

Office of Regulatory Management
Economic Review Form

Agency name	State Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8 VAC 20-671
VAC Chapter title(s)	Regulations Governing the Operation of Private Schools for Students with Disabilities
Action title	Regulations Governing the Operation of Private Day Schools for Students with Disabilities and Educational Programs Offered in Group Homes and Residential Facilities in the Commonwealth
Date this document prepared	January 18, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Fast-Track [Action 5915 – Stage 9544]

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Direct Costs: As enrolled in the 2020-2022 Biennium budget, the direct monetized costs include \$492,755 the first year and \$492,755 the second year from the general fund is provided to support statewide training and assistance for local school divisions to implement the Board of Education's Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia. Additionally, \$1,868,562 the first year from the general fund is provided for the Department of Education to repay a Treasury Loan related to federal Substance Abuse and Mental Health Services Administration grant reimbursements.</p> <p>Indirect Costs: The indirect monetized costs may impact Private schools for students with disabilities. However, it is predicted that any costs associated with implementation would be absorbed within existing operational resources.</p> <p>Direct Benefits: There are no direct monetized benefits of this proposed change.</p> <p>Indirect Benefits: There are no indirect monetized benefits of this proposed change.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) \$2,854,072</p>	<p>(b) \$0</p>
<p>(3) Net Monetized Benefit</p>	<p>(\$2,854,072)</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>The primary advantage of this action to the public is that this action effectuates the legislative intent of Item 138.I of Chapter 552.</p>	
<p>(5) Information Sources</p>	<p>https://budget.lis.virginia.gov/item/2021/2/HB1800/Enrolled/1/138/</p>	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct monetized costs under the status quo. Indirect Costs: There are no indirect monetized costs under the status quo. Direct Benefits: There are no direct monetized benefits under the status quo. Indirect Benefits: There are no indirect monetized benefits under the status quo.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	Under the status quo the legislative intent of Item 138.I of Chapter 552 will not be met. Maintaining the status quo will disadvantage the public. Maintaining the status quo fails to meet the legislative intent and therefore disadvantages the agency, the Commonwealth, the regulated community, government officials, and the public.	
(5) Information Sources	https://budget.lis.virginia.gov/item/2021/2/HB1800/Chapter/0/0/ https://budget.lis.virginia.gov/item/2021/2/HB1800/Enrolled/1/138/	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	This action effectuates the legislative intent of Item 138.I of Chapter 552 .	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct monetized costs on local partners. Indirect Costs: There are no indirect monetized costs on local partners. Direct Benefits: There are no direct monetized benefits on local partners. Indirect Benefits: There are no indirect monetized benefits on local partners.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Assistance	N/A	
(5) Information Sources		

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct monetized costs on families. Indirect Costs: There are no indirect monetized costs on families. Direct Benefits: There are no direct monetized benefits on families. Indirect Benefits: There are no indirect monetized benefits on families.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Information Sources		

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There are no direct monetized costs on small businesses. Indirect Costs: There are no indirect monetized costs on small businesses. Direct Benefits: There are no direct monetized benefits on small businesses. Indirect Benefits: There are no indirect monetized benefits on small businesses.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Alternatives		
(5) Information Sources		

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
8VAC20-671-10	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
8VAC20-671-650	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	11	9	7	2
8VAC20-671-660	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	11	0	11	(11)
8VAC20-671-665	(M/A):	N/A	0	0	0
	(D/A):	N/A	0	0	0
	(M/R):	N/A	0	0	0
	(D/R):	N/A	52	0	52
Grand Total of Changes in Requirements:					(M/A): 0 (D/A): 0 (M/R): 0 (D/R): 43

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A	N/A	N/A	N/A	N/A

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
8VAC20- 671-10	The definition of “504 Plan” will be removed. This definition will be added as “Section 504 plan” to align with the terminology and definition in 8VAC20-750-20.	This regulatory change neither reduces nor increases the regulatory burden.
8VAC20-671-10	The definition of “aversive stimuli” will be changed. The definition will be changed to align with the definition in 8VAC20-750-10. The new definition will not include “placement of a student alone in a room, where the door is locked or held shut and the student is prevented from leaving the room.” However, this aspect of the definition will be addressed through regulations regarding the use of seclusion.	This regulatory change neither reduces nor increases the regulatory burden.
8VAC20-671-10	The definition of “behavioral intervention plan” will be changed. The definition will be changed to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “corporal punishment” will be added to align with the definition in 8VAC20-750-10.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “day” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	The definition of “education records” will be changed. These are technical edits to the	This regulatory change neither reduces or increases the regulatory burden.

