

Virginia Board of Education Agenda Item



Agenda Item: S

Date: May 23, 2013

Title	First Review to Repeal <i>Regulations Governing Substitute Teachers</i> (8 VAC 20-640), <i>Regulations for Conducting Division-Level Academic Reviews</i> (8 VAC 20-700), and <i>Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions</i> (8 VAC 20-710), Pursuant to SB 1201 (Fast Track)		
Presenter	Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications		
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Purpose of Presentation:

Action required by state or federal law or regulation.

Previous Review or Action:

No previous review or action.

Action Requested:

Action will be requested at a future meeting. Specify anticipated date below:

Date: June 27, 2013

Action: Final Review

Alignment with Board of Education Goals: Please indicate (X) all that apply:

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners
	Goal 5: Highly Qualified and Effective Educators
	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
X	Other Priority or Initiative. Specify: To comply with SB 1201 (2013)

Background Information and Statutory Authority:

On October 22, 2012, Governor McDonnell announced a regulatory reform initiative to “repeal regulations that are unnecessary or no longer in use, reduce unnecessary regulatory burdens on individuals, businesses, and other regulated groups, and identify statutes that require unnecessary or overly burdensome regulations.”

Three Board of Education regulations were identified as meeting these criteria, as they duplicate requirements already set forth in the *Code of Virginia: Regulations Governing Substitute Teachers* (8 VAC 20-640), *Regulations for Conducting Division-Level Academic Reviews* (8 VAC 20-700), and *Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions* (8 VAC 20-710). However, § 22.1-302 of the *Code* requires the Board to promulgate regulations governing temporarily employed teachers (substitute teachers); § 22.1-25 of the *Code* requires the Board to

promulgate regulations about the consolidation of school divisions; and the second enactment of Chapter 965 of the Acts of Assembly of 2004, related to division-level academic reviews, required the Board to promulgate emergency regulations for division-level academic reviews. The emergency regulations have since been replaced by permanent regulations.

The Governor proposed legislation to eliminate the statutory requirements for these regulations. SB 1201 (McDougle), which was passed unanimously by the 2013 General Assembly and signed by the Governor, includes the following language:

§ [22.1-25](#). **How school divisions made.**

~~...D. Consistent with its~~ *the authority of the Board* pursuant to Article VIII, Section 5 of the Constitution of Virginia to designate school divisions in the Commonwealth of such geographic size and school-age population as will best promote the realization of the standards of quality, ~~the Board shall promulgate regulations consistent with the provisions of this section that provide for a process whereby school divisions~~ *local school boards* may submit proposals for the consolidation of school divisions *to the Board of Education*. ~~Such regulations shall provide for, among other things, a public hearing process to be conducted by the applicant school divisions shall conduct one or more public hearings.~~ *Prior to the submission of a consolidation proposal, the submitting school board shall give notice to the public and hearing process to be conducted by the applicant school divisions shall conduct one or more public hearings.*

School divisions submitting proposals for consolidation shall include such information and data as may be ~~required by the Board~~ *necessary to support their proposal...*

§ [22.1-302](#). **Written contracts required; execution of contracts; qualifications of temporarily employed teachers; rules and requirements.**

~~...B. The Board of Education shall promulgate regulations regarding temporarily~~ *Temporarily* employed teachers, as defined in this section, ~~which shall provide that such teachers be at least eighteen~~ *18* years of age and ~~that they shall hold a high school diploma or a general educational development (GED) certificate.~~

However, local school boards shall establish employment qualifications for temporarily employed teachers ~~which that may exceed the Board's regulations~~ *these requirements* for the employment of such teachers. School boards shall also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes ~~shall~~ exceed baseline employment qualifications...

2. That the second enactment of Chapter 965 of the Acts of Assembly of 2004 is repealed.

Chapter 965 of the 2004 Acts of Assembly includes the following language:

§ [22.1-253.13:3](#). **Standard 3. Accreditation, other standards and evaluation.**

~~...F. Each local school board shall maintain schools that meet~~ *are fully accredited pursuant to the* standards of accreditation as prescribed by the Board of Education. The accreditation status of all schools in each local school division shall be reviewed annually in public session.

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. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board a corrective action ~~plans for any plan,~~ consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school division ~~that have been designated as not meeting the criteria for determining effectiveness as approved by the Board~~ achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's six-year improvement plan pursuant to § [22.1-253.13:6](#)....

