



Final Regulation Agency Background Document

Agency name	Board (Department) of Education
Virginia Administrative Code (VAC) citation	8 VAC 20 -131
Regulation title	Regulations Establishing Standards for Accrediting Public Schools in Virginia
Action title	Amendments to the Standards of Accreditation
Date this document prepared	May 25, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

Section 22.1-253.13:3 of the *Code of Virginia* requires the Board of Education to establish standards for accreditation. The regulations were last amended in 2000. Since that time, public schools in Virginia have implemented more rigorous requirements for accountability both at the school level and the student level. Now that most Virginia schools are fully accredited, and the first high school class required to earn verified units of credit has graduated from high school, the Board undertook a comprehensive review of the regulations to determine if there are changes that might be needed. Substantive changes proposed are related to additional options for students to meet the requirements for graduation, greater flexibility for transfer students, more rigorous benchmarks for accreditation, and better defined sanctions for schools, superintendents, and school boards if a school loses its accreditation. The Administrative Process Act requires the Executive Branch to review and approve proposed regulations before they can be released for public comment. In consideration of the Governor's Healthy Virginians initiative, Governor Warner, in October of 2005, asked that the Board of Education consider two additional revisions to the proposed accrediting regulations that will help promote the health and physical fitness of elementary and middle school students. The recommended revisions would require all elementary and middle schools to require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the Board of Education. The recommended revisions also reflect the

incorporation of certain public comments received during two comment periods, which were November 28, 2005 to January 31, 2006 and March 22, 2006 to April 30, 2006.

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.

During the May 24, 2006 meeting of the Board of Education, the board adopted the proposed revisions to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* 8VAC 20-131-10 et seq., and directed the Department of Education to proceed with the final stages of the administrative process.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 22.1-19 of the *Code of Virginia* requires that the Board of Education "... provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it." Further, the Standards of Quality for Public Schools in Virginia (SOQ), in § 22.1-253.13:3.F of the *Code of Virginia*, requires that local school boards "... maintain schools which meet the standards of accreditation prescribed by the Board of Education." The current standards were adopted in September 2000. This action by the Board of Education is mandatory.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This action is essential to protect the health, safety, and welfare of the commonwealth's most vulnerable citizens—its school-age population. The goals of the proposal are to strengthen the quality of instruction in public schools in Virginia and to bring the standards into conformity with amended or new state and federal laws. These regulations form the basis for the day-to-day operation of the educational program in each public school in Virginia. The regulations contain provisions to govern philosophy, goals and objectives; academic achievement; school accountability; building and student safety and instructional support services; school leadership; involving and reporting to parents; and procedures for accreditation.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

There are a number of substantive changes to the regulations, most notably in 8 VAC 20-131-300 addressing the calculation of accreditation ratings. A phase-in of new requirements is being proposed. Other substantive changes are found in 8 VAC 20-131-50 where additional options for students to meet the requirements for diplomas have been proposed. Changes have been proposed in 8 VAC 20-131-340 to increase the sanctions on schools and school boards should a school have its accreditation denied.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The primary issue with the proposed regulatory action is that the proposed revisions to the standards more closely align the state’s school accountability program with the requirements of the federal No Child Left Behind Act of 2001. The changes are necessary to close gaps between the two programs and to alleviate the requirements on schools to meet the rigors of two accountability programs. The federal law requires that there be a single accountability program. In addition, the proposed regulatory action includes revisions that better define sanctions for schools, superintendents, and school boards if a school receives a rating of Accreditation Denied.

The proposed revisions are advantageous to the public, the agency, and the Commonwealth at large in that they eliminate some requirements posed by different accountability programs making it easier for the public to understand both. There are no disadvantages.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
20-131-05 et seq.	Through out the regulations the Board of Education is often referred to as “board”	Where appropriate, the term “board” has been changed to “Board of Education”	Stylistic change
20-131-05	A new section was proposed to consolidate definitions currently found throughout the regulations into one section and added new definitions.	Additional definitions were added that include class period, graduate, planning period, recess, reconstitution, and student periods.	It was determined that defining those terms would provide additional clarification and understanding of the regulations.

20-131-05	The term “standard school day” was defined.	The definition of “standard school day” was clarified to mean a calendar day.	This was added to ensure that the instructional day is not spread out over two calendar days.
20-131-30	In subsection B, the term SOL was used.	The term SOL is replaced with the term Virginia Assessment Program.	A comprehensive term is used to address other tests in the accountability program.
20-131-30	In subsection G it stated: “A school based committee shall convene and make determinations regarding participation of LEP students.”	Language is amended to state that: “A school based committee shall convene and make determinations regarding the participation <u>level</u> of LEP students.”	This is amended to clarify that all LEP students are required to participate in the Virginia Assessment Program. The committee determines the level of participation.
20-131-30	In subsection G it stated: “LEP students may be granted a one-time exemption from SOL testing in the core academic areas of science and history and social science.”	Language is amended to state that: “LEP students may be granted a one-time exemption from SOL testing in the areas of <u>writing</u> , science and history and social science.”	This is amended to include the area of writing in the one-time exemption for LEP students. Writing is not used for the calculation of Adequate Yearly Progress under No Child Left Behind.
20-131-50	In subsection A it stated: “The requirements for a student to earn a diploma from a Virginia high school...”	Language is amended to state that: “The requirements for a student to earn a diploma <u>and graduate</u> from a Virginia high school...”	This is amended to emphasize that to be a graduate a student must receive a diploma.
20-131-50	In subsection D, items 2 and three were deleted in the proposed draft.	In the amended draft in subsection D, items 2 and 3 were restored to the original language.	Public comments received interpreted the deletion of these items as a diminishment of the rights of students with disabilities. It was the intent of the department to delete language addressed in other regulations. However, based on the public comments the Department of Education restored the language to avoid any erroneous interpretations.
20-131-50	In subsection F it stated: “Standard, Advanced Studies, Modified Standard, or General Achievement diplomas...”	Language is amended to state that: “Standard, Advanced Studies, Modified Standard, <u>Special</u> or General Achievement diplomas...”	The Special Diploma is recognized in the <i>Code of Virginia</i> . It was inadvertently left out of the original proposed draft.
20-131-50	In subsection I, 3 the Board of Education’s Career and Technical Education Seal requirements were addressed.	Language is amended to state that: “The Board of Education shall approve all professional licenses and examinations used to satisfy these requirements.”	This amendment is made to specify the Board of Education’s authority to approve licenses and examinations that would satisfy the criteria for the Board’s seal.
20-131-50	In subsection I, 4 the Board of Education’s Seal of Advanced Mathematics and Technology requirements were addressed.	Language is amended to state that: “The Board of Education shall approve all professional licenses and examinations used to satisfy these	This amendment is made to specify the Board of Education’s authority to approve licenses and

		requirements.”	examinations that would satisfy the criteria for the Board’s seal.
20-131-60	Subsection A it stated: “Students transferring in grades K-8 shall be placed in grade in accordance with policies adopted by the local school board.”	Language is amended to state that: “Students transferring in grades K-8 <u>from Virginia public schools or nonpublic schools accredited by one of the approved accrediting constituent members of the Virginia Council for Private Education shall be given recognition for all grade-level work completed. The academic record of students transferring from all other schools shall be evaluated to determine appropriate grade placement in accordance with policies adopted by the local school board.</u> ”	This modification is made to accommodate the public comment request from the Old Dominion Association of Christian Schools and the Virginia Council for Private Education, as well as to clarify procedures for use by the school receiving the transfer student.
20-131-60 *	Subsection D required secondary schools to accept credits toward graduation from schools accredited by any of the accrediting agencies recognized by the U.S. Department of Education	This section has been reorganized. Language is amended to require secondary schools to accept credits toward graduation from Virginia nonpublic schools accredited by one of the approved accrediting constituent members of the Virginia Council for Private Education. Additional language is added to notify school divisions that they are not prohibited from accepting standard units of credit awarded to students who transfer from all other schools.	The reorganization of the section is done to create a more logical flow of the provisions. This modification is made to accommodate the Virginia Council for Private Education, the recognized entity for accrediting private schools in the <i>Code of Virginia</i> .
20-131-60	Subsection D, paragraph 3 stated: “Students who transfer from schools accredited by other non-recognized agencies shall have their records evaluated by the receiving school in accordance with 8 VAC 20-131-60 F.”	This sentence has been deleted.	This language is deleted from this paragraph because it is addressed in amended language preceding it.
20-131-80	This section addresses the instructional program in elementary schools.	Subsection D is added encouraging elementary schools to provide instruction in foreign languages.	This section is added to emphasize the importance of foreign language instruction at all levels.
20-131-100	Advanced Placement and International Baccalaureate courses were addressed.	Cambridge courses are added.	This coursework was inadvertently left out of the original proposed draft.
20-131-110	In subsection B, item 3 the locally awarded verified credit provision created by Chapter 577 of the Acts of Assembly of 2002 is extended.	Language was added to clarify that the locally awarded verified credit is available to students who entered the ninth grade in 2003-2004.	The section 1 law that created the locally awarded verified credit expired with the ninth grade class of 2002-2003. The amendment is made to ensure that there is no gap in the awarding of locally verified credits.
20-131-150	Subsection A stated: “The standard school year shall be	Language is amended to state that: “The standard school year shall be 180	This amendment is made to clarify the minimum amount

	180 days. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 hours, excluding breaks for meals and recess, and a minimum of three hours for kindergarten.”	<u>instructional</u> days. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 <u>instructional</u> hours, excluding breaks for meals and recess, and a minimum of three hours for kindergarten.”	of instructional days and hours.
20-131-240 *	Subsection C addressed guidance counseling at the secondary school level. The language stated” “the counseling program shall provide for a minimum of 60% of the time of each member of the guidance staff devoted to such counseling of students.””	This language was deleted from subsection C. A new subsection D states that: “The counseling program for elementary, middle, and secondary schools shall provide a minimum of 60 percent of the time for each member of the guidance staff devoted to counseling of students.	This amendment is made to ensure that guidance counselors at all levels and not just the secondary level spend a minimum of 60 percent of the time counseling students.
20-131-240 *	Subsection D addresses the middle school teachers’ load. The subsection provided that middle school teachers with a seven-period day may teach 150 student periods per day or 30 class periods per week.	This is now subsection E due to subsection being added. Subsection E is amended to state that: “The middle school classroom teacher’s standard load shall be based on teaching no more than 5/6 (five-sixths) of the instructional day with no more than 150 student periods per day or 30 class periods per week. Beginning with the academic year 2008-2009 a middle school classroom teacher’s load shall be based on teaching no more than 5/6 (five-sixths) of the instructional day with no more than 150 student periods per day or 25 class periods per week.”	This language is amended based on the traditional five and one-half instructional hour six period day used in the Standards of Quality (SOQ) funding model. This provision is designed to protect a teacher’s unencumbered planning period required by the SOQ. The phase in of the 25 class periods per week is designed to parallel the language regarding the secondary teacher’s standard load and permits school divisions time to make the adjustment since school divisions will already have made teachers assignments prior to the regulations effective date of these regulations.
20-131-240 *	Subsection E addresses the secondary teachers’ load. The subsection provided that: “The secondary teacher’s standard load shall be no more than 25 class periods per week.”	This is now subsection F due to a subsection being added. Subsection F is amended to state that: “The secondary classroom teacher’s standard load shall be based on teaching no more than 5/6 (five-sixths) of the instructional day with] no more than 150 student periods per day or 25 class periods per week.	This language is amended to parallel the language regarding a middle school teacher’s standard load.
20-131-240 *	Subsection E addresses the secondary teachers’ load. Language regarding teachers of block programs was deleted.	This is now subsection F due to a subsection being added. Language regarding teachers of block programs is restored to state that: “Teachers of block programs that encompass more than one class period with no more than 120 student periods per day may teach	This language was restored based on public comment received from Bristol City Public Schools indicating that the proposed revision created a fiscal impact unintended by the state.

		30 class periods per week.”	
20-131-240	Subsections D and E contained language regarding middle and secondary teachers having one class period each day or the equivalent, unencumbered by supervisory or teaching duties for instructional planning.	A new subsection H was created to state that: “Notwithstanding the provisions of subsections E, F, and G each full-time middle and secondary classroom teacher shall be provided one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.”	This language is set out in its own separate section to emphasize the requirement to provide a planning period in the SOQ.
20-131-270	Subsection A,2,g, (2) requires School Performance Report Cards to include International Baccalaureate course information.	This section is amended to require Cambridge course information in addition to International Baccalaureate course information.	Cambridge course information was inadvertently left out of the original proposed draft.
20-131-270	Subsection A,2,g, 4 required School Performance Report Cards to include percentage of diplomas and percentage of students who do not graduate.	This section is amended to require percentage of graduates by diploma type as prescribed by the Board of Education and students who do not complete high school.	This modification was made to track the number of students receiving each type of the Board of Education’s recognized diplomas.
20-131-280	In subsection D, the term SOL was used.	The term SOL is replaced with the term Virginia Assessment Program.	A comprehensive term is used to address other tests in the accountability program.
20-131-280	In subsection D, the term accountability was used.	The term accountability is replaced with accreditation.	Accreditation is the appropriate terminology.
20-131-280	Subsection E stated: “The Board of Education may enact special provisions...”	This language is amended to state that: “The Board of Education may <u>adopt</u> special provisions...”	The terms enact is replaced with adopt to accurately reflect the procedures followed by the board.
20-131-280	The term SOL was used.	The term SOL is replaced with the term Virginia Assessment Program.	A comprehensive term is used to address other tests in the accountability program.
20-131-280	Subsection F addressed the prerequisites to the awarding of an accreditation rating.	A sentence is added to the end of subsection F requiring a division superintendent to report to the department compliance with this subsection through the pre-accreditation eligibility procedures in 8 VAC 20-131-290.	This amendment is made to reflect the reporting requirement in 8 VAC 20-131-270.
20-131-290	Subsection A refers to pre-accreditation criteria.	This term is replaced with pre-accreditation eligibility requirements.	This modification is based on public comment requesting consistent use of terminology through out the regulations.
20-131-290	Subsection B addressed the reporting requirements for accreditation.	Item number 4 is added to this subsection to requiring the division superintendent to report compliance with 8 VAC 20-131-270.	This amendment is made to reflect the reporting requirement in 8 VAC 20-131-270.
20-131-300	Subsection A refers to pre-accreditation requirements.	This term is replaced with pre-accreditation eligibility requirements.	This modification is based on public comment requesting consistent use of terminology through out the regulations.
20-131-300 *	Accreditation Withheld/Improving School	Accreditation Withheld/Improving School Near Accreditation rating is	This rating was restored with a phase out moved

