



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: I

Date: April 21, 2022

Title: Final Review of Fast-Track Action to Align the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* with Chapter 26 of the 2021 Acts of the Assembly

Presenter: Jim Chapman, Regulatory and Legal Coordinator

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Purpose of Presentation:

Action required by state or federal law or regulation.

Executive Summary

Chapter [26](#) of the 2021 Acts of the Assembly (“Chapter 26”) amended § [22.1-137.2](#) of the *Code of Virginia* to require that every public school conduct a lock-down drill at least once during the first 20 days of each school session. Section [22.1-137.2](#) previously required that public schools conduct lock-down drills at least twice during the first 20 days of each school session.

Chapter [26](#) requires the Board to amend [8VAC20-131-260 B 3](#) of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. The proposed amendment will make the regulatory requirement more durable by stating that lock-down drills must be conducted in accordance with the statute instead of citing specific requirements.

This action is being presented to the Board as a fast-track regulatory action. The action is expected to be noncontroversial because it is the result of a legislative mandate. Additionally, the Board is not exercising discretion in making the required changes.

Action Requested:

Final review: Action requested at this meeting.

Superintendent’s Recommendation

The Superintendent of Public Instruction recommends that the Board of Education approve this fast-track regulatory action.

Rationale for Action:

Board action is required to revise the *Regulations Establishing Standards for Accrediting Public Schools* to meet the requirements of Chapter [26](#).

Previous Review or Action:

No previous review or action.

Background Information and Statutory Authority:

The Board’s overall regulatory authority is found in § [22.1-16](#) of the *Code of Virginia*, which states that “[t]he Board of Education may 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 this title.”

Chapter [26](#) of the 2021 Acts of the Assembly (“Chapter 26”) amended § [22.1-137.2](#) of the *Code of Virginia* to require that every public school conduct a lock-down drill at least once during the first 20 days of each school session. Section [22.1-137.2](#) previously required that public schools conduct lock-down drills at least twice during the first 20 days of each school session.

Chapter [26](#) requires the Board to amend [8VAC20-131-260 B 3](#) of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. The proposed amendment will make the regulatory requirement more durable by stating that lock-down drills must be conducted in accordance with the statute instead of citing specific requirements.

Timetable for Further Review/Action:

Following Board approval, this regulatory action will be submitted to Town Hall pursuant to the requirements of the Administrative Process Act.

Impact on Fiscal and Human Resources:

This action will have no impact on the Department’s fiscal resources or human capital. This action will require public schools to conduct *fewer* lock-down drills within the first 20 days of each school session.

Fast-track action to conform 8VAC20-131-260 with HB1998 (2021)

8VAC20-131-260. School facilities and safety.

A. Each school shall be maintained in a manner ensuring compliance with the Virginia Statewide Building Code (13VAC5-63). In addition, the school administration shall:

1. Maintain a physical plant that is accessible, barrier free, safe, and clean;
2. Provide for the proper outdoor display of flags of the United States and of the Commonwealth of Virginia;
3. Provide suitable space for classrooms, administrative staff, pupil personnel services, library and media services, and for the needs and safety of physical education;
4. Provide adequate, safe, and properly-equipped laboratories to meet the needs of instruction in the sciences, technology, fine arts, and career and technical programs;
5. Provide facilities for the adequate and safe administration and storage of student medications; and
6. Carry out the duties of the threat assessment team established by the division superintendent and implement policies established by the local school board related to threat assessment, pursuant to § 22.1-79.4 of the Code of Virginia.

B. Each school shall maintain records of regular safety, health, and fire inspections that have been conducted and certified by local health and fire departments. The frequency of such inspections shall be determined by the local school board in consultation with the local health and fire departments. In addition, the school administration shall:

1. Equip all exit doors with panic hardware as required by the Virginia Statewide Building Code (13VAC5-63);
2. Conduct a fire drill at least twice during the first 20 days of school and conduct at least two additional fire drills during the remainder of the school term. Evacuation routes for students shall be posted in each room; and
3. Conduct a lock-down drill at least twice during the first 20 days of school and conduct at least two additional lock-down drills during the remainder of the school term drills in accordance with § 22.1-137.2 of the Code of Virginia.

C. Each school shall have contingency plans for emergencies that include staff certified in cardiopulmonary resuscitation (CPR), the Heimlich maneuver, and emergency first aid.

Each school building with instructional or administrative staff of 10 or more shall have at least three employees with current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator. If one or more students diagnosed as having diabetes attend such school, at least two employees shall have been trained in the administration of insulin and glucagon.

Each school building with instructional or administrative staff fewer than 10 shall have at least two employees with current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator. If one or more students diagnosed as having diabetes attend such school, at least one employee shall have been trained in the administration of insulin and glucagon.