§ [22.1-253.13:8](#). These standards to be the only standards of quality; provision of services; Board of Education to seek compliance.

...The Board of Education shall have authority to seek school division compliance with the foregoing standards of quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such standard, the Board shall notify the Attorney General. ~~It shall be the duty of the Attorney General to file, in the name of the Board of Education in may petition~~ the circuit court having jurisdiction in the school division, ~~a petition for a writ of mandamus directing and requiring compliance with such standards by the appropriate party or parties defendant to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.~~

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

Summary of Important Issues:

SB 1201, passed by the 2013 General Assembly, eliminates the statutory requirements for the Board to promulgate three sets of regulations. The three sets of regulations are no longer necessary, as the major provisions of the regulations simply reiterate what is in statute. Repealing these three sets of regulations comports with the Governor's regulatory reform initiative and is in keeping with the Board's ongoing work to update, consolidate, or eliminate regulations whenever possible.

Impact on Fiscal and Human Resources:

The impact on fiscal and human resources of repealing these regulations would be negligible, as the regulations essentially just restate what is in the law.

Timetable for Further Review/Action:

The final review of this request is expected to be presented to the Board of Education on June 27, 2013.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board accept the proposal for first review.

**Regulations Governing Substitute Teachers
(8 VAC 20-640)**

~~8 VAC 20-640-10. Minimum requirements for substitute teachers.~~

Substitute teachers must:

- ~~1. Be a minimum of 18 years of age (21 years of age preferred);~~
- ~~2. Possess good moral character;~~
- ~~3. Have earned a high school diploma or GED; and~~
- ~~4. Attend orientation to school policies and procedures conducted by the local school division.~~

Regulations for Conducting Division-Level Academic Reviews (8 VAC 20-700)

~~8 VAC 20-700-10. Definitions.~~

~~The following words and terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:~~

~~"Department" means the Virginia Department of Education.~~

~~"Division level academic review" means the process used to analyze a school division's systems and practices to determine the degree to which the local school board is meeting its responsibilities under the Standards of Quality.~~

~~"External review" means a division level academic review conducted by an organization or agency at the request of a local school board.~~

~~8 VAC 20-700-20. Criteria for selection for review.~~

~~The Board of Education shall consider the following criteria in selecting school divisions for division-level academic reviews:~~

- ~~1. The school division's accountability determination for student achievement as required in federal law;~~
- ~~2. The percentage of students attending schools that are not fully accredited in the division exceeds the statewide average; and~~
- ~~3. School academic review findings in the division report the failure of the division's schools to reach full accreditation is related to the school board's noncompliance with the Standards of Quality.~~

~~8 VAC 20-700-30. Structure of the review.~~

~~A. All division level academic reviews shall be conducted in accordance with procedures adopted by the Board of Education, which may include, but are not limited to, on-site reviews, interviews of school division personnel, review and observation of operational practices, and the analysis of data related to compliance with state and federal laws and regulations.~~

~~B. The Department of Education is authorized to contract with organizations or agencies to conduct division level academic reviews.~~

~~C. Reports of the academic review findings shall be given to the division superintendent, the chair of the local school board, and the Board of Education.~~

~~8 VAC 20-700-40. Division improvement plans and corrective actions.~~

~~A. School divisions shall develop division improvement plans, including corrective actions for increasing student achievement and correcting any areas of noncompliance determined through the~~

~~division-level academic review. The school board shall hold a public hearing on the improvement plan at least 15 days prior to the approval of the plan by the board. These plans shall be approved by the local school board and submitted to the Board of Education for approval within 60 business days of the issuance of the division-level academic review report. Upon Board of Education approval, the division improvement plan and corrective actions shall become part of the school division's divisionwide comprehensive, unified, long-range plan required by the Standards of Quality.~~

~~B. The division superintendent and chair of the local school board may request an extension of the due date for the division improvement plan and corrective actions for good cause shown by appearing before the Board of Education to explain the rationale for the request and provide evidence that a delay will not have an adverse impact upon student achievement.~~