	Near Accreditation rating was deleted.	restored with a phase out after the academic year ending in 2007.	from 2009 to 2007. Department of Education data indicate that few if any schools will meet this rating, however the department restored the phase out to give school divisions proper notice.
20-131-300	Subsection C defined accreditation ratings.	An opening paragraph is added to this subsection stating that: "Accreditation ratings awarded in an academic year are based upon Virginia assessment program scores from the academic year immediately prior to the year to which the accreditation rating applies."	This language is added to assist the public in understanding the accreditation process.
20-131-300 *	Subsection C addressed the required pass rates for schools to achieve full accreditation.	Subsection C is amended to phase in increased pass rates for school divisions and to address the implementation of new tests in grades four, six, and seven.	This modification is made to give school divisions time to prepare for increased requirements.
20-131-310	This section was titled "Action requirements for schools that are accredited with warning."	This section was renamed "Action requirements for schools that are accredited with warning or accreditation withheld/improving school near accreditation."	This section was renamed to address the accreditation rating Accreditation Withheld/Improving School Near Accreditation that was restored from the original proposed draft.
20-131-310	This section addressed the actions schools with an Accredited with Warning rating must undertake.	This section is amended to address the actions schools with an Accreditation Withheld/Improving School Near Accreditation rating must undertake.	This modification is made to address the accreditation rating Accreditation Withheld/Improving School Near Accreditation that was restored from the original proposed draft.
20-131-315	This section did not exist.	A new section entitled "Action requirements for schools that are denied accreditation" is added. The requirements contained in this section were removed from the proposed draft section 8 VAC 20-131-340, amended and placed in their own new section.	This section is added to address the action requirements schools that are denied accreditation must undertake. This section was created to form a logical order in the sections of the regulations.
20-131-325	Subsection B refers to pre-accreditation requirements.	This term is replaced with pre-accreditation eligibility requirements.	This modification is based on public comment requesting consistent use of terminology through out the regulations.
20-131-330	This section addressed the requirements for waivers.	This section was repealed and recreated in 8 VAC 20-131-350.	This modification was made to form a logical order in the sections of the regulations.
20-131-340	This section was entitled "Academic reviews, special provisions, and sanctions."	This section was renamed "Special provisions and sanctions." Language addressing academic reviews, schools with the ratings Accredited with Warning and Accreditation Denied was	This modification was made as a result of a reorganization of the original proposed draft to form a more logical order in

		moved to 8 VAC 20-131-315	the sections of the regulations.
20-131-350	This section did not exist.	This section is added to restore the repealed language in 8 VAC 20-131-330.	This modification was made to form a logical order in the sections of the regulations.
20-131-360	This section did not exist.	This new section is added to inform school divisions that the regulations shall be in effect for the 2006-2007 academic year.	This modification addresses the effective date of the regulations for implementation purposes.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
	See Appendix A and Appendix B	

Enter any other statement here

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	20-131-5	N/A	Consolidates definitions currently found throughout the regulations into one section and adds new ones for clarification.
20-131-10		Language setting forth the purpose of the regulations	Adds new language to clarify that that these regulations do not apply to schools licensed under other state regulations (such as state-operated programs licensed under the Standards for Interdepartmental Regulation of Children’s Residential Facilities.)
20-131-20		Language setting forth philosophy, goals, and objectives of the regulations	Inserts increasing graduation rates as one of the goals and objectives of the regulations.
20-131-30		Sets expectations for students who must be tested in grades K-8	Adds language relating to the grade level of the content clarifying questions that have been raised over the years concerning how to handle certain students who receive instruction on different

			<p>grade levels in different subjects.</p> <p>Removes redundant language from the provision.</p> <p>The terms “literature” and “research” are deleted since remediation recovery is only for the reading test, not the writing test.</p> <p>Aligns expectations for children with disabilities and limited English proficiency with requirements of the Individuals with Disabilities Education Improvement Act and the No Child Left Behind Act of 2001.</p> <p>Remediation recovery is expanded from K-8 to K-12 in English (reading) and mathematics. The retesting provision would no longer be needed with annual testing in grades three through eight.</p> <p>The application of remediation recovery to a school’s accreditation ratings would continue to be defined in Board guidelines.</p> <p>Language is added to reference § 504 plans, as well as Individualized Education Programs (IEP) for students with disabilities.</p> <p>Language is added to address testing of foreign exchange students. Foreign exchange students would be required to take Standards of Learning (SOL) tests when taking courses for credit, but would not be required to take the tests for courses if they audit the course.</p> <p>Language is added to clarify that student who limited English proficient (LEP) may be granted an exemption from Standards of Learning (SOL) testing in the areas of writing, science, and history and social science.</p>
20-131-40		Sets requirements for literacy passport tests, GED, and other credentials.	Repeal the section. Literacy Passport Tests are no longer required and other credentials are established in state law or other regulations.
20-131-50		Sets graduation requirements and honors.	<p>Language regarding additional requirements for a diploma is included due to action taken by the Board of Education in 2000 to extend the approval of existing additional requirements indefinitely or until changed by the local school board.</p> <p>Provides for the extension of the option for locally awarded verified credits.</p> <p>Permits technical certifications or demonstration of occupational competency to substitute for up to two verified units of credit to satisfy graduation</p>

			<p>requirements or to satisfy the requirement for demonstration of literacy and numeracy for the Modified Standard Diploma.</p> <p>Language regarding Certificates of Program Completion has been moved to a different subsection since such certificates are not diplomas. Additional language is modified for clarification.</p> <p>Additional revisions remove obsolete language.</p> <p>In the various diploma requirements charts the term “Practical arts” is changed to “career and technical” to update and clarify terminology.</p> <p>The new footnote number 6 provides an incentive for students to complete a career and technical program and pursue professional certification as an alternative to the requirement of having to earn verified credits in academic areas.</p> <p>In the footnote language listing courses has been removed for clarity. Language is added for parallelism with the structure of the other footnotes.</p> <p>Terminology is corrected regarding the IEP.</p> <p>Language regarding the Modified Standard Diploma that was originally stricken in the first version of the proposed revisions has been restored. This language specifies that: The informed, written consent of the parent is required,</p> <ul style="list-style-type: none"> • The student who has chosen to pursue a Modified Standard Diploma shall be allowed to pursue a Standard or Advanced Studies Diploma at any time in the student’s high school career, and • The student must not be excluded from courses or tests required for a Standard or Advanced Studies Diploma. <p>Language is reorganized in subsection D to emphasize that the Standard or Advanced Studies diploma shall be pursued by all students unless an IEP team determines a student with a disability is unlikely to meet credit requirements for such diplomas. The IEP team must determine that a student with a disability will pursue a Modified Standard Diploma.</p> <p>Language is added to identify all of Virginia’s diploma types in accordance with the Standards</p>
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			<p>of Quality.</p> <p>The Board’s current policy that allows students to earn a verified credit for the student-selected test if they complete a career and technical program sequence and earn an industry certification, state license, or occupational competency credential would be added to the regulations.</p> <p>For a standard diploma, when the certification, license, or credential confers more than one verified credit, a second verified credit could be substituted for a mathematics, science, or history/social science verified credit.</p> <p>The requirements for the Governor’s Seal would be revised. Students would be able to receive the seal if they earn an Advanced Studies Diploma with a B average or better, and successfully complete college-level coursework to earn 15 transferable college credits in Advanced Placement, International Baccalaureate, Cambridge, or dual enrollment (Early College Scholars).</p> <p>The requirements for the Board of Education Seal would be revised. Students would receive the seal if they have an A average, whether they earn a Standard or an Advanced Studies Diploma.</p> <p>The requirements for the Board of Education’s Career and Technical Education Seal would be revised to clarify that the student may pass an occupational competency exam, or earn an industry certification or state license.</p> <p>The requirements for the Board of Education’s Seal for Excellence in Civics Education would be added. (These requirements are currently in guidelines; the seal itself is established in § 22.1-253.13:4 of the <i>Code of Virginia</i>).</p> <p>Language about the diploma seals clarifies that a student may earn more than one seal. Language further clarifies that the licenses and examinations for the Board of Education’s Career and Technical Education Seal and Advanced Mathematics and Technology Seal must be approved by the Board.</p> <p>The inclusion of occupational competency assessments in the Standards of Accreditation is made pursuant to SJ 403 of the 2005 General Assembly, which calls for the study of the permanent use of industry certifications and state</p>
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<p>20-131-60</p>		<p>Establishes provisions for handling students who transfer into public schools.</p>	<p>tests for the award of verified units of credit.</p> <p>Clarifies local responsibility for grade placement of students in grades K-8.</p> <p>Clarifies terminology used in the standards relating to when students enter school.</p> <p>Clarifies which accrediting agencies are acceptable for automatic acceptance of credit from other accredited schools.</p> <p>Removes unenforceable and obsolete language.</p> <p>Clarifies the level of flexibility local schools have to accept courses in transfer from out-of-state schools where graduation requirements may differ from Virginia's.</p> <p>Language was revised to clarify that students transferring from Virginia public schools and nonpublic schools accredited by one of the constituent members of the Virginia Council for Private Education shall be recognized for all grade-level work completed in grades K-8. The academic records of students from all other schools shall be evaluated to determine appropriate grade placement.</p> <p>Language specifies that all secondary schools shall accept credits toward graduation from nonpublic schools accredited by one of the constituent members of the Virginia Council for Private Education.</p> <p>Additional language specifies that nothing in the regulations prohibits public schools from accepting standard credits towards graduation from all other schools when the course generally matches the course for which the receiving school gives standard credit and the school from which the student transfers certifies that the course meets the requirements for a standard credit, as specified in these regulations.</p> <p>A provision is added to allow a student who transfers to a Virginia high school for the first time during the tenth grade or at the beginning of the eleventh grade, who is pursuing a Standard Diploma, and who completes a career and technical education program sequence to substitute the certificate, occupational competency credential, or license for either a science or a history or social science verified credit.</p>
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20-131-70		Sets requirements for instructional programs in general	<p>A technical change clarifies that students with disabilities may be those identified under IDEA or § 504.</p> <p>A typographical error in a regulations citation is corrected.</p>
20-131-80		Sets requirements for instructional programs in elementary schools.	<p>Relocates language relating to recess to another section of the regulations to avoid confusion concerning the definition of instructional time.</p> <p>Language is added to require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the Board of Education.</p> <p>Language is added to parallel language formerly in 8 VAC 20-131-160 to emphasize the importance of reading in the school curriculum at all levels.</p> <p>The requirement for a daily recess in elementary schools would be moved from this section to 8 VAC 20-131-200. There is no change in the requirement, but it clarifies that recess is not part of the instructional program and is not counted as instructional time.</p> <p>The requirement that each school shall ensure that students who are unable to read with comprehension have both the additional instruction and the materials necessary for instruction is set out in this section, as well as in the sections of the regulations relating to middle school and secondary school (8 VAC 20-131-90 and 8 VAC 20-131-100) to emphasize the importance of reading at all levels.</p> <p>The requirement that each school shall require students to participate in a program of physical fitness during the regular school year in accordance with Board of Education guidelines.</p> <p>Language is added encouraging elementary schools to provide instruction in foreign languages.</p>

20-131-90		Sets requirements for instructional programs in middle schools.	<p>Language is added to require students to participate in a program of physical fitness during the regular school year in accordance with guidelines.</p> <p>Amends the instructional program requirements to require Algebra I to be available to all students in the 8th grade.</p> <p>Language is added to parallel language formerly in 8 VAC 20-131-160 to emphasize the importance of reading in the school curriculum at all levels.</p>
20-131-100		Sets requirements for instructional programs in secondary schools.	<p>Language is amended to require providing students access to at least three Advanced Placement courses, college-level courses for credit, or International Baccalaureate courses to make it possible for students to earn the Governor’s Early College Scholars Seal on the Advanced Studies Diploma.</p> <p>Language has been moved from 8 VAC 20-131-160 to emphasize the importance of reading in the school curriculum at all levels.</p>
20-131-110		Sets requirements for awarding standard and verified credit.	<p>Removes the restriction of alternate means of awarding credit to core academic courses to make it consistent with 20-131-180.</p> <p>Language is added to permit the continuation of locally awarded verified credit in science and history. Locally awarded verified credits were originally provided for by Chapter 577 of the Acts of Assembly of 2002.</p> <p>Adds language to permit the Board of Education to accept end-of-course tests from other states in the future.</p> <p>Language is added to clarify that students seeking a Modified Standard Diploma may have the opportunity for an expedited retake of a SOL assessment to complete literacy and numeracy requirements.</p> <p>Obsolete language is removed.</p>
20-131-140		Sets requirements for college preparation programs and opportunities for postsecondary credit.	<p>Language has been added to require the provision of counseling of students in obtaining industry certifications, occupational competency credentials, or professional licenses to help prepare students who may not attend an institution of higher education for entering the workforce.</p> <p>Language has been added to require students to</p>

			have access to at least three AP courses or three college level courses.
20-131-150		Defines the standard school day and school year.	<p>Deletes language that permits school divisions to develop alternate schedules to the 180 day/990 instructional hour requirements. This language is in conflict with § 22.1-98 of the <i>Code</i> that requires a minimum school year of 180 days or 990 instructional hours. School divisions may not do less than the <i>Code</i> requires but do not need permission to exceed the requirements of the <i>Code</i>.</p> <p>Language would be added to clarify that the standard school year is based on instructional days and the standard school days is based upon 5 ½ instructional hours.</p> <p>The addition of the word “recess” is to emphasize that it should not be counted as instructional time.</p>
20-131-160		Sets requirements for additional reading instruction.	Repeal this section. Language from this section has been moved into sections 80, 90, and 100 addressing the instructional program to emphasize the importance of reading in the school curriculum at all levels.
20-131-180		Establishes provisions for homebound instruction and use of correspondence or distance learning opportunities.	<p>Adds language to clarify instructional requirements for certain homebound students.</p> <p>A clerical error is corrected.</p>
20-131-200		Sets parameters for extracurricular activities and recess.	Incorporates language regarding recess that was stricken from 20-131-80.
20-131-210		Establishes the role of the principal.	Amends the standards to address the provision in Standard 4 of the SOQ regarding the responsibility of local school boards to notify parents of student graduation requirements (§22.1-253.13:4A).
20-131-240		Establishes staffing requirements for schools.	<p>Staffing requirements that are prescribed in the Standards of Quality for principals, assistant principals, librarians, guidance counselors, and clerical staff would be deleted from the regulations because it is duplicative of language in § 22.1-253.13:2 of the <i>Code of Virginia</i>.</p> <p>A revision is made to specify that guidance counselors for all schools, including elementary schools, shall provide a minimum of 60 percent of the time devoted to counseling of students. This provision currently applies to guidance counselors in middle and secondary schools. (New revisions for May 2006.)</p> <p>Language about planning period for teachers in middle and secondary schools would be revised to be consistent with language in § 22.1-253.13:2 of</p>

