| **Virginia Board of Education Agenda Item** | **Seal of the Commonwealth of Virginia** |
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# Agenda Item: E

## Date: July 25, 2019

### Title: Final Review of Proposed Amendments to *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131) to Comport with 2019 Legislation Passed by the General Assembly (Exempt Action)

#### Presenter: Mr. Zachary L. Robbins, Director of Policy

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## Purpose of Presentation:

Action required by state or federal law or regulation.

## Executive Summary:

This exempt regulatory action addresses legislation that was approved by the General Assembly during the 2019 Session. The following such legislation affects the *Regulations Establishing the Standards for Accrediting Public Schools in Virginia* (Standards of Accreditation or SOA):

* HB 1729 changes the name of guidance counselors to school counselors and requires each school counselor employed by a school board in a public elementary or secondary school to spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students.
* HB 1868 renames the Virginia Index of Performance (VIP) incentive program as the Exemplar School Recognition Program (the Program) and makes several changes to the Program to align it the revised Standards of Accreditation, including requiring the Program to be designed to recognize and reward: (i) schools that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices that are aligned with the Commonwealth's goals for public education.

The proposed amendments to the Standards of Accreditation would incorporate these legislative changes. Because these changes are needed to conform to General Assembly actions, the proposed regulations will follow the exempt rulemaking requirements of the Administrative Process Act (APA), as provided in § 2.2-4006 of the *Code*.

These changes align with the Board of Education’s Comprehensive Plan priority to ensure successful implementation of the *Profile of a Virginia Graduate* through enhanced school counseling services supporting college, career, and civic readiness. The changes also support implementation of the revised accountability system by recognizing exemplar schools that could be used as models of best practice.

## Action Requested:

Final review: Action requested at this meeting.

## Superintendent’s Recommendation: The Superintendent of Public Instruction recommends the Board of Education approve the proposed revisions to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (exempt) to comport with legislation passed by the 2019 General Assembly.

## Rationale for Action:

These amendments to the Standards of Accreditation are proposed in order to incorporate the legislative changes made by the General Assembly during the 2019 Session.

## Previous Review or Action:

No previous review or action.

Background Information and Statutory Authority:
Section 22.1-253.13:3 of the *Code of Virginia* provides, in part:

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The 2019 Virginia General Assembly approved the following legislation:

HB 1729 (Landes), which establishes § 22.1-291.1:1 of the Code of Virginia to provide:

*Each school counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students.*

HB 1868 (Hurst), which amends § 22.1-253.13:9 of the Code of Virginia as follows

A. Schools and local school divisions shall be recognized by the Board of Education in accordance with guidelines it shall establish for the~~Virginia Index of Performance (VIP) incentive program~~*Exemplar School Recognition Program (the Program)*. The~~VIP incentive program~~*Program* shall be designed to recognize and reward~~fully accredited~~*(i)* schools~~and school divisions that make significant progress toward achieving advanced proficiency levels in reading, mathematics, science, and history and social science, and on other indicators of school and student performance~~*that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices* that are aligned with the Commonwealth's goals for public education. Such recognition may include:

1. Public announcements recognizing individual schools and divisions;

2. Tangible rewards;

3. Waivers of certain board regulations;

4. Exemptions from certain reporting requirements; or

5. Other commendations deemed appropriate to recognize high achievement.

In addition to Board recognition, local school boards shall adopt policies to recognize individual schools through public announcements or media releases as well as other appropriate recognition.

~~In order to encourage school divisions to promote student achievement in science, technology, engineering, and mathematics, the Board of Education shall take into account in its guidelines a school division's increase in enrollments and elective course offerings in these areas.~~

B. A school that maintains a passing rate on Virginia assessment program tests or additional tests approved by the Board of 95 percent or above in each of the four core academic areas for two consecutive years may, upon application to the Department of Education, receive a waiver from accreditation. A school receiving such a waiver shall be fully accredited for a three-year period. However, such school shall continue to annually submit documentation in compliance with the pre-accreditation eligibility requirements.

~~C. Schools may be eligible to receive the Governor's Award for Outstanding Achievement. This award will be given to schools rated fully accredited that significantly increase the achievement of students within student subgroups in accordance with guidelines prescribed by the Board of Education.~~

~~D. In its guidelines for calculating an award under the Virginia Index of Performance incentive program pursuant to this section, the Department of Education shall take into account the number of high school students who earn the one-year Uniform Certificate of General Studies or an associate degree from a comprehensive community college in the Commonwealth concurrent with a high school diploma.~~

2. That pursuant to the provisions of this act, the Board of Education shall replace the existing Virginia Index of Performance (VIP) incentive program with the Exemplar School Recognition Program.

The Board of Education, on April 26, 2018, adopted the [*Guidelines on Exemplar School Recognition*](https://www.google.com/url?client=internal-uds-cse&cx=000783915327965917031:ydjbl4xbjqo&q=http://www.doe.virginia.gov/boe/meetings/2018/04-apr/item-c.docx&sa=U&ved=2ahUKEwjA1r-Ku7njAhXLc98KHcaNBi0QFjABegQIDhAC&usg=AOvVaw1yGXMc_FySJ18rJckK1Tw3). No changes to the guidelines are necessary to comply with the legislation.

The proposed amendments to the *Standards of Accreditation* implement the aforementioned legislation.

Timetable for Further Review/Action:
Upon the Board’s approval on final review, the regulations will be submitted for executive review in compliance with the exempt provisions of the Administrative Process Act.

## Impact on Fiscal and Human Resources:

The administrative impact required in promulgating these regulations will be absorbed within existing resources.