D. In addition, the school administration shall ensure that the school has:

1. Written procedures to follow in emergencies such as fire, injury, illness, allergic reactions, and violent or threatening behavior. This shall include school board policies for the possession and administration of epinephrine in every school, to be administered by

any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. The plan shall be outlined in the student handbook and discussed with staff and students during the first week of each school year;

2. Space for the proper care of students who become ill;

3. A written procedure, in accordance with guidelines established by the local school board, for responding to violent, disruptive, or illegal activities by students on school property or during a school sponsored activity; and

4. Written procedures to follow for the safe evacuation of persons with special physical, medical, or language needs who may need assistance to exit a facility.



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Fast-Track Regulation Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8VAC20-131-260
VAC Chapter title(s)	<i>Regulations Establishing Standards for Accrediting Public Schools in Virginia</i>
Action title	Fast-track action to align the Standards of Accreditation with Chapter 26 of the 2021 Acts of the Assembly
Date this document prepared	March 9, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapter [26](#) of the 2021 Acts of the Assembly (“Chapter 26”) amended § [22.1-137.2](#) of the *Code of Virginia* to require that every public school conduct a lock-down drill at least once during the first 20 days of each school session. Section [22.1-137.2](#) previously required that public schools conduct lock-down drills at least twice during the first 20 days of each school session.

Chapter [26](#) requires the Board of Education (“Board”) to amend [8VAC20-131-260 B 3](#) of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*.

Acronyms and Definitions

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

"Board" means the Virginia Board of Education

"Chapter [26](#)" means Chapter [26](#) of the 2021 Acts of the Assembly.

Statement of Final Agency Action

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.

The Board approved this action to amend the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* on April 21, 2022.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

This action is the result of a legislative mandate. Chapter [26](#) amended § [22.1-137.2](#) of the Code of Virginia to require that every public school conduct a lock-down drill at least once during the first 20 days of each school session.

This rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process because the action is the result of a legislative mandate and because the Board has not exercised discretion in making the required changes.

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 and 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 Board's overall regulatory authority is found in § [22.1-16](#) of the Code of Virginia, which states that "[t]he Board of Education may 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 this title."

Chapter [26](#) amended § [22.1-137.2](#) of the Code of Virginia to require that every public school conduct a lock-down drill at least once during the first 20 days of each school session.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The rationale for the regulatory change is to comply with Chapter [26](#).

The regulatory change is essential to protect the health, safety, and welfare of citizens because the Virginia General Assembly has determined that public schools may conduct fewer lock-down drills within the first 20 days of a school session.

The goal of the regulatory change is to allow public schools to conduct a lock-down drill at least once during the first 20 days of each school session instead of at least twice within the first 20 days of each school session.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

In order to comply with the requirements of Chapter [26](#), the Board proposes to amend [8VAC20-131-260 B 3](#) of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. The proposed amendment will require that public schools conduct lock-down drills must be conducted in accordance with the statute.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The primary advantage of this regulatory change to the public, the agency, and the Commonwealth is that that public schools will require fewer lock-down drills within the first 20 days of a school session.

There are no disadvantages to the public, the agency, or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no other state agencies that will be particularly affected by this regulatory change.

Localities Particularly Affected

There are no localities that will be particularly affected by this regulatory change.

Other Entities Particularly Affected

There are no other entities that will be particularly affected by this regulatory change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	There are no anticipated costs to the Board or the Virginia Department of Education.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no anticipated costs to other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	There are no benefits of the regulatory change to state agencies.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	The regulatory change will allow public schools will conduct fewer lock-down drills within the first
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	20 days of a school session. There may be savings associated with conducting fewer lock-down drills.
Benefits the regulatory change is designed to produce.	The regulatory change is designed to allow public schools to conduct fewer lock-down drills within the first 20 days of a school session.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	No individuals, businesses, or other entities are likely to be affected by this regulatory change.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	n/a
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	n/a
Benefits the regulatory change is designed to produce.	n/a

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

This regulatory change is the result of a legislative mandate. There are no alternatives to the regulatory change.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

This regulatory change will not impact small businesses.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board of Education is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted Jim Chapman by email to jim.chapman@doe.virginia.gov or by mail to the following address:

Jim Chapman
James Monroe Bldg.
101 N. 14th St, 25th Floor
Richmond, VA 23219

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
8VAC20-131-260		Subsection B currently requires that public schools conduct a lock-down drill at least twice during the first 20 days of school and conduct at least two additional lock-down drills during the remainder of the school term.	In order to comply with Chapter 26 , the Board will require that schools conduct lock-down drills in accordance with § 22.1-137.2 of the Code of Virginia.