			<p>the <i>Code of Virginia</i>. It also clarifies that middle and secondary teachers' standard load shall be based on teaching no more than 5/6 of the instructional day.</p> <p>The requirement that middle school teachers have a load of no more than 25 class periods a week would begin with academic year 2008-2009. (New revisions for May 2006.)</p> <p>Language would clarify that in schools with a traditional six or seven period day, teachers of block programs that encompass more than one class period with no more than 120 student periods per day may teach 30 class periods per week. (New revisions for May 2006.)</p> <p>Language is added to strengthen the provision for one planning period per day or equivalent for middle and secondary teachers.</p>
20-131-260		Sets requirements for school facilities and safety.	<p>Language referencing Board of Education regulations pertaining to facilities is deleted since the board does not maintain any regulations that exceed the Uniform Statewide Building Code.</p> <p>Language added to emphasize the need for schools to have policies addressing the handling of student medications.</p> <p>Language is added to emphasize the need for schools to have plans for evacuating persons who may need assistance due to special physical, or medical needs, or who may need assistance due to limited English proficiency.</p> <p>The language regarding allergic reactions is also added to address the growing prevalence of student allergies and the dangers that they may pose if not addressed.</p>
20-131-270		Establishes communications procedures for schools	<p>Amends the regulation to better align state reporting requirements with those of the No Child Left Behind Act (NCLB).</p> <p>Amends the regulation to conform to new reporting requirements in the SOQ.</p> <p>Amends the regulation to remove a fiscal and administrative burden on schools to provide certain material to parents and eliminates an additional certification requirement on the division superintendent.</p> <p>Removes two requirements for reporting information that is reported to the Department and to the public through other means.</p>

			<p>A requirement would be added to provide information on the School Report Card on the number of students obtaining industry certifications and passing state licensure assessments and occupational competency assessments while still in high school. (This is consistent with language in SB 1045 passed by the 2005 General Assembly.)</p> <p>Language would be added to clarify that compliance with this section of the regulations would be reported through pre-accreditation eligibility procedures.</p>
<p>20-131-280</p>		<p>Establishes expectations for school accountability.</p>	<p>The entire section has been reorganized for clarity, consistency, and brevity.</p> <p>Language clarifies what accreditation ratings are based and how student test scores are included in the calculation of accreditation ratings.</p> <p>Clarifying language has been added to the section on special purpose schools. This language clarifies that special purpose schools must seek approval from the Board before implementing an alternative accreditation plan. The Board’s approval of an alternative accreditation plan is not guaranteed.</p> <p>Redundant language regarding LEP students has been eliminated. Language regarding the LEP one time exemption is already stated in 8 VAC 20-131-30 G.</p> <p>Language is added subsection to clarify that if a transfer student has received instruction in the content area the student must take the applicable SOL test.</p> <p>Language on home instruction has been added to the list of transfer students who are expected to take the tests.</p> <p>Language moved from 8 VAC 20-131-340 B is included in this section as part of a reorganization of the regulations to provide clarity. Due to the constant evolution of testing requirements mandated by federal law this provision permits the board to address new testing requirements, create and administer new tests, and provide for the consideration of such requirements and new tests in the calculation of accreditation.</p> <p>Eliminates language relating to provisional accreditation, which is no longer available to schools.</p>

			<p>Language is added in this section and in 8 VAC 20-131-290 to cross-reference the responsibility of the division superintendent in reporting compliance with pre-accreditation eligibility requirements. The term “pre-accreditation eligibility requirements” is used for clarity in this section, and in 8 VAC 20-131-290, 8 VAC 20-131-300, and 8 VAC 20-131-325.</p>
20-131-290		Defines the pre-accreditation eligibility process.	<p>Amends the regulation to be consistent with the accrediting cycle established in 20-131-280 and aligns the requirements with existing practice.</p> <p>Clarifies that student achievement on SOL and other tests form the primary basis for determining the accreditation status of a school</p> <p>Removes a separate reporting requirement for division superintendents and comports to existing practice.</p> <p>Language would be added to clarify the link between accreditation eligibility and pre-accreditation eligibility.</p>
20-131-300		Establishes accreditation ratings.	<p>Eliminates obsolete language. Previous language was time/date specific.</p> <p>Language is added to address implementation of annual testing.</p> <p>Amendments provide for a phase-in of higher standards for accreditation ratings earned in the 2009-2010 school year to be applied to the 2010-2011 school year.</p> <p>Provisionally Accredited/Meets State Standards language is obsolete and has been deleted.</p> <p>Accredited with Warning rating is obsolete and has been deleted due to the period of time having passed. Language is also deleted for clarification.</p> <p>Language is added to clarify that beginning with accreditation ratings earned in 2005-06 a school may be rated Accreditation Denied for the 2006-07 school year if it has been Accredited with Warning for the three years preceding 2006-07.</p> <p>Language regarding alternate assessments or alternative tests is added in the new for consistency with 8 VAC 20-131-280 and clarity.</p> <p>The requirement that the pass rate for accreditation is 75 percent in English in grades 3 and 5 would be revised to grades 3 through 5 to reflect annual testing in English and mathematics.</p> <p>Beginning with ratings earned in 2010-2011 and</p>

			<p>beyond (based on assessments in 2009-2010 and beyond), the pass rate for accreditation would be raised to 75 percent in English and 70 percent in mathematics, science, and history and social science.</p> <p>The accreditation rating, Accreditation Withheld/Improving School Near Accreditation, which was eliminated in the first proposed revision, is restored for school year 2006-2007, based on the assessments taken in school year 2005-2006. The accreditation rating expires at the end of school year 2006-2007.</p> <p>Language clarifies that accreditation ratings awarded in an academic year are based upon Virginia assessment results from the academic year immediately prior to the year to which the accreditation rating applies.</p> <p>Language further clarifies that the provisions of the current Standards of Accreditation apply to accreditation ratings awarded for academic year 2006-2007, based on assessments taken in 2005-2006.</p> <p>Additional language clarifies that a school that is reconstituted and is Conditionally Accredited may have its accreditation rating revert to Accreditation Denied if it fails to be Fully Accredited or fails to have its annual application for such rating renewed.</p>
20-131-310		Establishes requirements for schools accredited with warning.	<p>Eliminates obsolete language about provisional accreditation.</p> <p>Through out the regulation language regarding research-based interventions have been added to clarify that schools must adopt interventions that have a proven track record of success.</p> <p>Language is moved from 8 VAC 20-310-40 to this section. The language says that schools rated Accredited with Warning must undergo an academic review and prepare and implement a school improvement plan.</p> <p>Language also specifies that schools rated Accreditation Withheld/Improving School Near Accreditation must also undergo an academic review and prepare and implement a school improvement plan.</p>
	8 VAC 20-131-315	Creates action requirements for schools that are denied accreditation	A new section is added for clarity. Language about the requirements for schools denied accreditation is moved from 8 VAC 20-131-340

			<p>to this section.</p> <p>The sequence and timing of these provisions has been modified:</p> <ul style="list-style-type: none"> • Any school rated Accreditation Denied must notify the parents and other interested parties of the accreditation rating within 30 calendar days of receiving the notification, and must provide them with a copy of the proposed corrective action plan and an opportunity to comment on the corrective action plan. • The school is subject to actions prescribed by the Board of Education and affirmed through a memorandum of understanding between the Board of Education and the local school board. • The local school board must submit a corrective action plan to the Board of Education within 45 days of the notification of the rating, for consideration in the memorandum of understanding. • The memorandum between the Board of Education and the local school board shall be entered into no later than November 1 of the year in which the accreditation rating is awarded. • The local school board must submit status reports to the Board of Education, and the principal, division superintendent, and chair of the school board may be required to appear before the Board of Education to present the status reports. • The option for reconstituting a school has been modified. If the local school board chooses to reconstitute a school, it must apply annually for an accreditation rating of Conditionally Accredited. The Conditionally Accredited rating may be granted for up to three years if the school is making progress toward a rating of Full Accreditation in accordance with the terms of the approval of the application. • The provisions about replacing staff, hiring a management firm, or converting to a charter school are no longer included as examples of reconstitution.
20-131-320		Established provisional accreditation benchmarks.	Repeals the entire section to eliminate obsolete language about provisional accreditation.
20-131-325		Established recognitions and rewards.	Language is proposed to allow schools maintaining a pass rate of 95 percent or more on SOL or other tests to be accredited for a three-year period. Schools would continue to comply with the annual submission of pre-accreditation documentation. This is designed to reward consistently high achieving institutions.

			<p>Language regarding waivers of certain specified sections of the regulations has been eliminated due to the fact that few if any schools have requested such waivers since their availability.</p> <p>The provisions for the Governor’s Award for Outstanding Achievement Language is revised to require that the school be Fully Accredited, and that it has significantly increased student achievement in student subgroups to close the achievement gap.</p>
8 VAC 20-131-330		Permits the Board of Education to grant waivers to certain provisions of the regulations.	This section is moved to 8 VAC 20-131-350.
20-131-340		Establishes sanctions for poorly performing schools.	<p>The provisions relating to academic reviews and Accreditation Denied are moved to 8 VAC 20-131-310 and 8 VAC 20-131-315. The section is renamed “Special Provisions and Sanctions.”</p> <p>A provision is added to specify that withholding of a school’s accreditation rating shall not be considered an interruption of the three consecutive year period for purposes of receiving an Accreditation Denied status.</p>
	20-131-350	Permits the Board of Education to grant waivers to certain provisions of the regulations.	This language was moved from 8 VAC 20-131-30.
	20-131-360	Established effective date of regulations.	This section provides notice to school divisions of when to begin implementing the regulations including any phased-in requirements. The language provides that unless otherwise specified, these regulations are effective for the 2006-2007 school year.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The Department of Education has determined that there are no other regulatory methods. The *Code of Virginia* requires these regulations.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

Schools are important institutions in communities. The impact of the proposed regulatory action on the institution of the family will be continued improvement in the public education system to help ensure that children have the opportunity to receive a quality education and preparation for adulthood whether they move on to higher education, the military or the work force. Students must be adequately prepared for the future in order to lead productive lives. Being productive and successful will increase the potential for strong stable families.

**Appendix A
Summary of Public Comment**

8 VAC 20-131-05. Definitions.

- A definitions section is proposed to consolidate and clarify terms used in these regulations.

Public Comment:

- Superintendents in Regions VI and VII applauded this clarification.
- The Parents Across Virginia United to Reform SOLs (PAVURSOL) commented that the standards should define “graduation rates” as the percentage of ninth graders who leave with a diploma four years later, taking into account transfers into and out of schools and divisions.
- Two comments supported including a definition of graduation rate in the standards.
- One comment requested that the standards clarify the definition of “school” to include language about corrective action when schools do not meet pre-accreditation requirements such as “...and/or has developed and implemented corrective action plans for those requirements it does not meet...”

Agency Response: The department is in the process of developing its student information system, which will not contain four years of comprehensive student information until 2008. Consequently, the department will not have baseline student data to determine accurate student-level graduation data until after the class of 2008 graduates. Legislation passed by the 2006 General Assembly requires the Board of Education to have a standardized graduation rate formula in place by October 1, 2008. Therefore, it is premature to require a graduation rate at this time, but the Board of Education is examining this issue and will report to the General Assembly later in 2006.

8 VAC 20-131-10. Purpose.

- Language would clarify that these regulations do not apply to schools licensed under other state regulations (such as state-operated programs licensed under the Standards for Interdepartmental Regulation of Children’s Residential Facilities).

Public Comment: None

8 VAC 20-131-20. Philosophy, Goals, and Objectives.

- A new objective, to increase graduation rates, would be added to the goals and objectives.

Public Comment:

- PAVURSOL commented that the definition of “graduation rates” as it proposes in 8 VAC 20-131-05 should be cross-referenced here.

Agency Response: See comments related to 8 VAC 20-131-05.

8 VAC 20-131-30. Student Achievement.

- Students who are accelerated would take the tests for the grade level of the content received in instruction.
- Remediation recovery would be expanded from K-8 to K-12 in English (reading) and mathematics. The retesting provision would no longer be needed with annual testing in grades three through eight. The application of remediation recovery to a school’s accreditation ratings would continue to be defined in Board guidelines.
- Language would be added to reference § 504 plans, as well as Individualized Education Programs (IEP) for students with disabilities.
- Foreign exchange students would be required to take Standards of Learning (SOL) tests when taking courses for credit, but would not be required to take the tests for courses if they audit the course.

Public Comment:

- PAVURSOL commented that in subsection B the proposed revisions regarding eighth graders implies that they should be retained or promoted based solely on SOL test scores equating passing the tests with “basic mastery” of the SOL and failing the tests with lack of mastery. The organization states that for all students, not just K-8 students, SOL and other test scores should be used “as part of a set of multiple criteria for

<p>determining the promotion or retention of students.”</p> <ul style="list-style-type: none"> • PAVURSOL commented that in subsection C remediation recovery “bonus points” should be set out in the SOA and no longer explained in Board of Education guidelines. • PAVURSOL opposes taking away Limited English proficiency (LEP) students’ one-time exemption from K-8 testing in each of the four core areas and replacing it with an exemption only from science and history/social science testing. PAVURSOL believes that this will force these students to attend summer or other remedial classes solely for failing SOL tests causing such students to lose parts of their summers, afternoons, or elective or other classes, based on scores on tests given in English. • Three comments opposed taking away the one-time exemption in reading and math SOL tests for LEP students. • Alleghany County advocates for the Standard English Language Proficiency (SELP) test to continue to be a one-time substitute for the reading SOL assessment if the standards eliminate the one-time exemption for LEP students on the reading SOL tests. • Two comments support continuing remediation recovery in general. • Eight comments support remediation recovery as it currently exists. • The Virginia Mathematics and Science Coalition supports expanding remediation recovery to high school math. The Region 7 superintendents also support the provision. • The Virginia Mathematics and Science Coalition supports language to require additional math instruction similar to the requirement for additional reading instruction at all levels. • Loudoun County expressed concern about the growth of LEP students and the need to get them up to speed for SOL tests. Is seeking any assistance they can get with staffing and time to get these students up to speed. • The Virginia Education Association (VEA) supports the addition of students with § 504 plans for special dispensations in the accountability system. The Region VII superintendents and one additional comment are in support of this measure. • The Virginia Education Association (VEA) supports adding the reference to § 504 plans since both the IEP and the § 504 Plan should prescribe appropriate assessments for students with disabilities. <p>Agency Response: All of the issues raised by public comments are currently being addressed by the SOA or in Board of Education guidelines or policies.</p>

8 VAC 20-131-40. Literacy Passport Tests.

- The section would be repealed, as it is obsolete and the tests are no longer administered.