	definition to make the reference to “parent” consistent. There is no substantial difference between the current language and the proposed change.	
8VAC20-671-10	A definition of “evaluation” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “functional behavioral assessment” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “individualized education program team” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	The definition of “mechanical restraint” will be changed. The definition of “mechanical restraint” will be changed to align with the definition in 8VAC20-750-10.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	The definition of “physical restraint” will be changed. The definition of “physical restraint” will be changed to align with the definition in 8VAC20-750-10. The new definition specifies that physical restraint does not include “the use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control.”	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “restraint” will be added to align with the definition in 8VAC20-750-10.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “school day” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “school personnel” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.

8VAC20-671-10	The definition of “seclusion” will be changed. The definition of “seclusion” will be changed to align with the definition in 8VAC20-750-10.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “Section 504 plan” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	A definition of “student” will be added to align with the definition in 8VAC20-750-20.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-10	The definition of “time-out” will be changed. The definition of “time-out” will be changed to align with the definition in 8VAC20-750-10.	This regulatory change neither reduces or increases the regulatory burden.
8VAC20-671-650	The current 8VAC20-671-650 1 prohibits the use of restraint and seclusion except in cases where necessary for student safety. The action will add substantive provisions regarding the use of restraint and seclusion. The proposed 8VAC20-671-650 A 1 has been changed to prohibit the use of mechanical restraints, as in 8VAC20-750-30.	This regulatory change neither increases the regulatory requirements. Additionally, this regulatory change reduces the regulatory burden by eliminating a duplicate requirement.
8VAC20- 671-650	The current 8VAC20-671-650 2 prohibits the use of prone restraints, mechanical restraints, pharmacological restraints, restraints that restrict a student’s breathing, restraints that harm the child, and restraints that interfere with the child’s ability to communicate. The proposed 8VAC20-671-650 A 2 will narrow to prohibit prone restraints and other restraints that restrict the student’s breathing or harm the student. The prohibition on the use of mechanical restraints is	This regulatory change reduces the regulatory burden.

	<p>addressed in the proposed 8VAC20-671-650 A 1.</p> <p>The prohibition on the use of pharmacological restraints is addressed in the proposed 8VAC20-671-650 A 9.</p> <p>The prohibition on restraints that interfere with the child’s ability to communicate will be removed, since there is no comparable prohibition in 8VAC20-750. To keep this prohibition would violate the legislative directive to “establish the same requirements for restraint and seclusion [for private special education day schools] as those for public schools.”</p>	
8VAC20-671-650	The current 8VAC20-671-650 4 will be renumbered as 8VAC20-671-650 A 3.	This regulatory change neither reduces nor increases the regulatory burden.
8VAC20- 671-650	The current 8VAC20-671-650 5 will be renumbered as 8VAC20-671-650 A 4.	This regulatory change neither reduces nor increases the regulatory burden.
8VAC20- 671-650	The current 8VAC20-671-650 6 will be aligned with the parallel requirement in 8VAC20-750-30 7 and renumbered as 8VAC20-671-650 A 5.	This regulatory change neither reduces nor increases the regulatory burden.
8VAC20- 671-650	The current 8VAC20-671- 650 7 prohibits the deprivation of approved prescription medication or other necessary services. In the proposed action, this prohibition is already included in the definition of “aversive stimuli.” Therefore, the prohibition will be removed as redundant.	This regulatory change reduces the regulatory burden.
8VAC20- 671-650	The current 8VAC20-671- 650 8 prohibits against the denial of access to toilet facilities. In the	This regulatory change reduces the regulatory burden.

