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Final Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation(s)	8 VAC 20-740
Regulation title(s)	Regulations Governing the Designation of School Divisions of Innovation
Action title	New regulations to govern the designation of School Divisions of Innovation, as required by HB 1981, which was approved by the 2017 General Assembly and became effective on July 1, 2017
Date this document prepared	May 30, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The 2017 Virginia General Assembly approved HB 1981 (Greason), directing the Board to develop regulations for the designation of School Divisions of Innovation (SDI). To be eligible for designation, a local school board would submit a plan of innovation according to Board criteria as presented in these proposed regulations. The legislation defines “innovation” as a new or creative alternative to existing instructional or innovative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.

The legislation requires the Board to establish expectations for plans of innovation, including goals and performance targets, which could include reducing achievement and opportunity gaps, implementing high standards for student performance and balanced assessments, increasing learning opportunities through integrated coursework, and providing additional learning choices such as personalized learning opportunities and experiences such as community service projects, and work-based learning. The plan of innovation could also include requests for exemptions from selected regulations, allowing school divisions to implement alternative policies to address local needs. The Board would also be required to establish a procedure for the ongoing evaluation of a SDI.

The proposed regulations would establish the procedure and criteria for the designation of a SDI, and provide that the Superintendent of Public Instruction establish a format and timelines for local school boards to submit plans of innovation. The proposed regulations would prohibit any exemptions to regulations that are mandated by state or federal law or are designed to promote health or safety, to as well as special education regulations, and certain provisions of the Standards of Accreditation (8VAC20- 131-5 et seq.). The regulations also include provisions to evaluate the performance of a SDI, including revocation in the event that performance expectations are not met.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

"Innovation" means a new or creative alternative to existing instructional or administrative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.

"School Division of Innovation" or "SDI" means a school division in which the local school board has developed and for which the board has approved a plan of innovation to improve student learning; educational performance; and college, career, and citizenship readiness skills in one or more schools, for the benefit of all schools in the school division.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On April 25, 2019, the Board of Education adopted as final 8 VAC 20-740, Regulations Governing the Designation of School Divisions of Innovation.

Mandate and Impetus

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.

There are no changes to previously reported information.

Legal Basis

Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The Board of Education's authority for promulgating regulations governing the designation of School Divisions of Innovation is as follows:

As noted above, the Virginia General Assembly enacted HB 1981 (Greason) in 2017, amending the *Code of Virginia* by adding in Chapter 13 of Title 22.1 an article numbered 1.5, consisting of sections numbered 22.1-212.28 through 22.1-212.32, relating to SDIs. This bill, which became effective on July 1, 2017, directs the Board of Education to develop regulations for the designation of SDIs.

The Board of Education's overall regulatory authority may be 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."

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The proposed regulatory action is necessary to fulfill the General Assembly's directive that regulations be developed for the designation of SDIs. In promulgating these regulations, the Board of Education will help provide high-quality, effective learning environments for all students by allowing alternative policies to be developed and implemented to address the diverse needs of students.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

These regulations govern the designation of SDIs. The regulations would establish the procedure and criteria for the designation of a SDI, and provide that the Superintendent of Public Instruction establish a format and timelines for local school boards to submit plans of innovation. The proposed regulations would prohibit any exemptions certain

requirements, including: special education regulations, graduation requirements, and any other regulations that are mandated by state or federal law or are designed to promote health or safety. The regulations also include provisions to evaluate the performance of a SDI, including revocation in the event that performance expectations are not met.

Issues

Please identify the issues associated with the regulatory change, including: 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, include a specific statement to that effect.

The primary advantage to the public is that the promulgation of these regulations will help provide high- quality, effective learning environments for all students in the Commonwealth by allowing alternative policies to be developed and implemented to address the diverse needs of students.

Staff has identified no disadvantage to the proposed regulations.

Requirements More Restrictive than Federal

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, include a specific statement to that effect.

Neither federal law nor regulation addresses the designation of school divisions as SDIs.

Agencies, Localities, and Other Entities Particularly Affected

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agency will be particularly affected by the regulation.

Localities Particularly Affected

All school divisions in the Commonwealth will be subject to the proposed regulations.

Other Entities Particularly Affected

No other entity will be particularly affected by the regulation.

There are no changes to previously-reported information.

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

No public comments were received during the previous stage.

Detail of Changes Made Since the Previous Stage

*Please list all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Please put an asterisk next to any substantive changes.*

No changes have been made since the previous stage.

Detail of All Changes Proposed in this Regulatory Action

*Please list all changes proposed in this action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Please put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of updated requirements
	8VAC20-760-10		<p><u>Definitions.</u> This section defines terms related to the designation of a school division as a School Division of Innovation.</p> <p>To set the framework for the remainder of the regulations.</p>
	8VAC20-760-20		<p><u>School Division of Innovation Designation.</u> This section explains the application process through which a school division may seek designation of a SDI. This section states that applications for SDI designation must conform to a format</p>

			<p>and timeline prescribed by the Superintendent of Public Instruction.</p> <p>Establishes the minimum components of a plan of innovation submission, and delegates the development of the format and timelines for submissions to the Superintendent of Public Instruction.</p>
	8VAC20-760-30		<p><u>Exemptions from Regulatory Provisions.</u> This section explains that, in the designation of an SDI, the Board of Education may exempt a local school board from regulations, with certain exceptions.</p> <p>Permits the waiver of regulations as part of a SDI application.</p> <p>Establishes certain regulatory provisions that cannot be waived.</p> <p>Permits the board to approve or conditionally approve a SDI application.</p>
	8VAC20-760-40		<p><u>Approval, Amendment, and Renewal.</u> This section provides the terms for approval, amendment, and renewal of the designation of a SDI.</p> <p>Establishes five-year terms for initial and renewal of a SDI designation. Requires resubmission for amendment to a plan of innovation.</p>
	8VAC20-760-50		<p><u>Evaluation.</u> This section explains how a designated SDI must annually submit information demonstrating progress toward meeting the goals and performance targets included in the plan of innovation. This section also provides how a SDI designation may be revoked.</p> <p>Requires a SDI to provide information annually showing progress toward stated goals. Permits the Board to revoke designation for appropriate reasons, including failure to meet goals, or failure to maintain accreditation</p>

			The anticipated impact is expected to be minimal as school divisions are already expected to review data on a regular basis.
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