Public Comment: None

8 VAC 20-131-50. Requirements for Graduation.

- The Board’s current policy that allows students to earn a verified credit for the student-selected test if they complete a career and technical program sequence and earn an industry certification, state license, or occupational competency credential would be added to the regulations.
- For a standard diploma, when the certification, license, or credential confers more than one verified credit, a second verified credit could be substituted for a verified unit of credit in science or history and social science.
- Language would clarify that every student would pursue a Standard or Advanced Studies Diploma, but the Modified Standard Diploma would still be an option for students with disabilities, if determined appropriate by the IEP team.
- The requirements for the Governor’s Seal would be revised. Students would be able to receive the seal if they earn an Advanced Studies Diploma with a B average or better, and successfully complete college-level coursework in three Advanced Placement, International Baccalaureate, Cambridge, or dual enrollment courses.
- The requirements for the Board of Education Seal would be revised. Students would receive the seal if they have an A average, whether they earn a Standard or an Advanced Studies Diploma.
- The requirements for the Board of Education’s Career and Technical Education Seal would be revised to clarify that the student may pass an occupational competency exam, or earn an industry certification or state license approved by the Board of Education.

- The requirements for the Board of Education’s Seal for Excellence in Civics Education would be added. (These requirements are currently in guidelines; the seal itself is established in § 22.1-253.13:4 of the *Code of Virginia*).

Public Comment:

- Five comments supported a three-year of one foreign language requirement for the Standard Diploma.
- Ten comments supported a four-year of one foreign language requirement for the Advanced Studies Diploma, and the elimination of the options to take two years of two foreign languages for the Advanced Studies Diploma.
- One comment supported three years of two foreign languages or four years of one foreign language as graduation requirements.
- VEA, Virginia Parent Teacher Association (PTA), Region VII superintendents, Virginia Beach General Advisory Council for Technical and Career Education, Hampton Roads Workforce Development Board for Area XVI, and seven other comments supported the revisions regarding the use of Career and Technical Education (CTE) courses to fulfill the student selected verified credit and to substitute for a verified credit in history and social science or science.
- One comment supported mandating two years of a foreign language for the Standard Diploma.
- Just Children commented that the revisions to the requirements for the Modified Standard Diploma present what it perceives to be as a threat of decreasing access to the general curriculum for students with disabilities. Just Children viewed the revised language as not preserving the requirements that schools obtain informed written consent of both students and parents before assigning students with disabilities to the Modified Standard Diploma track; and by not preserving the requirement that students with disabilities not be excluded from certain courses and tests once the IEP team chooses the Modified Standard Diploma option.
- PAVURSOL supports allowing a second verified credit in science or history/social science for Standard Diplomas to be satisfied by certification, license or credential conferring more than one verified credit. PAVURSOL believes this same opportunity should be extended to students pursuing an Advanced Studies Diploma, students in special visual or performing arts programs.
- PAVURSOL opposes what it perceives as eliminating requirements to obtain informed written consent of both students and parents before assigning students with disabilities to the Modified Standard Diploma track; to ensure that students may pursue a Standard or Advanced Studies Diploma at any time; and that students with disabilities not be excluded from certain courses and tests needed to earn a Standard or Advanced Studies Diploma.
- PAVURSOL opposes basing the “Governor’s Seal” (or any other seal or award) on a specified number of college credits earned via AP or IB exam scores. Virginia students do not need another layer of standardized-test-based evaluation or distinction, and not all students can afford to pay for these exams and not all school divisions pay for those who cannot afford them.
- Eight additional comments opposed the revisions that they perceived as eliminating the requirements to ensure students with disabilities are not excluded from certain courses and tests needed to earn a Standard or Advanced Studies Diploma.
- Eight additional comments opposed the revisions that they perceived as eliminating the requirement to obtain informed written consent of both students and parents before assigning students with disabilities to the Modified Standard Diploma track.
- Alleghany County public schools anticipate problems with industry certifications at high school because none of its teachers have the credentials to teach those certifications. The industry certifications revisions will require additional training for teachers.
- Two comments proposed expanding the list of electives available for students to graduate with a standard or other diploma to incorporate international perspectives including two sequential electives on Contemporary World Regions (NAFTA, Europeans Union, China, etc.) and Contemporary World Religions or Contemporary World Environments.
- The Virginia Credit Union, the Virginia State Corporation Division of Securities and Retail Franchising, Virginia Society of Certified Public Accountants and Senate Majority Leader Walter A. Stosch and Senator Russell Potts advocated for requiring a personal finance course as a requirement for high school graduation.

- Seven additional comments (including the Virginia Jump \$tart Coalition on Personal Financial Literacy and the Financial Literacy Committee for Virginia Credit Unions) advocated for requiring a personal finance course as a requirement for high school graduation.
- Region VII superintendents are concerned that special diplomas and certificates of program completion are no longer available.
- Region VII superintendents support the addition of the Civics Education Seal to the regulations. One teacher voiced support as well.
- One comment stated striking “or certificate” on line 224 may conflict with other language in the section relating to graduation from high school.
- Voices for Virginia’s Children commended the department for making locality graduation rates available on its Web site.
- One comment urged the Board not to adopt a graduation rate target.

Agency Response:

- 1. Staff recommends restoring the language to the requirements for the Modified Standard Diploma that was identified for elimination.**
- 2. Staff recommends that the Board of Education study the inclusion of a personal finance course to the graduation requirements as this addition potentially has a fiscal impact on localities.**

8 VAC 20-131-60. Transfer Students.

- Language would be added to clarify that for students entering Virginia public schools below the secondary school level, the placement in grade is the responsibility of the local school board. At the secondary school level, language clarifies that credits earned in schools accredited by agencies recognized by the U. S. Department of Education are automatically acceptable for transfer credit, in addition to those credits earned in schools that are members of Virginia Council for Private Education (VCPE), as currently specified in the regulations. Coursework earned in schools accredited by a non-recognized agency would be evaluated by the local school division.

Public Comment:

- Ten comments support Old Dominion Association of Church Schools (ODACS) proposal to add language specifically addressing transfer of credit from non-accredited private schools.
- The Virginia Council for Private Education (VCPE) is concerned about the proposed changes to the language in the transfer section related to other accrediting agencies.
- The VEA supports the idea of evaluating students’ prior work when they transfer from schools that are not accredited by a recognized agency. If provisions are necessary in the SOA, it is hoped they would be procedural only and that the final accountability rests with the local school division.
- One comment from Department of Defense Education Activity supports changes in transfer section, especially the proposal that would allow the BOE to accept other states’ end-of-course tests.
- One comment stated it is unreasonable to discriminate against students who previously attended private schools when they want to return to public schools. They must take a teacher-made test if they want to transfer the credits.
- The VEA supports clarification that coursework earned in schools accredited by a non-recognized agency should be evaluated by the local school division.

Agency Response: Staff recommends modifying the language in the standards as it relates to transfer students from other than a Virginia public school or a private school accredited by the Virginia Council for Private Education to accommodate the request from the Virginia Council for Private Education and the Old Dominion Association of Christian Schools and clarify procedures for use by the school receiving the transfer student.

8 VAC 20-131-70. School Instructional Program.

- A technical change clarifies that students with disabilities may be those identified under IDEA or § 504.

Public Comment: None

8 VAC 20-131-80. Instructional Program in Elementary Schools.

- The requirement for a daily recess in elementary schools would be moved from this section to 8 VAC 20-131-200. There is no change in the requirement, but it clarifies that recess is not part of the instructional program and is not counted as instructional time.
- Language would be added to require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the Board of Education.
- The requirement that each school shall ensure that students who are unable to read with comprehension receive additional instruction in reading is set out in this section, as well as the sections relating to middle school and secondary school (8 VAC 20-131-90 and 8 VAC 20-131-100) to emphasize the importance of reading in the school curriculum at all levels.
- Language is added encouraging elementary schools to provide instruction in foreign languages.

Public Comment:

- Two comments supported foreign language requirements for elementary students.

Agency Response: At its May 2006 monthly meeting, the Board of Education added language to encourage elementary schools to provide instruction in foreign languages.

8 VAC 20-131-90. Instructional Program in Middle Schools.

- Language would be added to require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the Board of Education.
- Middle schools would be required to offer Algebra I to all students in the eighth grade.

Public Comment:

- One comment supported offering an additional year of foreign language at the seventh grade.
- Virginia PTA supports the proposal to offer Algebra I to all students in the eighth grade.

Agency Response: The public comment regarding Algebra I has been incorporated into the proposed regulations. The public comment regarding foreign language has merit. However, incorporating this recommendation into the proposed regulations would result in a fiscal impact.

8 VAC 20-131-100. Instructional Program in Secondary Schools.

- All secondary schools would be required to offer at least three Advanced Placement courses, International Baccalaureate courses, or college-level courses for degree credit, or any combination thereof. Current language requires secondary schools to offer at least two Advanced Placement or college-level courses.

Public Comment:

- The Virginia PTA supports this proposal.

Agency Response: No response necessary.

8 VAC 20-131-110. Standard and Verified Units of Credit.

- Language would be modified to allow school divisions to award credit for both core and non-core academic courses on a basis other than the 140 clock-hour requirement to provide flexibility for dual enrollment, virtual AP school, and other initiatives. However, local school boards would still be required to develop a written policy to ensure that the course is comparable to 140 clock hours of instruction.
- Language would clarify that students seeking a Modified Standard Diploma could use an expedited retake of a Standards of Learning test to meet the literacy and numeracy requirements for the Modified Standard Diploma.
- Provisions for a locally awarded verified unit of credit in science or history/social science, subject to Board guidelines, would be added to the regulations. (Currently the provisions are in a § 1 statute and apply to the ninth grade classes of 2000-01, 2001-02, and 2002-03.)

- The criteria for Board approval of substitute tests would be modified to permit tests administered as a part of another state’s accountability program to be approved as substitute tests. Such tests would be held to the same standard of review and approval by the Board as all other substitute tests.

Public Comment:

- PAVURSOL supports adding the locally awarded verified credit option for science and history/social science to the standards. PAVURSOL believes this option should be extended to English and math. Students should be able to have their achievement verified by measures other than standardized test scores.
- PAVURSOL believes that adding other states’ tests while maintaining all the rest of the existing criteria does not make sense if the purpose of the SOL program is to ensure that students have mastered the knowledge and skills which the state deems essential as defined by the SOL. Committees of educators appointed by the Department of Education should be able to review classroom tests and exams on which Virginia students’ passing grades are based to ensure that those tests measure content incorporating or exceeding SOL content for courses in question.
- One comment supports the change to allow students seeking a Modified Standard Diploma to use an expedited retake of a Standards of Learning test to meet the literacy and numeracy requirements for the Modified Standard Diploma.
- Four comments support adding the locally awarded verified credit option to the SOA.
- The Department of Defense Education Activity and the Office of the Under Secretary of Defense applauds Virginia’s efforts to help students who transfer into the Commonwealth from out-of-state by allowing the Board of Education to accept other states’ end-of-course tests as substitutes for the Standards of Learning tests; and by increasing flexibility in graduation requirements for transfer students in grades 9-12. This will help a number of students of military families.
- One comment supported permitting transfer students to use other states’ tests for verified credit which may permit some students to graduate without taking any Virginia assessments.
- Region four key instructional leaders want to ensure that lifting the 140 clock-hour requirement will not compromise the authority to deny high school credit under the following conditions: 1) for coursework completed that falls significantly below the 140 clock-hour standard [for instance, courses taken in one semester through a higher education institution that may provide only 45 instructional contact hours]; and 2) for coursework completed with institutions or individuals where little information, if any, is available about course content, length, or instructor credentials.

Agency Response: Most of these comments are supportive of the proposed regulations. In response to the comment regarding other states’ tests, the Board of Education already has a review and approval process in place for substitute tests and will use this same process to review and approve other states’ tests. In response to the comment regarding the 140 clock hour requirement, the language in the proposed regulations is consistent with the Code of Virginia, §22.1-253.13:4.

8 VAC 20-131-120. Summer School.

- No changes are proposed.

Public Comment: None

8 VAC 20-131-130. Elective Courses.

- No changes are proposed.

Public Comment: None

8 VAC 20-131-140. College Preparation Programs and Opportunities for Postsecondary Credit.

- Language would be added to require counseling of students in obtaining industry certifications, occupational competency credentials, or professional licenses in career and technical education fields.
- Language would be added to require students to have access to at least three AP courses or college-level courses for degree credit.

Public Comment:

- VEA, Virginia Beach General Advisory Council for Technical and Career Education, Hampton Roads Workforce Development Board for Area XVI, and two additional comments support the revisions regarding the counseling of students in obtaining industry certifications, occupational competency credentials, or professional licenses.
- Alleghany County public schools states there will be an increased need for counseling services at the middle and high schools with regard to the industry certification awareness and the transition to new requirements for diploma seals. The school system feels that the additional time would necessitate additional personnel; therefore, they recommend that the Standards of Quality related to guidance services be reviewed to ensure that this revision does not amount to an unfunded mandate.

Agency Response: In regards to the comment from Alleghany County, language in the proposed regulations is consistent with the Code of Virginia, §22.1-253.13:4, which provides for the award of verified units of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education. Additional requirements related to diploma seals have been part of the Code of Virginia for several years. The Board of Education is reviewing guidance services as part of its review of the Standards of Quality in this calendar year.

8 VAC 20-131-150. Standard School Year and School Day.

- Language is revised for clarity. Section 22.1-98 of the *Code of Virginia* requires school terms to be at least 180 teaching days or 990 teaching hours.