	proposed action, this prohibition is already included in the definition of “aversive stimuli.” Therefore, the prohibition will be removed as redundant.	
8VAC20- 671-650	The current 8VAC20-671-650 9 will be aligned with the parallel requirement in 8VAC20-750-30 3 and renumbered as 8VAC20-671-650 A 6.	This regulatory change neither reduces nor increases the regulatory burden.
8VAC20- 671-650	The current 8VAC20-671-650 10 and 11 will be renumbered as 8VAC20-671-650 A 7 and 8, respectively.	
8VAC20- 671-650	The prohibition on use of pharmacological restraints will be added to align with the parallel requirement in 8VAC20-750-30 A 2.	This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-30 A 2.
8VAC20- 671-650	The prohibition on use of seclusion that restricts a student’s breathing or harms the student will be added to align with the parallel requirement in 8VAC20-750-30 A 5.	This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-30 A 5.
8VAC20- 671-650	The prohibition on use of physical restraint or seclusion as (i) punishment or discipline; (ii) a means of coercion or retaliation; (iii) a convenience; (iv) to prevent property damage, or in other manner other than as provided by regulation will be added to align with the parallel requirement in 8VAC20-750-30 A 6.	This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-30 A 6.
8VAC20- 671-650	The prohibition on use of seclusion rooms or freestanding units not meeting the standards set forth in regulation will be added to align with the parallel	This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-30 A 8.

	requirement in 8VAC20-750-30 A 8.	
8VAC20- 671-650	The prohibition on use of restraint or seclusion when medically or psychologically contraindicated as stated in documentation by the IEP team, the Town Hall Agency Background Document Form: TH-04 11 student’s Section 504 team, school professionals, or by a licensed physician, psychologist, or other qualified health professional under the scope of the professional’s authority will be added to align with the parallel requirement in 8VAC20-750-30 A 9.	This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-30 A 9.
8VAC20- 671-650	The proposed action will add the interpretive directive that nothing in the section shall be construed to prohibit physical restraint or seclusion under the conditions outlined in the regulation. This parallels the requirement in 8VAC20- 750-30 B.	This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-30 B.
8VAC20- 671-660	8VAC20-671-650 B includes the current substantive provisions regarding the circumstances under which restraint and seclusion are currently allowed in private special education day schools, parental notification, documentation of the application of physical restraint and seclusion, and reporting requirements. These provisions will be removed and promulgated in a new section that parallels the requirements in 8VAC20- 750 40 through 110. The requirements in 8VAC20-750-	This regulatory change reduces the regulatory burden.

	<p>10 through 30 have already been made in the proposed changes to 8VAC20-671-10 and 8VAC20-671-650.</p>	
<p>8VAC20-671-665</p>	<p>The proposed new section will add the substantive provisions regarding seclusion and restraint in order to realize the legislative directive to “establish the same requirements for restraint and seclusion [for private special education day schools] as those for public schools.”</p> <p>The proposed 8VAC20-671-665 A clarifies that the chapter shall not be construed to require a school to employ physical restraint or seclusion, in accordance with the parallel requirement in 8VAC20-750-40 A.</p> <p>The proposed 8VAC20-671-665 B includes provisions regarding the use of physical restraint and seclusion that parallel the requirements in 8VAC20- 750-40 B through F.</p> <p>The proposed 8VAC20-671-665 C includes provisions regarding the standards for the use of seclusion that parallel the requirements in 8VAC20-750-50.</p> <p>The proposed 8VAC20-671-665 D includes provisions regarding the notification and reporting of instances physical restraint and seclusion that parallel the requirements in 8VAC20- 750-60.</p>	<p>This regulatory change adds to the regulatory requirements to be parallel to the requirements in 8VAC20-750-40, 8VAC20-750-50, 8VAC20-750-60, 8VAC20-750-70, 8VAC20-750-80, 8VAC20-750-90, 8VAC20-750-100, and 8VAC20-750-110.</p>

	<p>The proposed 8VAC20-671-665 E includes provisions that set standards for school policies and procedures that parallel the requirements in 8VAC20- 750-70.</p> <p>The proposed 8VAC20-671-665 F includes provisions regarding multiple uses of restraint and seclusion that parallel the requirements in 8VAC20- 750-80.</p> <p>The proposed 8VAC20-671-665 G includes provisions regarding annual reporting that parallel the requirements in 8VAC20-750-90.</p> <p>The proposed 8VAC20-671-665 H includes provisions regarding training of school personnel for schools that employ seclusion and restraint. These provisions parallel the requirements in 8VAC20- 750-100.</p> <p>The proposed 8VAC20-671-665 I includes provisions governing the construction of the chapter that parallel the requirements in 8VAC20-750-110.</p>	
--	--	--

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
N/A	N/A	N/A	N/A

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).