**Chapter 131. Regulations Establishing Standards for Accrediting Public Schools in Virginia**

**8VAC20-131-240. Administrative and Support Staff; Staffing Requirements.**

A. Each school shall have at a minimum the staff as specified in the Standards of Quality with proper licenses and endorsements for the positions they hold.

B. The principal of each middle and secondary school shall be employed on a 12-month basis.

C. Each elementary, middle, and secondary school shall employ school counseling staff as prescribed by the Standards of Quality. School counseling shall be provided for students to ensure that a program of studies contributing to the student's academic achievement and meeting the graduation requirements specified in this chapter being followed.

D. The counseling program for elementary, middle, and secondary schools shall provide a minimum of ~~60%~~ 80% of the time during normal school hours for each member of the school counseling staff devoted to the direct counseling of individual students or groups of students.

E. A middle school classroom teacher's standard load shall be based on teaching no more than the instructional day minus one planning period per day or the equivalent with no more than 150 students or 25 class periods per week. If a middle school classroom teacher teaches more than 150 students or 25 class periods per week, an appropriate contractual arrangement and compensation shall be provided.

F. The secondary classroom teacher's standard load shall be based on teaching no more than the instructional day minus one planning period per day or the equivalent with no more than 150 students or 25 class periods per week. If a secondary school classroom teacher teaches more than 150 students or 25 class periods per week, an appropriate contractual arrangement and compensation shall be provided.

G. Middle or secondary school teachers shall teach no more than 150 students per week; however, physical education and music teachers may teach 200 students per week. If a middle or secondary school physical education or music teacher teaches more than 200 students per week, an appropriate contractual arrangement and compensation shall be provided.

H. Each elementary classroom teacher shall be provided at least an average of 30 minutes per day during the students' school week as planning time. Each full-time middle and secondary classroom teacher shall be provided one planning period per day or the equivalent, as defined in [8VAC20-131-5](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section5/), unencumbered of any teaching or supervisory duties.

I. Staff-student ratios in special education and career and technical education classrooms shall comply with regulations of the board.

J. Student support positions as defined in the Standards of Quality shall be available as necessary to promote academic achievement and to provide support services to the students in the school.

**8VAC20-131-410. Recognitions and Rewards for School and Division Accountability.**

~~A.~~ Schools and divisions may be recognized by the board in accordance with guidelines it shall establish for the ~~Virginia Index of Performance (VIP) incentive program~~ Exemplar School Recognition Program (Program). ~~In order to encourage school divisions to promote student achievement in science, technology, engineering, and mathematics (STEM), the board shall take into account in its guidelines a school division's increase in enrollment and elective course offerings in these STEM areas.~~ The Program recognizes schools or school divisions that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices. Such recognition may include:

1. Public announcements recognizing individual schools and divisions;

2. Tangible rewards;

3. Waivers of certain board regulations;

4. Exemptions from certain reporting requirements; or

5. Other commendations deemed appropriate to recognize high achievement.

In addition to board recognition, local school boards shall adopt policies to recognize individual schools through public announcements, media releases, and participation in community activities when setting policy relating to schools and budget development, as well as other appropriate recognition.

~~B. Schools and divisions may be designated and recognized by the board for exemplar performance in accordance with criteria and guidelines it shall establish for top achievement in one or more school quality indicators, and the board may include recognition for high performing schools in specific peer categories, such as schools with high levels of poverty.~~

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Exempt Action

Final Regulation

Agency Background Document

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| **Agency name** | Virginia Department of Education |
| **Virginia Administrative Code (VAC) citation(s)**  | 8VAC20-131 |
| **Regulation title(s)** | Regulations Establishing Standards for Accrediting Public Schools in Virginia |
| **Action title** | [Revisions to the Standards of Accreditations to Comport with Legislation passed by the 2019 General Assembly](https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5187) |
| **Final agency action date** | July 25, 2019 |
| **Date this document prepared** | July 15, 2019  |

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

Brief Summary

*Please 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.*

The Virginia Board of Education is proposing amendments to the Regulations Establishing Standards for Accrediting Public Schools in Virginia that are necessary for the regulations to comport with legislative changes made by the General Assembly during the 2019 Session. Those changes include:

HB 1729 - Changes the name of guidance counselors to school counselors and requires each school counselor employed by a school board in a public elementary or secondary school to spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. The existing regulation requires 60 percent of counseling staff time to be devoted to counseling students.

HB 1868 - Renames the Virginia Index of Performance (VIP) incentive program as the Exemplar School Recognition Program (the Program) and makes several changes to the Program to align it with recent changes made by the Board of Education (the Board) to the Standards of Accreditation, including requiring the Board to design the Program to recognize and reward (i) schools that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices that are aligned with the Commonwealth's goals for public education. The existing regulation includes provisions for both the VIP and Exemplar School Recognition Program. This proposed action would consolidate these provisions.

Mandate and Impetus

*Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). “Mandate” is defined as “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.”*

These amendments to the SOA are mandated by legislation enacted by the General Assembly during the 2019. This regulatory action is noncontroversial because its only purpose is to comport the regulations to align with legislation.

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.*

On July 25, 2019, the Board of Education adopted amendments to Regulations Establishing Standards for Accrediting Public Schools in Virginia.

Periodic Review

Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the 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.

This form is not being used to report the result of a periodic or small business impact review.

(1) There is a continued need for this regulation because this regulation provides the foundation for the provision of a high quality public education within a system of accountability and continuous improvement. Further, §22.1-253.13:3 of the *Code of Virginia* requires the Board of Education to promulgate regulations establishing standards for accrediting public schools.

(2) No complaints or comments were received concerning this regulation from the public.

(3) This regulation is not overly complex and is easily understandable for school administrators and the public.

(4) This regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

(5) This regulation underwent a comprehensive review, resulting in regulations that became effective January 11, 2018.