Public Comment:

- One comment suggested that school divisions not have the authority to waive the requirement of a full day of attendance unless such waivers were for one year only and approved following a public hearing on the request. The person was concerned about the number of early dismissals per school year in Fairfax and Arlington counties.
- One comment raised question regarding the 540-hour requirement for kindergarten and whether or not it includes (or should include) breaks and/or lunch.
- One comment stated that the Board should prohibit early dismissals from school. Students who are dismissed early are being shortchanged in their opportunities for learning. The Board should insist on a full day schedule five days a week for all students. The minimum length of a school day should be six hours.
- The proposed amendment would add the words “and recess” after the phrase “excluding breaks for meals.” The words “and recess” should be deleted.
- One comment stated that paragraph B of 8 VAC 20-131-150 allows local school boards to do whatever they want and should be changed to read: “All students in grades 1 through 12 shall maintain a full day schedule of classes (six hours), with up to four exceptions allowed per year for scheduled early dismissals. Temporary waivers of this standard may be requested after a public hearing and approved for only one year at a time.

Agency Response: In regards to the comment related to the 540-hour requirement for kindergarten and the recess issue, language in the proposed regulations was revised to clarify the definition of a standard school day. In regards to the comments concerning early dismissals, the Constitution of Virginia vests the day-to-day operation of the school divisions with the respective local school boards.

8 VAC 20-131-160. Additional Reading Instruction.

- The language in this section is moved to 8 VAC 20-131-80, 8 VAC 20-131-90, and 8 VAC 20-131-100.

Public Comment: None**8 VAC 20-131-170. Family Life Education.**

- No changes are proposed.

<p>Public Comment:</p> <ul style="list-style-type: none"> • One comment asked that Family Life Education be required. • One comment asked that Family Life Education be partially included within the elementary and intermediate levels with a stronger focus starting at the intermediate and continuing through high school.
<p>Agency Response: The 2006 General Assembly has requested that the Board of Education survey local school divisions regarding family life education. In addition, legislation codifying the requirements of family life education was carried over by the 2006 General Assembly and will presumably be addressed in 2007. Until these actions are resolved, it is premature for the Board of Education to take further action.</p>

8 VAC 20-131-180. Off-site Instruction.

- Language would clarify that for homebound instruction, the instructional time requirements or alternative means of awarding credit, as adopted by the local school board, have been met.

<p>Public Comment: None</p>

8 VAC 20-131-190. Library Media, Materials and Equipment.

- No changes are proposed.

<p>Public Comment:</p> <ul style="list-style-type: none"> • The Virginia Educational Media Association (VEMA) and the VEA supports a revision to this standard to require a minimum number of print materials of 10 current titles per student (copyrights averaging within the last 15 years.) • 37 comments supported VEMA. • Associated School Librarians of Fairfax County supported VEMA’s recommendations. • One comment stated that funding of libraries should be mandated funding and not discretionary funding for the individual principal to use as allowed by site-based management. • One comment stated there should be someone to check to ensure that revisions are followed. • One comment stated that school division staff has cited concerns that school libraries are underfunded, and that there should be a minimum number of books in school libraries and the average copyright age of a collection. Library staff should also be increased to two full-time librarians at 750 and one additional full-time librarian for every 500 additional students. There should also be one full-time clerical position for all libraries with enrollments of 200 or more students. • Seven comments expressed concern regarding brevity of the SOA regarding the role of the librarian in student learning. Information literacy skills and information science should be integrated into curriculum standards and incorporated into the accreditation process.
<p>Agency Response: There are concerns about the fiscal impact on schools and the restrictions that may be placed on materials with copyrights older than 15 years that still have value. Requirements driving funding cannot be placed in the SOA. This is a function of the Standards of Quality, and the issue of library/media specialists will be examined during the Board of Education’s review of the Standards of Quality in 2006.</p>

8 VAC 20-131-200. Extracurricular and Other School Activities, Recess.

- The provision about recess in the elementary school is moved from 8 VAC 20-131-80 to this section.

<p>Public Comment:</p> <ul style="list-style-type: none"> • The Frederick County Public Schools requested an exemption to this requirement for school divisions that offer only half-day kindergarten programs because students only attend three hours per day. Complying with this requirement is cost prohibitive due to the need to increase the length of the day, contract time and salaries for teachers, bus drivers, etc. Loudoun County expressed the same concerns. • Two comments generally supported recess.
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- One comment stated that their school only has recess on the days physical education is not offered.
- Five comments requested that recess be included as instructional time.
- One comment expressed a fear that this change will require lengthening the school day and that it is too long already.
- Healthy Pathways Coalition and ten other comments supported designating a minimum amount of time for recess.
- Virginia Association for Health, Physical Education, Recreation, and Dance (VAHPERD) and eight other comments supported requiring 30 minutes of recess per day that requires students to be physically active.
- Prince William Health Partnership Authority supported requiring at least 20 minutes of recess per day.
- One comment stated that recess should not be included as instructional time.
- Virginia PTA and three other comments supported forbidding using the prohibition of recess as a disciplinary tool and to prohibit recess from being taken away for any other reason.
- One comment requested an increase in recess time.
- The Virginia Action for Healthy Kids supports the Healthy Pathways Coalition’s recommendations including designating a minimum amount of time for recess in elementary schools and that time be used to promote physical activity.
- Region IV key instructional leaders cited concern that “extending the instructional day to accommodate recess for a half-day” kindergarten program might have significant financial implications in such areas as transportation (more school buses and bus drivers) and extended contracts for teachers. In Region IV, the following school divisions offer half-day kindergarten: 1) Fairfax; 2) Frederick; 3) Loudoun; and 4) Prince William. Region IV is requested that the recess requirement for half-day kindergarten be waived and instead allow optional recess for divisions with half-day kindergarten where there is enough time for recess outside of the three-hour instructional day.
- Two comments stressed the importance of recess in the physical and mental wellness of children.

Agency Response:

1. **Staff recommends that a blanket exemption for ½ day kindergartens not be included in the standards. Individual schools (divisions) have the option of applying for a waiver of the requirement under 8 VAC 20-131-330 of the standards if the requirement presents a hardship.**
2. **Staff recommends not including a defined amount of time for recess in the standards due to the number of different daily schedule configurations found in schools across the state and the fear that adding such a requirement might create a fiscal impact on school divisions.**

8 VAC 20-131-210. Role of the Principal.

- Language would specify that the principal must notify parents of rising 11th and 12th graders of the number of standard and verified credits required for graduation, and the number of such credits the student must earn in order to graduate. (§ 22.1-253.13:4 of the *Code of Virginia*)

Public Comment:

- PAVURSOL and one additional comment believes that the SOA should require notifying parents of credits needed for graduation starting with rising ninth graders instead of waiting until students are about to start eleventh grade.

Agency Response: This requirement is mandated by the Standards of Quality.

8 VAC 20-131-220. Role of Professional Teaching Staff

- No changes are proposed.

Public Comment: None

8 VAC 20-131-230. Role of Support Staff

- No changes are proposed.

Public Comment: None

8 VAC 20-131-240. Administrative and Staff Support; Staffing Requirements.

- Staffing requirements that are prescribed in the Standards of Quality for principals, assistant principals, librarians, guidance counselors, and clerical staff would be deleted from the regulations because it is duplicative of language in § 22.1-253.13:2 of the *Code of Virginia*. Reference is made to the Standards of Quality.
- Language about planning period for teachers in middle and secondary schools would be revised to provide for equivalent time for teachers in schools with block schedules. (This is consistent with language in § 22.1-253.13:2 of the *Code of Virginia*.)
- Language is deleted that requires schools to report the extent to which unencumbered lunch is provided. There is no state requirement for an unencumbered lunch.

Public Comment:

- VEMA and VEA support a revision to the staffing requirements for library-media specialists to require:
 - The number of library staff professionals in schools with 1500 plus students to be specified,
 - One full-time librarian at the elementary school regardless of enrollment,
 - An additional librarian for every 500 students above 300 in elementary,
 - An additional librarian for every 500 students over 1000 in middle and high schools,
 - A library assistant/clerk at 350 students for elementary schools,
 - An additional clerk for every additional 600 students,
 - An additional clerk for every 750 students beyond 750 students for middle and high schools, and
 - Clerical staff assigned exclusively to the library according to specific enrollment levels.
- 27 comments supported the VEMA and VEA positions.
- One comment suggested that the standards should exceed the Southern Association of Colleges and Schools staffing standards for libraries including:
 - Every public school should have at least one fully certified full-time librarian.
 - Any school with over 500 students should have a library secretary in addition to librarian staff.
 - Schools with over 800 students should have two librarians.
 - Schools with over 1300 students should have three librarians.
 - Schools with ethnic and linguistic diversity or large populations of students with disabilities should have the flexibility to have more librarians.
- One comment stated the standards should include a realistic annual per student expenditure for library materials with funding adjusted for inflationary costs and new technologies and the Commonwealth should establish a measurable ratio of books to students based on budgetary realities.
- The VEA opposes the elimination of language requiring schools to report the extent to which unencumbered lunch is provided.
- Two comments from Spotsylvania suggested:
 - A full-time teacher is assigned 25 instructional periods in five days, five periods per day. According to section D, a full-time teacher assigned 25 instructional periods is not entitled to even one planning period per week.
 - In section E an alternating A/B day block schedule requires two calendar days to complete five instructional periods by a teacher. Some school divisions assign teachers six instructional blocks in two days. In both scenarios, no teacher is assigned more than 15 instructional periods per week, and only 20 instructional blocks are available per week. In the seven-period day, a full-time teacher assigned five instructional periods per day and who teaches 150 student periods per day will teach 750 students per week. By comparison, the alternating A/B day block full-time teacher assigned three instructional periods per day and who teaches 120 student periods per day will teach 600 students per week. In the seven period day, the class period average load is 30 students. In the alternating A/B day block schedule, the daily class period average load is 40 students.
 - In section F. In an alternating A/B day block schedule with full-time teachers assigned 15 instructional periods per week, 750 student periods per week equates to a per class average load of 50 students. This is inconsistent with the language in section E. The language in sections D, E, and F is inconsistent across sections when attempting to address both traditional and block

schedules. To eliminate confusion, please rethink the language pertaining to block schedules and don't combine it with standard schedules.

- Three comments object to Spotsylvania's block scheduling and requested that the staffing issues for teachers with block schedules be resolved to allow time for teachers to have breaks during the day to address issues other than instruction.
- One comment requested that Spotsylvania and state policy state that a planning duty period is for each CALENDAR day so that Spotsylvania may not define an instructional day as two calendar days if on A/B block schedules.
- One comment objected to Spotsylvania's requirement that special education teachers give up planning period time and instead use planning periods to attend IEP meetings and for benchmark testing.
- PAVURSOL opposes deleting staffing requirements and replacing it with references to the Standards of Quality because school personnel and parents should not have to go to other sources to find requirements. The *Code* requires that the SOA shall include administrative and instructional staffing levels and positions (§ 22.1-253.13:3.A)
- One comment stated language should be added for teachers that teach 4 X 4 block schedule so that they teach no more than 75 students per semester making a total of 150 students per year.
- The Virginia School Counselor Association (VSCA) commented that in 2002 elementary school counselors were once again mandated in the Commonwealth and the SOA language regarding 60 percent of guidance staff time being spent on counseling was not changed to address elementary counselors. VSCA feels that without specifically addressing elementary counselors in the 60/40 rule has negative implications for elementary counselors. The language as written implies that elementary counselors may not spend the majority of their time providing counseling services to students but may be involved in noncounseling activities.
- The Associated School Librarians of Fairfax County and two other comments also support VEMA's proposal.
- One comment supported the requirement of one full-time librarian in each school regardless of size.
- VAHPERD and eight other comments supported reducing the maximum student period load for health and physical education teachers.
- Four comments stated the SOA should make pupil-teacher ratios for health and physical education consistent with other ratios at the elementary level.
- Virginia Association of School Nurses and four other comments advocated for adding staffing requirements for school nurses at 1:1000.
- The VEA urges the Board to reduce teaching loads to 600 student periods per week with 800 for physical education and music.
- The Region VII superintendents support a requirement of planning time for elementary teachers.
- One comment supported a revision to language in 240.E to ensure that every teacher has a planning period everyday.
- Seventeen comments stated the number of library staff professionals in schools with 1500+ students should be specified.
- Eight comments supported an additional librarian for every 500 students with three at 1500 and four at 2000 in middle and high schools.
- The VEA urges the Board to revise further this section by deleting subsection D and changing subsection E to read, "The middle and secondary classroom teacher's standard load shall be no more than 25 class periods per week. One class period each day or the equivalent, unencumbered by supervisory or teaching duties, shall be provided to every full-time classroom teacher for instructional planning...." Subsection F should be revised to reflect the following limits to class loads; 600 student periods per week, with 800 for physical education and music, making that subsection consistent with subsection E.
- One comment indicated that the proposed standard is flawed: a full-time teacher is assigned 25 instructional periods in five days, five periods per day. According to section D, a full-time teacher assigned 25 instructional periods is not entitled to even one planning period per week. As to section E, an alternating A/B block schedule requires two calendar days to complete five instructional periods by a teacher. Some schools divisions assign teachers six instructional blocks in two days. In both scenarios, no teacher is assigned more than 15 instructional periods per week, and only 20 instructional blocks are available during the week. As to subsection F, in an alternating A/B day block schedule with full-time teachers assigned 15

<p>instructional periods per week, 750 student periods per week equates to a per class average load of 50 students. This is inconsistent with the language in subsection E. The language in subsections D, E, and F is inconsistent across sections when attempting to address both traditional and block schedules. To eliminate confusion, rethink the language pertaining to block schedules and don't combine with standard schedules.</p>
<p>Agency Response:</p> <ol style="list-style-type: none"> 1. The staff has no recommendation with regard to the library staffing suggestions. Staffing levels were moved to the Standards of Quality by the General Assembly. Requirements that drive funding cannot be included in the SOA. 2. The staff recommends modifying the language in 8 VAC 20-131-240 relating to teaching loads and instructional planning time required at the middle and high school levels to address some of the concerns raised by comments and to attempt to clarify the requirements found in the Standards of Quality.

8 VAC 20-131-260. Facilities and Safety.

- Language related to regulations of the Board of Education pertaining to facilities would be stricken. The Board of Education does not have regulations pertaining to requirements of the Uniform Statewide Building Code.
- Language would be added to provide for adequate and safe administration and storage of student medications.
- Language would also be added to require that written procedures for emergencies include procedures to follow in the event of an allergic reaction.
- Language would be added to require written procedures for the safe evacuation of persons with special physical, medical, or language needs who may need assistance to exit a building.

