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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Board of Education
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	8VAC20-132 [new chapter]; 8VAC20-131
<b>VAC Chapter title(s)</b>	<i>Virginia Standards of Accreditation (8VAC20-132); Regulations Establishing Standards for Accrediting Public Schools in Virginia (8VAC20-131)</i>
<b>Action title</b>	Revisions to the Virginia Standards of Accreditation
<b>Date this document prepared</b>	August 30, 2023

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*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (“SOA”) have the goal of ensuring that an effective educational program is established and maintained in Virginia’s public schools by (1) providing an essential foundation of educational programs of high quality for all schools for all students; (2) encouraging and promoting school quality and acknowledge achievement and continuous improvements by schools and school divisions in multiple areas; (3) fostering public confidence that graduating students have mastered multiple areas of learning to include academic subjects, workplace skills, career exploration and planning, and civic and community responsibility; (4) assuring recognition of Virginia’s public schools by other institutions of learning; and (5) establishing the means of determining the effectiveness of schools as prescribed in the Standards of Quality at § [22.1-253.13:3](#) of the Code of Virginia, including student learning and progress and student outcomes for multiple areas affecting school quality.

The Board is considering a full revision of the Standards of Accreditation as an integral step to improving the state of public schools.

## Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

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“Board” means the State Board of Education.

“NAEP” means the National Assessment of Educational Progress.

“SOA” or “Standards of Accreditation” means the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8VAC20-131).

“VDOE” means the Virginia Department of Education.

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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In 2017, the Board completed a comprehensive review and update of the Standards of Accreditation. The Board approved numerous substantive revisions to the SOA, including the addition of new and modified school quality indicators to the state accreditation model as well as an increased emphasis on closing achievement gaps and continuous improvement, among others. The update also allowed the Board to incorporate expectations for student achievement as outlined in the Profile of a Virginia graduate and the 5Cs (critical thinking, creative thinking, communication, collaboration, and citizenship).

Since that action, it has become apparent that the Standards of Accreditation merit further review to align better with Board goals. Although Virginia’s public schools have long been regarded as among the best in the nation, the Commonwealth has seen widening gaps in student achievement and a significant slip in comparison with other states on numerous academic measures. For example, the National Assessment of Educational Progress (“NAEP”) shows that Virginia has wide gaps between student proficiency standards on state reading and math assessments and the grade-level proficiency benchmarks: only 38% of Virginia fourth graders and 33% of eighth graders were proficient in reading on the 2019 NAEP, compared with 75% and 76% respectively on the 2019 state fourth- and eighth-grade SOL reading tests. Further compounding these issues is pandemic-related learning loss, which one publisher of widely used K-12 assessments has shown to be worse in Virginia than the national average (see [Renaissance: How Kids Are Performing](#)). Moreover, preliminary data from the 2022–2023 SOL assessments indicate that Virginia students continue to see learning loss. Additional information can be found in the VDOE’s [Our Commitment to Virginians](#).

The true state of Virginia’s school system, however, does not appear to be adequately captured by the current accreditation system. The Board will revise the current accreditation system in order to increase transparency, improve student success for all students, and aid in the allocation of Commonwealth resources into Virginia schools. Without a clear picture of the relationship between school performance

and student performance, neither the Board nor the General Assembly can find the proper solutions to the problems faced by Virginia students.

## 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 and 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 of Education's overall regulatory authority is found in § [22.1-16](#) of the Code of Virginia:

The 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 this title.

The Board of Education's authority for promulgating regulations governing standards for accrediting public schools is found in § [22.1-253.13:3](#) of the Code of Virginia:

The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ [2.2-4000](#) et seq.), which shall include student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

A revision to the SOA is essential to fixing the learning loss experienced by Virginia students before the damage becomes long-term and irreparable. The health of Virginia schools and the performance of Virginia students is essential to the health of the Commonwealth's civic and economic life. Failure to act immediately could have repercussions that last generations.

The current accreditation system blends what many other states separately refer to as accreditation and accountability, and it is one of the most complex in the nation. A primary issue that the Board will address is how these two aspects of the current system can be transformed so as to increase transparency of school and student performance. A transparent system will ultimately benefit students, parents, schools, and policy makers.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

The Board is considering a full-scale revision of the Standards of Accreditation, including the following topics:

- Organizational changes to increase clarity;
- The philosophy, goals, and objectives of public education and the SOA;
- Student achievement expectations;
- Graduation requirements;
- School instructional programs;
- School and instructional leadership;
- School facilities and safety;
- School and community communications;
- Expectations for accreditation and accountability;
- Accountability metrics, including growth, achievement, and career readiness;
- School quality performance indicators; and
- Intervention measures.

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

The Board is required by statute to have standards for the accreditation of public schools. There are no alternatives to regulatory action.

### Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency.*

This NOIRA is not being used to announce a periodic review or a small business impact review.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Jim Chapman, Director of Board Relations, at [Jim.Chapman@doe.virginia.gov](mailto:Jim.Chapman@doe.virginia.gov). In order to be considered, comments must be received by 11:59 p.m. on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.