provides ninth grade students at qualifying schools with a tablet or laptop computer, digital content and applications, and access to content creation tools. Any school that includes 9th grade, administers SOL tests, and is not fully accredited for two consecutive years is eligible for state funds under the initiative. Funding includes \$2,400 per qualifying school and \$400 per student reported in ninth grade fall membership in a qualifying school. This is beneficial for the

students and schools, but increases funding costs for the Commonwealth and potentially localities.²¹

Businesses and Entities Affected

The proposed amendments affect the more than 1,286,000 students in the Commonwealth's K-12 public schools, the 132 local school divisions, and the Virginia Department of Education.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

In the short run the proposed amendments are unlikely to significantly affect employment. In the long run, the increased focus on school quality indicators that are linked to long-term success, in addition to exam passage rates, may have a positive impact on the future employability of Virginia students.

Effects on the Use and Value of Private Property

The proposed amendments do not significantly affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

The proposed amendments do not significantly affect small businesses.

²¹ Localities must provide a local match for this funding; so there may also be a local cost associated with additional schools that qualify for the e-Learning Backpack Initiative. The required local match for this initiative is 20% of the grant amount. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index below 0.2000.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments affect local school divisions, but in net do not adversely affect localities.

Other Entities:

The proposed amendments do not adversely affect other entities.

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Appendix

Performance Level Determination for each School Quality Indicator

1. Academic Achievement Indicator for all students for English (reading and writing)
 - § Level One: Schools with a current year or three-year average pass rate of a Board-approved assessment of at least 75 percent, or schools that were at Level Two the prior year and decrease the failure rate by ten percent or more from the prior year.
 - § Level Two: Schools not meeting Level One performance with a current year or three-year average pass rate of at least 66 percent, or schools with a prior year pass rate of at least 50 percent that decrease the failure rate by ten percent or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.
2. Academic Achievement Indicator for all students for Mathematics
 - § Level One: Schools with a current year or three-year average pass rate of a Board-approved assessment of at least 70 percent, or schools that were at Level Two the prior year and decrease the failure rate by ten percent or more from the prior year.
 - § Level Two: Schools not meeting Level One performance with a current year or three-year average pass rate of at least 66 percent, or schools with a prior year pass rate of at least 50 percent that decrease the failure rate by ten percent or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.
3. Academic Achievement Indicator for all students for Science
 - § Level One: Schools with a current year or three-year average pass rate of a Board-approved assessment of at least 70 percent, or schools that were at Level Two the prior year and decrease the failure rate by ten percent or more from the prior year.
 - § Level Two: Schools not meeting Level One performance with a current year or three-year average pass rate of at least 66 percent, or schools with a prior year pass rate of at least 50 percent that decrease the failure rate by ten percent or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.

4. Academic Achievement Gaps for English (reading and writing)
 - § Level One: Schools with no more than one reporting group²² demonstrating Level Two performance.
 - § Level Two: Schools with two or more reporting groups demonstrating Level Two performance and no more than one reporting group demonstrating Level Three performance.
 - § Level Three: Schools with two or more reporting groups demonstrating Level Three performance.
5. Academic Achievement Gaps for Mathematics
 - § Level One: Schools with no more than one reporting group demonstrating Level Two performance.
 - § Level Two: Schools with two or more reporting groups demonstrating Level Two performance and no more than one reporting group demonstrating Level Three performance.
 - § Level Three: Schools with two or more reporting groups demonstrating Level Three performance.
6. Graduation and Completion Index (GCI)²³ for schools with a graduating class
 - § Level One: Schools with a current year or three-year average index of at least 88, or schools that were at Level Two the prior year and increase the index by 2.5 percent or more from the prior year.
 - § Level Two: Schools not meeting Level One performance with a current year or three-year average index of at least 81, or schools that were at Level Three the prior year and increase the index by 2.5 percent or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.
7. Dropout Rate for schools with a graduating class
 - § Level One: Schools with a current year or three-year average dropout rate of no more than six percent, or schools that were at Level Two the prior year and decrease the rate by ten percent or more from the prior year.
 - § Level Two: Schools not meeting Level One performance with a current year or three-year average dropout rate of no more than nine percent, or schools that were at Level Three the prior year and decrease the rate by ten percent or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.
8. Chronic Absenteeism²⁴

²² Reporting group is defined as “subgroup of students who are identified as having common characteristics such as: students identified as belonging to major racial and ethnic groups, economically disadvantaged students, students with disabilities, and English language learners.”

²³ $GCI = [(\# \text{ of diploma graduates} \times 100) + (\# \text{ of high school equivalency recipients} \times 75) + (\# \text{ of students not graduating but still in school} \times 70) + (\# \text{ of students receiving certificates of completion} \times 25)] / [(\# \text{ of students in ninth-grade cohort four years earlier}) + (\text{transfers in}) - (\text{transfers out, deceased students, and incarcerated students})]$

- § Level One: Schools with a current year or three-year average chronic absenteeism rate of no more than 15 percent, or schools that were at Level Two the prior year and decrease the rate by ten percent or more from the prior year.
 - § Level Two: Schools not meeting Level One performance with a current year or three-year average chronic absenteeism rate of no more than 25 percent, or schools that were at Level Three the prior year and decrease the rate by ten percent or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.
9. College, Career, and Civic Readiness Index (CCCRI)²⁵ for schools with a graduating class
- § Level One: Schools with a current year index of at least 85.
 - § Level Two: Schools not meeting Level One performance with a current year index of at least 71. A school shall not receive a Level Two performance designation for more than four consecutive years.
 - § Level Three: Schools not meeting Level One or Level Two performance.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving

²⁴ Chronically absent students are defined as those who are enrolled in a given school who miss ten percent or more of the school year. Students receiving homebound instruction are excluded from the chronic absenteeism rate.

²⁵ CCCRI = (unduplicated count of students in graduation cohort who: received credit for advanced coursework, or earned CTE credential and completed a CTE sequence, or completed a work-based learning experience, or completed a service-based learning experience) / total number of students in graduation cohort

the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.