<p>Public Comment:</p> <ul style="list-style-type: none"> • The Virginia PTA supports the requirement for facilities for adequate and safe administration and storage of student medications.
<p>Agency Response: None</p>

8 VAC 20-131-270. School and Community Communications.

- A requirement would be added to provide information on the School Report Card on the number of students obtaining industry certifications and passing state licensure assessments and occupational competency assessments while still in high school. (This is consistent with language in SB 1045 passed by the 2005 General Assembly.)

<p>Public Comment:</p> <ul style="list-style-type: none"> • Virginia Beach General Advisory Council for Technical and Career Education, the Hampton Roads Workforce Development Board for Area XVI, and one additional comment supported including information on the School Report Card regarding the number of students obtaining industry certifications and passing state licensure assessments and occupational competency assessments while in high school. • One comment suggested the report card reflect retention rates for grades 9 through 12. • Eighty comments including those from Healthy Pathways Coalition and its affiliates, Virginia Association of School Nurses, and the Prince William Health Partnership Authority requested that the Board require the reporting of health/fitness data including Body Mass Index (BMI) and an analysis of student needs on the School Report Card. • One comment requested that the Board add the reporting requirement in 8 VAC 20-131-280.B.3 to 8 VAC 20-131-290.F.
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Agency Response: Reporting of industry certifications and state licenses has already been addressed. Reporting of physical fitness information would create an administrative burden on schools as testing in this area is not currently required.

8 VAC 20-131-280 School Accreditation.

- Changes would be made for clarity and brevity.

Public Comment: See graduation rates section

Agency Response: A few technical changes have been proposed for clarity. The staff recommends that the Board of Education study the issue of using graduation rates as part of the requirements for accreditation until such time as a valid and reliable formula for calculating graduation rates can be adopted.

8 VAC 20-131-290. Procedures for Certifying Accreditation Eligibility.

- Changes would be made for clarity.

Public Comment: None

8 VAC 20-131-300. Application of the Standards.

- The requirement that the pass rate for accreditation is 75 percent in English in grades 3 and 5 would be revised to grades 3 through 5 to reflect annual testing in English and mathematics.
- Beginning with ratings earned in 2010-2011 and beyond (based on assessments in 2009-2010 and beyond), the pass rate for accreditation would be raised to 75 percent in English and 70 percent in mathematics, science, and history and social science.
- In any school division in which one-third or more of the schools are rated Accreditation Denied (beginning in 2006-2007), language is added to specify action that the Board of Education may take in accordance with the Standards of Quality (§ 22.1-253.13:8 of the *Code of Virginia*).

Public Comment:

- See graduation rates section
- PAVURSOL opposes corrective action plans, mandated instructional methods, reconstitution, memoranda of understanding and all the rest because they are all based on virtually nothing but the SOL scores.

Agency Response: A few technical changes have been proposed for clarity. The staff recommends that the Board of Education study the issue of using graduation rates as part of the requirements for accreditation until such time as a valid and reliable formula for calculating graduation rates can be adopted.

8 VAC 20-131-310. Action Requirements for Schools that Are Accredited with Warning.

- Language is revised to clarify that the school is to adopt a research-based instructional intervention with a proven track record of success.

Public Comment:

- The VEA and one other comment opposes adding the language, “research-based instructional intervention” in this section because it believes the existing language is clearer, better language. The words “research-based” adds no value as “research-based” can be defined either too narrowly or too broadly to have any legitimate meaning.

Agency Response: Some technical changes have been made to consolidate some language regarding academic reviews previously found in 8 VAC 20-131-340

8 VAC 20-131-320. Provisional Accreditation Benchmarks.

- The section would be repealed. It is obsolete and the benchmarks are no longer in effect.

Public Comment: None

8 VAC 20-131-325. Recognitions and Rewards for School Accountability Performance.

- A school that maintains a pass rate of 95 percent or above for two consecutive years may receive a waiver from annual accreditation, and would be accredited for three years. However, the school must continue to submit documentation that it is in compliance with the regulations.
- The waiver provisions currently in the regulations would be deleted, as no school has requested such waivers.
- The provisions for the Governor’s Award for Outstanding Achievement Language is revised to require that the school be Fully Accredited, and that it has significantly increased student achievement in student subgroups to close the achievement gap.

Public Comment:

- The VEA supports allowing schools that maintain a pass rate of 95 percent or above for two consecutive years to be accredited for three years, waiving the annual requirement.

Agency Response: None, as the VEA supports the recommended change.

8 VAC 20-131-330. Waivers.

- Minor editorial changes are proposed.

Public Comment: None

8 VAC 20-131-340. Academic Reviews, Special Provisions, and Sanctions.

- A school rated Accreditation Denied would be subject to sanctions prescribed by the Board and affirmed through a memorandum of understanding between the Board and the local school board within 30 days following the opening of school.
- The memorandum of understanding could include, but not be limited to, provisions to:
 1. Submit status report to the Board or a committee of the Board detailing the implementation of corrective action;
 2. Undergo a management and educational service delivery review. This review would be modeled on the division-level efficiency review; or
 3. Employ a turnaround specialist to address those conditions at the school that may impede educational progress and effectiveness and academic success.
- Any school rated Accreditation Denied would be required to provide parents and the community with a written notice of the school’s accreditation rating, a copy of the school’s corrective action plan, and an opportunity to comment on the corrective action plan. Such public comment shall be received and considered by the school division prior to establishing the memorandum of understanding with the Board of Education.
- As an alternative to the memorandum of understanding, a local school board may choose to enter into an agreement with the Board of Education to reconstitute a school rated Accreditation Denied. The reconstitution agreement may include any of the provisions above along with one or more of the following actions:
 1. Replacing all or a majority of the administrative staff and a substantial percent of the instructional staff;
 2. Hiring a private or nonprofit management firm from a Board of Education approved list;
 3. Converting the school to a charter school (§22.1-212.16 of the *Code of Virginia*).

- If a local school board chooses to reconstitute a school, it could apply for an accreditation rating of Conditionally Accredited. The Conditionally Accredited rating could be extended for up to three years if the school is making progress toward a rating of Fully Accredited in accordance with the terms of the agreement with the Board of Education. The school would revert to a status of Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited by the end of the term of the agreement.
- The local school board may choose to close a school rated Accreditation Denied or to combine such school with another higher performing school in the division.
- Schools that receive the status of Accreditation Denied would annually report their progress toward meeting the requirements to be rated Fully Accredited to the Board of Education. The status reports would be relayed to the Governor and members of the General Assembly by November 15, as part of the Board's annual report.
- Language would specify that a school's accreditation could be withheld for test security violations.
- Language would be added, consistent with the Standards of Quality (§ 22.1-253.13:8 of the *Code of Virginia*), to specify that the Board may take action against the local school board due to failure of the local school board to maintain accredited schools.

Public Comment:

- The VEA and 11 other comments objected to the language requiring the “replacing all or a majority of the administrative staff and a substantial percentage of the instructional staff.”
- PAVURSOL opposes reconstitution based solely on standardized test pass rates. If adopted, it should be limited to instructional staff for the tested subjects in question and to the administrators who supervise them.
- PAVURSOL opposes authorizing school boards to close schools or combine them with higher performing schools based only on standardized test pass rates, forcing children and parents to lose their neighborhood schools and community.
- PAVURSOL believes any withholding of accreditation for test security violations should require evidence that the violations in question would result in conferring an accreditation rating which otherwise would be denied.
- PAVURSOL believes the Board of Education's authority to seek school division compliance with the school laws should not be limited to relevant provisions of the *Code* when any school within a division is rated Accreditation Denied. PAVURSOL believes laws regarding corrective action plans and other sanctions triggered by nothing but standardized test pass rate requirements should not be the only school laws considered serious and critical enough for the Board to actively enforce.
- One school board stated it opposes what it perceived to be a takeover by the Board if a school board fails to maintain fully accredited schools.
- The Region VII superintendents oppose sanctions for low-performing schools.
- The Virginia PTA opposes punitive actions against schools or school personnel and suggests that the goal should be to offer positive change that will result in student success.
- One comment suggested that the Board review these provisions to ensure it is not limiting the authority given in the Standards of Quality (SOQ) unintentionally and that the Board consider the impact of the 50 percent requirement where schools may lose accreditation based on low performance in one content area over a period of years.
- One comment expressed concern about the option to reconstitute a school. She indicated that the current sanction provisions of the SOA are acceptable and that the reconstitution option presents problems for rural areas. She also indicated that professional support and adequate funding make a bigger difference than massive restructuring.
- The VEA strongly urges the Board not to move in a punitive direction regarding sanctions for low-performing schools. Instead the VEA urges the Board to maintain the path it has chosen to date and to enhance those efforts of support, assistance, and resources based on assessments of needs. VEA said that we have seen success with that approach through Governor Warner's PASS Initiative and through VEA's own Priority School Initiative. Rather than impose punishments, the VEA recommends that the Board pursue a plan of action to increase the state's role in providing guidance, training, and professional development, beginning with low performing schools.

Agency Response:

1. **The language that was interpreted to be punitive to some who commented has been removed from the proposed revisions in favor of giving the Board more time to develop guidelines to give local school boards that have schools rated Accreditation Denied more flexibility in developing corrective action plans for those schools.**
2. **To provide for more clarity and logical sequence of actions, some language previously proposed for 8 VAC 20-131-340 has been amended and moved to a new section, 8 VAC 20-131-315.**

OTHER

Public Comment:

- Overall comment supporting state board’s work in public school administrators. Requested that the Board continue to require schools to be accountable and evaluate divisions that are not accredited before making major changes.
- One comment expressed concern over the broad implications and effects of the SOA on students with learning difficulties and environmental challenges.
- One comment advocated spending more money on students with disabilities, students of color, students with limited English proficiency, and students in rural areas to help them graduate.
- PAVURSOL commented that standardized test scores are estimates - not definitive measures - of student achievement and major educational decisions should not be based on test scores alone. PAVURSOL states that it is time Virginia starts heeding testing standards and test experts’ consensus on appropriate and inappropriate uses of test scores, to conduct SOL effectiveness studies, and to consider all research on the effects of high-stakes testing.
- One comment requested that the SOL be eliminated and replaced with a more authentic assessment.
- Speech-Language-Hearing Association of Virginia (SHAV) has concerns about caseloads and licensures issues.

Agency Response: In regards to the comment on the students with learning difficulties, the Board of Education also has in place comprehensive regulations governing special education, which incorporate federal and state statutes and are intended to provide a wide range of educational opportunities for students. The comments from PAVURSOL are related to standardized tests, whereas the proposed regulations address accrediting standards related to schools, not students.

Regarding speech-language pathologists, this issue is being addressed in other Board of Education regulations. In previous years, the Board has recommended reduced caseloads for speech-language pathologists, but this initiative has not yet been funded by the General Assembly.

HEALTH AND PHYSICAL EDUCATION

Public Comment:

- The Virginia PTA supports programs of physical fitness not just physical education in elementary and middle schools.
- VAHPERD and seven additional comments support a requirement of physical education for all grade levels K-12.
- One comment supported requiring four years of physical education in high school.
- Two comments supported mandatory health education separate from physical education in grades K-10.
- One comment supported mandatory physical education in grades K-10.
- One comment stated all students in K-8 need at least 30 minutes of physical education per day.
- One comment supported requiring 150 minutes of physical education instruction per week in grades 6-10.
- One comment supported requiring physical education daily in elementary schools and at least three days per week in middle and high schools.
- VAHPERD and 19 other comments supported requiring SOL testing in health and physical education.
- Seventy-seven comments including those from Healthy Pathways Coalition and affiliates and Virginia Association of School Nurses supported requiring a health and physical education test once in elementary,

once in middle and once in high school.

- Two comments generally supported assessments in health and physical education.
- One comment generally supports quality physical education in schools.
- The Health and Physical Education County and City Supervisors of Virginia support former Governor Warner's proposal but suggest the following language:
 - 8 VAC 20-131-80. Elementary students are required to participate in health and physical education program that aligns with the Virginia Health and Physical Education Standards of Learning which is delivered by a Virginia licensed health and physical education teacher.
 - 8 VAC 20-131-90. Middle school students are required to participate in health and physical education program that aligns with the Virginia Health and Physical Education Standards of Learning which is delivered by a Virginia licensed health and physical education teacher.
- One comment stated that physical education classes should not be graded, body mass indices should not be noted on student report cards, and schools should create walking programs or other healthy competitions so that kids do not fear participating in physical education.
- Two comments supported recommendations of the Healthy Pathways Coalition by increasing the opportunity for physical activity for children.
- One comment supported the intent of the Healthy Pathways Coalition but felt the coalition's report should not be fully adopted and that a school report card should not include aerobic capacity, muscular strength, endurance, flexibility and body composition, or body mass index.
- One comment supported efforts to improve fitness levels in students, but objected to a school report card including body mass composition, and to students participating in the Youth Risk Behavior Surveillance System.
- Sixteen comments supported requiring schools to participate in the Youth Risk Behavior Surveillance Survey
- Twenty comments objected to the use of the term "physical fitness" instead of the term "physical education." There is a distinction between physical fitness and physical education. Physical fitness involves the ability to perform daily tasks without becoming tired and physical education is having the knowledge about skills necessary for activities and their benefits. Students' participation in physical activity daily will hopefully increase their health, mobility, and attitudes toward physical education.
- Sixteen comments advocated for physical education five times per week for grades K-12.
- Healthy Pathways Coalition and affiliates' comments support requiring a minimum of 225 minutes per week in physical education.
- The Virginia Action for Healthy Kids supports the Healthy Pathways Coalition's recommendations including requiring and end of course test in health and physical education.
- Virginia PTA and two other comments generally support physical activity for children including recess and physical education.
- One comment advocated requiring health and physical education at the elementary level with a minimum of two 30 minute periods per week.
- VAHPERD and two additional comments advocated for requiring daily physical education.
- Sixty-five comments from Healthy Pathways Coalition and affiliates advocated for a minimum of 150 minutes per week of physical education.
- Three comments advocated for 30 minutes per day of physical activity.
- A Buckingham County school board member is opposed to incorporating the language requiring students to participate in a program of physical fitness during the regular school year in accordance with guidelines. He cited the following: 1) concern that guidelines have not yet been established and it is "not clear whether the proposed additional requirements will create a net benefit"; 2) the costs in facilities and personnel is not known and could be an unfunded mandate; and 3) school boards could lose control over more of the time that students have for education. He offered other suggestions for encouraging health and academic achievement, including the dissemination of research-backed information, reform of the Literary Fund, additional funding for personnel, and an evaluation process related to AYP.
- One comment stated the goal of any physical education professional is to promote a healthy lifestyle.
- Four comments stated that physical education is important to include in all schools, and through physical education, one can become physically fit and learn how to gain a healthy lifestyle.
- One comment stated the goal should be to make sure students have at least one activity that they can enjoy