~~C. The Board of Education shall monitor the implementation of the division improvement plan and corrective actions developed by a school division as part of the division-level academic review process. This plan must include a schedule for reporting the school division's progress toward completion of the corrective actions to the Board of Education and the public. Any school division not implementing corrective actions, not correcting areas of noncompliance, or failing to develop, submit, and implement required plans and status reports shall be required to report its lack of action directly to the Board of Education and the public.~~

~~D. Areas of noncompliance that remain uncorrected shall be reported in the Board of Education's Annual Report to the Governor and General Assembly on the Condition and Needs of Public Schools in Virginia. The Board of Education may take additional action to seek compliance with school laws pursuant to the relevant provisions of the Code of Virginia.~~

~~8 VAC 20-700-50. External reviews.~~

~~A. The Board of Education may accept a division-level review conducted by an organization or agency upon the request of a local school board if the review meets or exceeds the requirements for reviews conducted by the department as prescribed in 8VAC20-700-30. Agencies that conduct these reviews must employ individuals whose qualifications meet or exceed those of individuals who serve as department representatives for the purpose of conducting academic reviews. The Board of Education shall monitor the implementation of any required corrective actions developed by the school division as prescribed in 8VAC20-700-40.~~

~~B. Requests for approval of an external review process submitted to the board must include, at a minimum, the following documentation:~~

- ~~1. A description of the organization or agency that will conduct the review;~~
- ~~2. The scope and dates of the review;~~
- ~~3. Qualifications of the individuals who will conduct the review; and~~
- ~~4. Certification from the chairman of the local school board and division superintendent that the review will meet or exceed the requirements for academic reviews adopted by the board.~~

~~C. Upon completion of the external review process, the division superintendent shall submit a copy of the final report provided by the reviewer to the Department of Education within 60 days of receipt of the report and comply with the required follow-up activities prescribed in 8VAC20-700-40, including a review of the report in a public meeting of the school board prior to submission.~~

Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions (8 VAC 20-710)

~~8 VAC 20-710-10. Definitions.~~

~~The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:~~

~~"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.~~

~~"School board" means the school board that governs a school division.~~

~~8 VAC 20-710-20. Administration.~~

~~A. The school divisions as they existed on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of these regulations and § 22.1-25 of the Code of Virginia.~~

~~B. No school division shall be consolidated without the consent of the school board and the governing body of the county or city affected or, if a town comprises the school division, of the town council.~~

~~C. Notice of any change in the composition of a school division proposed by the Board of Education shall be given by the Superintendent of Public Instruction, on or before January 1 of the year in which the composition of such school division is to be changed, to the clerks of the school board and of the governing body involved and to each member of the General Assembly.~~

~~D. The Board of Education shall consider the following criteria in determining appropriate school divisions:~~

- ~~1. The school age population of the school division proposed to be divided or consolidated;~~
- ~~2. The potential of the proposed school division to facilitate the offering of a comprehensive program for kindergarten through grade 12 at the level of the established standards of quality;~~
- ~~3. The potential of the proposed school division to promote efficiency in the use of school facilities and school personnel and economy in operation;~~
- ~~4. Anticipated increase or decrease in the number of children of school age in the proposed school division;~~
- ~~5. Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities;~~
~~and~~

~~6. The ability of each existing school division to meet the standards of quality with its own resources and facilities or in cooperation with another school division or divisions if arrangements for such cooperation have been made.~~

~~8 VAC 20-710-30. Consolidation process.~~

~~A. Local school divisions requesting to be consolidated shall submit a proposal to the Board of Education by September 1 of the year prior to the year they wish to consolidate.~~

~~B. Each proposal for consolidation shall include the following information and data:~~

~~1. The criteria set forth in 8VAC20-710-20 D;~~

~~2. Evidence of the cost savings to be realized by the consolidation;~~

~~3. A plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division;~~

~~4. Procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms;~~

~~5. A plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights;~~

~~6. Evidence of local support for the proposed consolidation;~~

~~7. A plan for maintaining and/or combining schools;~~

~~8. A plan to continue meeting the standards of accreditation; and~~

~~9. Documentation that both governing bodies and both school boards consent to the proposed consolidation.~~

~~C. Prior to the adoption of any plan to consolidate school divisions, each school division involved in the consolidation shall:~~

~~1. Post such plan on the division's Internet website if practicable;~~

~~2. Make a hard copy of the plan available for public inspection and copying; and~~

~~3. Conduct at least one public hearing to solicit public comment on the consolidation plan.~~