



Final Regulation Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-700
Regulation title	Regulations for Conducting Division-Level Academic Reviews
Action title	Submission of final regulations governing division-level academic reviews
Date this document prepared	October 13, 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

House Bill 1294 passed by the General Assembly and signed into law on April 15, 2004, gave the Board of Education the authority to require a division-level academic review in school divisions where findings of a school-level academic review showed that the failure of the schools to reach full accreditation was related to the local school board's failure to meet its responsibilities under the Standards of Quality, Code of Virginia, §§ 22.1-253.13:1 through 8. House Bill 1294 also required, in part:

“That the Board of Education shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.”

The Board of Education promulgated emergency regulations as a result of this requirement. These emergency regulations expired on February 15, 2006. In September 2005, the Board of Education submitted proposed regulations to replace the emergency regulations. The proposed

regulations deviated somewhat from the provisions of the emergency regulations. A public comment period was held from July 10, 2006 through September 11, 2006 and no comments were received and no one spoke at the public hearing held on September 27, 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 October 25, 2006 meeting of the Board of Education, the board adopted the proposed language of the *Regulations for Conducting Division-Level Academic Review*, 8VAC 20-700, 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.

The Code of Virginia, § 22.1-16, vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. Section 22.1-153.13:3 of the Code of Virginia includes the following provision: “When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the Board may require a division level academic review.”

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 regulation is necessary to protect the health, safety, and welfare of citizens, particularly those of school age. It is essential to provide the structure for the Board of Education and staff of the Department of Education to conduct division-level academic reviews in selected school divisions that have underperforming schools or fail to meet the requirements of the Standards of Quality. It outlines the process and procedures for conducting the division-level academic review and for local school boards to submit a corrective action plan to the Board of Education. In addition, it provides options for reviews to be conducted by agencies or organizations other than the Department of Education when appropriate.

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.

The final regulation is identical to the regulation that was proposed in September 2005 as no comments were received during the public comment period or at the public hearing.

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 proposed final regulation does not pose any disadvantages to the public or the Commonwealth. The Constitution of Virginia requires the Board of Education to provide for the general supervision of the system of free public education in the Commonwealth. The Standards of Quality for public schools (Code of Virginia, §§ 22.1-253.13:1 through 8), set the minimum requirements for local school boards to maintain a quality educational program in the various school divisions in the state. The proposed final regulations provide the Board of Education a mechanism to review the program provided in the school division where there is a probability that a local school board is failing to comply with the Standards of Quality and children are attending underperforming schools. Performance standards for schools are set by the Board of Education in 8 VAC 20-131-10 et seq., *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. These standards and the provision that school boards maintain schools that are fully accredited are also required by the Standards of Quality.

These regulations will provide the Board of Education with the structure to monitor low-performing school divisions as needed and, thus, ensure that children in the Commonwealth are receiving a high-quality education. The Commonwealth as a whole benefits from a better educated citizenry.

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.

No changes were made to the proposed regulations.

Section number	Requirement at proposed stage	What has changed	Rationale for change

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.

No comments were received during the public comment period and no one spoke at the public hearing held on September 27, 2006.

Commenter	Comment	Agency response

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.

These are new regulations. No changes have been made the proposed regulation. The sections detailed below are the same as those in the proposed regulations.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8 VAC 20-700-10	None	Provides definitions of terms used throughout the regulation.	No changes have been made from the proposed regulations. The rationale for this section is to ensure that the terms are clear and easy to understand in the context of the regulation.
8 VAC 20-700-20	None	Provides the criteria to be considered by the Board in selecting school divisions for division-level academic reviews.	No changes have been made from the proposed regulations. The rationale for this section is to set out the criteria the Board will use in selecting school divisions for division-level academic reviews for use by the Board and to ensure that the public and local school boards are aware the criteria the Board is using.
8 VAC	None	Sets out the structure that	No changes have been made from the

20-700-30		will be used for the division level academic reviews.	proposed regulations. The rationale is to set a structure for the reviews and let local school boards and the public know how the reviews will be conducted.
8 VAC 20-700-40	None	Requires local school divisions to develop division improvement plans, including corrective action plans, with applicable due dates, for increasing student achievement and correcting any areas of noncompliance determined through the division-level academic review. This section also provides for a mechanism for requesting an extension of the timelines, for Board of Education monitoring of the implementation of the plan and corrective actions, and for the reporting of areas of noncompliance that remain uncorrected.	No changes have been made from the proposed regulations. The rationale for this section is to provide for a mechanism that requires local school boards to correct deficiencies noted during the division-level academic review process to improve educational programs for students. It also provides the Board of Education the authority to require these actions and to monitor local school boards for compliance.
8 VAC 20-700-50	None	Permits the Board of Education to accept school division-level reviews that have been conducted by an outside organization or agency at the request of a local school board. The review must still meet or exceed the requirements for reviews conducted by the Department of Education. This section also provides for the monitoring of corrective actions that result from the review and sets how	No changes have been made from the proposed regulations. The rationale for this section was to permit local school boards who had voluntarily secured division-level reviews to submit those in place of the review that would be conducted by the Virginia Department of Education so long as the review met or exceeded the requirements for the reviews conducted by the Department of Education.

		the process for a request for approval of an external review.	
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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.

The proposed regulatory action will impact the institution of the family and family stability in that the reviews conducted as a result of the implementation of the regulation will result in an improved educational program in the division(s) reviewed. This program improvement will benefit the children who attend public schools and provide for a better-educated citizenry that, in turn, will improve the economic status of the family.