<p>for a lifetime.</p> <ul style="list-style-type: none"> • The Virginia Action for Healthy Kids supports the Healthy Pathways Coalition’s recommendations including requiring an end-of-course test in health and physical education. • Four comments supported requiring daily instruction in health and physical education for all students in grades 6-8. • One comment supported requiring health and physical education for 8th, 9th, and 10th grade. • Eleven comments supported requiring health and physical education in the 8th grade.
<p>Agency Response: These comments/proposals vary significantly and, while the staff recognizes the importance of physical fitness and health, included only the recommendations made by Governor Warner. Specifying an amount of time to be spent on a daily or weekly basis has the potential of a major fiscal impact on localities in both time and personnel. The Board will develop guidelines for physical fitness as requested by former Governor Warner for use by local schools to comply with the requirements related to instructional programs in elementary, middle and secondary schools.</p>

GRADUATION RATES

<p>Public Comment:</p> <ul style="list-style-type: none"> • Mid-Atlantic Juvenile Defender Center, Just Children, and nine additional comments advocated using disaggregated data by subgroup as a component of school accreditation. • Two comments stated that data from school divisions indicates an alarming number of African-American males and other minorities dropped out of school before graduating. • The Virginia PTA, Mid-Atlantic Juvenile Defender Center, Virginia Coalition of Latino Organizations, Restorative Community Foundation, Just Children, chair of the Charlottesville City School Board, Charlottesville Public Housing Association of Residents and eleven additional comments urged the department to include graduation rate standards, including reasonable graduation rate targets for full accreditation and extending graduation rates and test-score accountability to NCLB subgroups. The standards should also require significant and steady progress toward meeting those targets over a reasonable period of time. • The Virginia Coalition of Latino Organizations expressed concern about the number of Latino students dropping out of school. • Mid-Atlantic Juvenile Defender Center, Virginia Coalition of Latino Organizations, Restorative Community Foundation, Virginia Organizing Project, and twelve additional comments advocated for incentives for all schools to close the graduation and achievement gaps. • The Restorative Community Foundation expressed concern about low graduation rates in Virginia and the impact lack of a diploma has on minorities. It suggested that SOL tests be used for school accountability and noted that the Board should grant accreditation only if a reasonable percentage of the freshman class receives a diploma. It also suggested that the SOA should include graduation and SOL test pass rates for No Child Left Behind subgroups. • The VEA applauds the Board’s attention to graduation rates and encourages the Board to work with other states, the United States Department of Education, the Southern Regional Education Board and others to develop uniform reporting standards of graduation rates. 13 additional comments including those from the Law Center for Children supported the VEA with schools only being accredited if a certain percentage of the freshman class completes high school with a diploma. • One comment supports new standards to encourage high schools to promote higher graduation rates in those areas where the rate is below average for the state. She cited programs such as the Rappahannock County “Farm to Table” program that provides opportunities to rural youth. She recommended that the department support such programs and provide incentives. • One comment cited the following needs: 1) a consistent methodology for accounting for dropouts; 2) ways to improve graduation rates; and 3) the inclusion of graduation rates in accreditation criteria. • One comment stated that accreditation should be based on a portfolio system, which recognizes that test scores alone cannot tell an individual’s knowledge-story, much less an institution’s teaching-story. • PAVURSOL commented that the definition of “graduation rates” it proposes in 8 VAC 20-131-05 should be included as criteria in arriving at an acceptable on time graduation percentage after consultation with relevant professional and parent groups. Graduation rates should be part of all accreditation calculations and definitions as should externally verified compliance with, at least all current pre-accreditation

requirements, all laws and regulations pertaining to education and services for students with disabilities, and students identified as gifted.

Agency Response: The Board of Education did not address graduation rates at this time. **HB 19** passed during the 2006 General Assembly session amends § 22.1-253.13:4 of the *Code of Virginia* to direct the Board to collect, analyze, and report high school graduation rates using a standardized formula prescribed by the bill by October 1, 2008. The bill also permits the Board to promulgate such regulations as may be necessary and appropriate to carry out its responsibilities. By December 1, 2006, the Board shall report to the General Assembly on the formula to be used. The bill states that the Board must consider the 2005 Report of the National Governors’ Association Task Force on State High School Graduation Data in its deliberations regarding a standardized formula.

Public Comment:

- One comment expressed concern about the SOL program generally stating that all students do not learn the same way or have the same future. The concern is not to lower the standards but to reach those students who don’t benefit from standardized methods.

Agency Response: The Board of Education has initiated changes, which were approved by the General Assembly, to the Standards of Quality, § 22.1-253.13:5 of the Code of Virginia, to address professional development for “quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.”

Public Comment:

- One comment expressed concern about potential conflicts in the language throughout the standards such as “additional tests” instead of “other tests”

Agency Response: This is a comment of a technical nature and has been addressed the proposed regulations.

Public Comment:

- One comment cited the following concerns: 1) applying standard goals to a group assuming that all in the group are the same; 2) reaching students (particularly those at-risk) who do not benefit from standardized methods; and 3) providing quality vocational training with SOL that test vocational skills as an alternative to a pure academic track of study.

Agency Response: The proposed regulations are intended to address school standards, not those of individual student groups. Tailored professional development is intended to reach students at varying levels of learning. The proposed regulations provide for industry certifications and other vocational assessments to be used as substitute tests for the Standards of Learning tests.

Appendix B
 Summary of Additional Public Comment Period
 Based on March 22, 2006 Draft of the SOA

During the Board of Education’s March 22, 2006 meeting, the board received the proposed revisions to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* for second review. The document received on second review contained additional revisions that were not in the draft that the board received in October 2005. Those additional revisions have been bulleted below by section number. Based on the revisions presented in March 2006, the board decided to seek an additional 30 days of public comment on the March document. The summary of the public comments received are noted below the corresponding sections. It should be noted that the board received numerous comments in areas that were not revised between the October 2005 and March 2006 drafts. Those areas include foreign language requirements, financial literacy requirements, and health and physical education requirements.

8 VAC 20-131-05. Definitions.

- The definitions of “class period,” “planning period,” and “student periods” are added to clarify the references to 8 VAC 20-131-240 regarding the middle and secondary classroom teacher’s standard load and planning period.
- The definition of “recess” is added to clarify that it is a segment of time in which students are given a break from instruction.
- The definition of “reconstitution” is added in reference to 8 VAC 20-131-315 regarding a school that is denied accreditation.

Public Comment:

- One comment requested that the standards clarify the definition of “school” to include language about corrective action when schools do not meet pre-accreditation requirements.

Agency Response: No additional changes should be made to this section. This comment is addressed in 8 VAC 20-131-290.

8 VAC 20-131-50. Requirements for Graduation.

- Language regarding the Modified Standard Diploma that was stricken in the proposed revisions has been restored. This language specifies that:
 1. The informed, written consent of the parent is required,
 2. The student who has chosen to pursue a Modified Standard Diploma shall be allowed to pursue a Standard or Advanced Studies Diploma at any time in the student’s high school career, and
 3. The student must not be excluded from courses or tests required for a Standard or Advanced Studies Diploma.
- Language about the diploma seals clarifies that a student may earn more than one seal.
- Language further clarifies that the licenses and examinations for the Board of Education’s Career and Technical Education Seal and Advanced Mathematics and Technology Seal must be approved by the Board.

Public Comment:

- American Council on the Teaching of Foreign Languages requested that the Board of Education strengthen the foreign language incentives in the proposed Standards of Accreditation by considering:
 - Encouraging elementary schools to offer foreign language instruction when feasible.
 - Adding a one-year foreign language requirement for the General Studies Diploma.
 - Endorsing a Seal of Excellence on any high school diploma when a student demonstrates a high level of language proficiency in a foreign language.
- Foreign Language Association of Virginia (FLAVA) requested that the Board of Education strengthen the foreign language incentives in the proposed Standards of Accreditation by:
 - Requiring elementary schools to offer foreign language instruction.

- Adding a two-year foreign language requirement for the General Studies Diploma.
- Endorsing a Seal of Excellence on any high school diploma when a student demonstrates a high level of language proficiency in a world language other than English.
- One parent requested that the board:
 - Institute a requirement that foreign language learning opportunities be made available beginning at the elementary school level.
 - Implement additional foreign language requirements for graduation at the secondary school level.
 - Update the standards of learning to require a foreign language assessment to phase in a more challenging, greater proficiency in the chosen languages.
 - Offer languages of significance to the current economic, academic, and sociological environment (e.g., Chinese, Arabic, Korean, and Spanish).
- One retired teacher requested that:
 - The Board of Education consider implementing foreign languages in all grades K-12 for all students.
 - The languages chosen should be left to the localities so they may serve their respective constituents.
 - The various diplomas should all require at least one year of foreign language.
 - The students should have the option to get one credit in a fine arts, practical arts, or foreign language to add to students’ options to get more credits in foreign languages.
- The Virginia Society of Certified Public Accountants (VSCPA) requested that the Board of Education include at a minimum, a half-credit of personal finance education for all Virginia high school students. The VSCPA provided extensive background and research to support its position.
- One comment objected to the VSCPA advocacy for a financial literacy course as a graduation requirement.
- Seven Certified Public Accountants, at least four of whom are members of the VSCPA, supported the VSCPA request to include, at the minimum, a half-credit of personal finance education for all Virginia high school students as a graduation requirement.
- One attorney supported a personal financial course in the high school curriculum.
- Two comments supported the restoration of language regarding the modified standard diploma that was deleted in the first draft of the proposed revisions.
- One comment stated that a potential conflict appears in this section because proposed language beginning at line 245 in Section A (p. 16) states, “Students shall be awarded a diploma upon graduation from a Virginia high school.” The comment suggested that this conflicts with sections F and G, both of which allude to awarding of either a certificate or credential, neither of which is a diploma.

Agency Response: Staff recommends the following:

- 1. No additional changes should be made to accommodate the requested addition of a requirement for a financial literacy course due to fiscal considerations raised following the initial public comment period.**
- 2. Language was added to encourage the addition of foreign language study in the elementary school program. Fiscal considerations prohibited adding a requirement for teaching foreign language in the elementary school program.**

8 VAC 20-131-60. Transfer of Students.

- Language was revised to clarify that students transferring from Virginia public schools and nonpublic schools accredited by one of the constituent members of the Virginia Council for Private Education shall be recognized for all grade-level work completed in grades K-8. The academic records of students from all other schools shall be evaluated to determine appropriate grade placement.
- Language specifies that all secondary schools shall accept credits toward graduation from nonpublic schools accredited by one of the constituent members of the Virginia Council for Private Education.
- Additional language specifies that nothing in the regulations prohibits public schools from accepting standard credits towards graduation from all other schools when the course generally matches the course for which the receiving school gives standard credit and the school from which the student transfers certifies that the course meets the requirements for a standard credit, as specified in these regulations.
- A provision is added to allow a student who transfers to a Virginia high school for the first time during the tenth grade or at the beginning of the eleventh grade, who is pursuing a Standard Diploma, and who

completes a career and technical education program sequence to substitute the certificate, occupational competency credential, or license for either a science or a history and social science verified credit.

Public Comment:

- The Arlington Diocese Catholic Schools recommended the following:
 - Board of Education adopt a regulation that will allow Virginia private elementary and secondary schools to obtain accreditation from approved accrediting organizations that are not members of the Virginia Council for Private Education (VCPE).
 - Schools may obtain accreditation from either an approved accrediting constituent member of the VCPE, or from another accrediting organization whose accreditation process is approved by the Southern Association of Colleges and Schools (SACS) or the Board of Education.

Agency Response: Adopting the request of the Catholic Diocese would undermine the Board of Education’s current agreement with VCPE, an organization recognized in the Code of Virginia for this purpose, in § 22.1-19. The schools in the diocese are already accredited members of SACS and VCPE.

8 VAC 20-131-110. Standard and Verified Units of Credit.

- Language simply clarifies that students who were in the ninth-grade class of 2003-2004 and beyond may be eligible to earn locally awarded verified credits from the local school board.

Public Comment:

- Two parents requested that the Board of Education provide for locally awarded verified credits not just for science and history/social sciences, but also for English and mathematics (Sec. 110.B.3.).

Agency Response: No additional changes should be made in the current provisions due to the importance of skills development in mathematics and the need for students to master sufficient skills to pass the requisite number of tests to earn verified credit.

8 VAC 20-131-240. Administrative and Staff Support; Staffing Requirements.

- A revision is made to specify that guidance counselors for elementary schools shall provide a minimum of 60 percent of the time devoted to counseling of students. This provision currently applies to guidance counselors in middle and secondary schools,
- Language clarifies that each full-time middle and secondary classroom teacher shall be provided one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties. It also clarifies that middle and secondary teachers’ standard load shall be based on teaching no more than 5/6 of the instructional day, with no more than 150 student periods per day or 25 class periods per week.

