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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8 VAC20-11
VAC Chapter title(s)	Regulations Governing Public Participation
Date this document prepared	April 29, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Board" means the Virginia Board of Education.

"Department" means the Virginia Department of Education.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The State Board of Education amends this chapter pursuant to §22.1-16 of the Code of Virginia which authorizes the State Board of Education to "adopt bylaws for its own government and promulgate such

regulations as may be necessary to carry out its powers and duties and the provisions” of title 22.1 of the Code of Virginia.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are no practical alternatives to this regulation. The purpose of this chapter is to promote public involvement in the development, amendment, or repeal of the regulations of the Board of Education. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq. of the Code of Virginia).

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
none	none	none

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This chapter is necessary for the protection of public health, safety, and welfare by ensuring public participation according to the DPB model policies. The regulations are clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

While the periodic review found that the regulations were reasonably consistent with the statutory requirements, the promulgating agency intends to amend the regulations to align with the DPB Model Public Participation Guide.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

There is a continued need for the regulation. There have been no documented complaints or comments received by VDOE regarding this chapter. The complexities identified result from the regulation needing to be consistent with applicable law and pursuant to §§ 2.2-4007.02 and 22.1-16 of the Code of Virginia. Section 2.2-4007.02 requires that the agency develop and adopt public participation guidelines. The guidelines must set out the methods for the identification and notification of interested parties and the specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines must set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Moreover, any such policy must also address the circumstances in which the agency considers the panels or consultation appropriate and how the agency intends to make use of the panels or consultation. The promulgation of chapter 8VAC20-11 was completed and became effective on March 19, 2009. This was the last time since the regulation was evaluated.