Public Comment:

- 26 staff members/teachers from Spotsylvania County public schools objected to the proposal that teachers receive one-sixth of the school day for planning time. They viewed this as a reduction in their planning time.
 - One of those comments supported a policy that “states a planning period each calendar day for a 3/4 daily schedule.” The comment indicated that Spotsylvania adopted an “A-B block schedule where teachers usually have 3 blocks of class and one block of planning or planning/duty each day.”
 - One of those comments requested that the regulations state that teachers must have a daily planning period of the same amount of time as the daily instructional block.
 - Five of those comments stated that the local school division should define “period” and not the state.
 - Seven of those comments requested a 90 minute planning period for teachers on block schedules.
 - Eight of those comments supported planning time for teachers in general.
- One Williamsburg-James City County teacher expressed concern is with the item that states "the requirement that middle and secondary teachers' standard load shall be based on teaching no more than 5/6 of the instructional day with no more than 150 student periods per day or 25 class periods per week." The comment stated that “[g]iven that most schools are on a block schedule, this stand is meaningless.” The

<p>comment stated that to have this standard have an impact “there should also be something that describes and reflects schools on a block schedule.”</p> <ul style="list-style-type: none"> • One elementary school counselor supported the proposal to include elementary school guidance counselors in the mandate for 60 percent of the counselors’ time being spent on counseling of students and 40 percent of the counselors’ time being spent on other tasks. • One high school counselor indicated that although the standards currently provide for high school counselors to spend 60 percent of their time counseling students, this is not what is really happening in the schools. Counselors spend the majority of their time administering tests, registering students for courses, counting student credits and SOL tests passed, monitoring attendance, substituting for teachers, disciplining students, and doing paperwork. Little or no time is spent counseling students one on one or in groups. • Bristol City public schools requested that the board rethink the proposed revisions to the standards beginning with line 993 and going to line 1002 regarding the secondary teacher’s standard load. Bristol believes that there seems to be some ambiguity in the regulation as written as well as some financial implications for local divisions already on tight budgets. Bristol was unclear whether the term 5/6 (five-sixth) of the instructional day assumes a six-period day, and if so what would a school do that operates on a seven-period day, use 6/7 (six-seventh) of the instructional day and 30 class periods per week? • Virginia Education Association (VEA) Delegate Assembly voted overwhelmingly in favor of the following recommendation for 8 VAC 20-131-240: <ul style="list-style-type: none"> ○ "Full time middle and secondary teachers shall have one daily unencumbered planning period equivalent in length to the longest instructional period of the day. If a school on alternating block schedule counts two days as one instructional day, then teachers shall have two unencumbered planning periods, each equivalent in length to the longest instructional period." ○ The delegates further directed the VEA to seek no less than 45 minutes of daily, unencumbered planning time for all full-time elementary teachers. • Frederick County public schools requested that the Board of Education provide for a phase-in of the proposed revision that requires that middle school teachers be assigned 25 class periods per week. The current language is 30 class periods per week.
<p>Agency Response: Based on public comment, the agency made additional changes to the provisions introduced in May to further clarify the responsibility of local schools to provide adequate time for instructional planning.</p>

8 VAC 20-131-300. Application of the Standards.

- The accreditation rating, Accreditation Withheld/Improving School Near Accreditation, is restored for school year 2006-2007, based on the assessments taken in school year 2005-2006. The accreditation rating expires at the end of school year 2006-2007.
- Language clarifies that accreditation ratings awarded in an academic year are based upon Virginia assessment program scores from the academic year immediately prior to the year to which the accreditation rating applies.
- Language further clarifies that the provisions of the current Standards of Accreditation apply to accreditation ratings awarded for academic year 2006-2007, based on assessments taken in 2005-2006.
- Additional language clarifies that a school that is reconstituted and is Conditionally Accredited may have its accreditation rating revert to Accreditation Denied if it fails to be Fully Accredited or fails to have its annual application for such rating renewed.

<p>Public Comment: None</p>

8 VAC 20-131-310. Action Requirements for Schools That Are Accredited with Warning or Accreditation Withheld/Improving School Near Accreditation.

- Language is moved from 8 VAC 20-310-40 to this section. The language says that schools rated Accredited with Warning must undergo an academic review and prepare and implement a school improvement plan.

- Language also specifies that schools rated Accreditation Withheld/Improving School Near Accreditation must also undergo an academic review and prepare and implement a school improvement plan.

Public Comment: None

8 VAC 20-131-315. Action Requirements for Schools That Are Denied Accreditation.

- A new section is added for clarity. Language about the requirements for schools denied accreditation is moved from 8 VAC 20-131-340 to this section.
- The sequence and timing of these provisions has been modified:
 - ✓ Any school rated Accreditation Denied must notify the parents and other interested parties of the accreditation rating within 30 calendar days of receiving the notification, and must provide them with a copy of the proposed corrective action plan and an opportunity to comment on the corrective action plan.
 - ✓ The school is subject to actions prescribed by the Board of Education and affirmed through a memorandum of understanding between the Board of Education and the local school board.
 - ✓ The local school board must submit a corrective action plan to the Board of Education within 45 days of the notification of the rating, for consideration in the memorandum of understanding.
 - ✓ The memorandum between the Board of Education and the local school board shall be entered into no later than November 1 of the year in which the accreditation rating is awarded.
 - ✓ The local school board must submit status reports to the Board of Education, and the principal, division superintendent, and chair of the school board may be required to appear before the Board of Education to present the status reports.
- The option for reconstituting a school has been modified. If the local school board chooses to reconstitute a school, it must apply annually for an accreditation rating of Conditionally Accredited. The Conditionally Accredited rating may be granted for up to three years if the school is making progress toward a rating of Full Accreditation in accordance with the terms of the approval of the application.
- The provisions about replacing staff, hiring a management firm, or converting to a charter school are no longer included as examples of reconstitution.

Public Comment: None

8 VAC 20-131-330. Waivers.

- This section is moved to 8 VAC 20-131-350.

Public Comment: None

8 VAC 20-131-340. Academic Reviews, Special Provisions, and Sanctions.

- The provisions relating to academic reviews and Accreditation Denied are moved to 8 VAC 20-131-310 and 8 VAC 20-131-315. The section is renamed “Special Provisions and Sanctions.”
- A provision is added to specify that withholding of a school’s accreditation rating shall not be considered an interruption of the three consecutive year period for purposes of receiving an Accreditation Denied status.

Public Comment: None

8 VAC 20-131-350. Waivers.

- This section is moved from 8 VAC 20-131-330.

Public Comment: None

8 VAC 20-131-360. Effective Date.

- Unless otherwise specified, these regulations are effective for the 2006-2007 school year.

Public Comment: None

HEALTH AND PHYSICAL EDUCATION

Public Comment:

- Virginia Board of Health submitted commentary in support of the proposed revisions requiring elementary and middle school students to participate in a program of physical fitness. The board also submitted the following:
 - The Board of Health endorses a standardized system of fitness testing for all students.
 - The board endorses a system that assesses body strength, aerobic capacity and flexibility, student height and student weight.
 - The board advocates for inclusion of students' fitness test scores in the school report card, as was the case up until 1998.
 - The board supports administering standardized testing of students' understanding of health and physical education.
 - The board applauds the delineation of recess from instructional time.
- The American Heart Association applauded Governor Warner's proposed revision to the regulations regarding physical fitness. The association believes that is a good first step and recommended the following:
 - Daily physical education for all students required in grades K-8 for the entire school year with a minimum of 150 minutes per week for elementary students and a minimum of 225 minutes per week for middle school students.
 - Comparable student teacher ratios for physical education and other curricular areas.
 - End-of-course testing of all students to assess attainment of health and physical education learning objectives. One test during elementary school, one test during middle school, and one test during high school to assess student learning.
 - Wellness related fitness testing integrated into the curriculum as an instructional tool that is appropriate to students' developmental levels and physical abilities.
 - School report card include health related data such as aerobic capacity, muscular strength, endurance, flexibility, and body composition (BMI, skin fold or another method).
 - Adequate facilities, supplies and budgets necessary to achieve the objectives of the physical education program.
 - Exemptions in physical education courses should not be permitted on the basis of participation on athletic teams, community recreation programs, ROTC, marching band, or other school or community activities.
 - Physical education or recess should not be taken away from a student as a means of remediation or punishment.
- Virginia Healthy Pathways Coalition's Schools Committee requested that the Board of Education put into practice regulations that require an externally validated elementary and middle school program of instruction in health and physical education and include fitness test scores on the school's annual report card. The coalition supported Governor Warner's proposed revision regarding physical fitness. The coalition also stated:
 - There is a growing body of evidence suggesting that less time dedicated to health and physical education may undermine the goal of better academic performance.
 - There are elementary and middle school students who never receive any instruction in health or physical education. This is due to disciplinary reasons, remediation, or because 8th grade physical education may be offered as an elective. This practice occurs because school divisions are allowed to interpret the "shall be offered" language in the SOA to mean "does not have to be taken."

<ul style="list-style-type: none"> ○ Participation in school health and physical education program ensures a minimum amount of health literacy and physical activity, and provides a forum to teach health-enhancing behaviors and physical activity strategies that can be continued into adulthood. ● Two comments supported the position paper submitted by the Healthy Pathways Committee to 1) institute SOL testing for health and PE; 2) to report wellness-related fitness data by school (including BMI); 3) to include fitness test scores on the school's annual report card. ● Virginia Beach City public schools expressed concern regarding implementing any new physical fitness program guidelines due to the fact that the school system's budget has already been given to the city government.
<p>Agency Response: Adding course and testing requirements to existing program requirements will place a fiscal burden on both the state and local school divisions not currently funded through the Standards of Quality.</p>

GRADUATION RATES

<p>Public Comment:</p> <ul style="list-style-type: none"> ● The Civil Rights Project at Harvard University submitted comments regarding its report on dropouts and graduation rates. The Civil Rights project is concerned about the high percentages of students who do not graduate from high school. The Civil Rights Project feels that without countervailing incentives to keep children in school, test score accountability creates incentives for schools to push low-performing students out the back door. ● The Civil Rights Project requested that the SOA incorporate graduation rate targets. ● The Civil Rights Project and its partners in releasing Losing Our Future, The Urban Institute, Advocates for Children in New York, and the Civil Society Institute recommend, among other things: <ul style="list-style-type: none"> ○ Setting reasonable graduation rate floors; ○ Requiring significant progress toward meeting those floors over a reasonable period of time driven primarily by positive incentives and rewards; and ○ Extending graduation rate accountability benchmarks to the NCLB subgroups. ● One comment supported the board’s language on graduation rates. ● Two parents requested that the Board of Education define “graduation rates” as the percentage of ninth graders who leave with a diploma four years later, taking into account transfers into and out of schools and divisions (Section 20.A.3), and make graduation rates part of school accreditation criteria (Sec. 300.)
<p>Agency Response: See responses to previous public comments on graduation rates.</p>

OTHER

<p>Public Comment:</p> <ul style="list-style-type: none"> ● One comment questioned whether the writing SOL test was no longer being included as part of the proposed Standards of Accreditation. ● One parent provided the following comments: <ul style="list-style-type: none"> ○ The Board of Education objectives for charter schools need to be updated. ○ Schools need to maintain services and support for high achieving students. ○ In closing the achievement gap among groups of students having high performing students in direct contact with students needing help to achieve, presents many opportunities to address the educational difficulties, and the social/emotional needs of students on both sides of the achievement gap. ○ Minority and ESL (English as a Second Language) students are at-risk of receiving mostly remedial education. Ultimately they may not graduate, or if they do, they may still face being disadvantaged when it comes to college or career opportunities. ○ Average students are often forgotten or not targeted to receive opportunities that are directed at high achievers or low achievers. ● One parent provided a comment regarding how teachers prepare their students for SOL assessments: <ul style="list-style-type: none"> ○ “The amount of pressure and unnecessary practice reviews that teachers are shoveling onto their students is utterly ridiculous. Accurately measuring school performance was the original intent of the SOL. Yet it seems that it is more a tactic used to pass blame on the student for a schools

failure to educate. Students are forced to participate in the ritual of memorization and regurgitation in preparation for SOL. An enormous pressure has been placed on students to learn what amounts to the ‘pursuit of trivia.’ The SOL tests are meaningless and do not measure what a child actually knows. Stop cheating by giving teachers a ‘blueprint’ of the test to teach from. Stop allowing teachers to waste valuable class time by reviewing for the SOL for months on end.”

- Superintendents in Region 8 requested that the Board of Education keep the pass rate for third grade science and history at 50 percent with tests administered beginning in the academic year 2009-2010 for accreditation rating awarded for school year 2010-2011 and beyond. Schools need more time to provide additional services to at-risk students entering school who need extra time to master reading and mathematics by grade three. There is not enough time in the school day to provide these services without pulling students from science and history.
- Two parents requested that the Board of Education keep Limited English Proficiency (LEP) students’ one-time exemption from K-8 testing "in each of the four core areas," not replace it with an exemption only from science and history/social science testing for student “accountability” purposes under our own system (regardless of limits on such exemptions for purposes of "No Child Left Behind") (Sec. 30.G.)
- Two parents requested that the Board of Education require notifying parents of credits needed for graduation starting with rising ninth graders instead of starting with rising eleventh graders, which is too late. (Sec. 210)
- Two parents requested that the Board of Education not limit the provision for "authority to seek school division compliance with school laws" to schools that have been denied accreditation. Schools can and do for example, violate laws regarding rights of students with disabilities and students identified as gifted and can still be fully accredited; the Board should seek compliance with such laws and not just with SOL-test pass-rate requirements.
- One comment generally supported the revisions to the regulations.
- One comment suggested that there are a few sections that may benefit from an editing review, to ensure that consistency of language is used throughout the document. These are listed below:
 - “Three-year trailing average”-This language is used in 8 VAC 20-131-280. The Board should clarify with the department whether the calculation is intended to be truly a percent passing average OR whether the calculation is a cumulative percent pass based upon the total number of students taking and passing tests over a three-year period.
 - “Scores”- 8 VAC 20-131-280 and 8 VAC 20-131-300 refer to using schools’ or students’ “scores” to determine accreditation status. The document should use the term “pass rate” throughout.
 - 8 VAC 20-131-270, School and Community Communications - Proposed language states that the division superintendent “will report compliance with this section through the pre-accreditation eligibility procedures....” Reporting on this requirement should be listed in 8 VAC 20-131-280.F., and 8 VAC 20-131-290,.
 - “Pre-accreditation should be hyphenated, and one term using either “criteria” or “requirements” should be used throughout for consistency.
- Frederick County public schools requested that the Board of Education exclude half-day kindergarten programs from the requirement to provide daily recess. However, based on additional comments, Frederick’s County’s concerns appear to have been resolved with the proposed revisions presented to the Board of Education at its March 2006 meeting.

Agency Response:

- 1. The Board of Education recognizes the need for schools to close the achievement gap between subgroups of students. The agency recommends no action on the recommendations made for the SOA to address this issue as mechanisms are already in place to accomplish this goal in other programs offered in public schools.**
- 2. No action should be mandated addressing the manner in which teachers prepare students for taking tests in the Virginia Assessment Program in the SOA. Different methods are required to address the wide range of needs across the commonwealth. No one or two particular methods will meet the needs of those students. Teachers need flexibility to accomplish this task.**
- 3. No change should be made to the proposed increase in the pass rate requirements to begin in the 2010-2011 school year. Each year, the benchmarks for meeting AYP as required by NCLB will increase and schools need to continue to work to improve student achievement for both federal and state mandates.**

4. An exemption for the writing SOL test for certain LEP students for accreditation purposes is restored. The Board of Education agreed to this change on May 24, 2006.
5. Minor technical changes suggested by one commenter were made by the Board on May 24, 2006.
6. No exemption from providing recess in the elementary school for schools offering half-day kindergarten programs only should be provided. Where hardships occur, individual school boards have the option of requesting a waiver of the requirement as provided in 8 VAC 20-131-350 of the regulations.