



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: F

Date: October 19, 2024

Title: First and Final Review of the Board of Education Unified Regulatory Plan for FY2024

Presenter: Jim Chapman, Director of Board Relations

Purpose of Presentation

Action required by state or federal law or regulation (i.e., a change in law requires a change in program requirements; this is part of a regulatory action).

Executive Summary

On June 30, 2022, Governor Youngkin issued Executive Order 19 ("[EO19](#)") to establish procedures for executive review of proposed and final regulations pursuant to § [2.2-4013](#) and the periodic review of regulations pursuant to § [2.2-4017](#). Additionally, [EO19](#) created the Office of Regulatory Management ("ORM") within the Office of the Governor and required all executive branch agencies to submit a Unified Regulatory Plan ("URP") by July 1 of each year.

The URP is part of a broader effort to increase transparency in the Virginia regulatory process and provides the public with a roadmap of regulatory actions that an agency expects to take over the course of a fiscal year. The draft URP presented to the Board as part of this action will provide the public with a high-level view of timelines for the Board's regulatory activity.

The "estimated dates" in the URP remain an approximation; agencies are not bound to act by the estimated dates.

Action Requested

Final review: Action requested at this meeting.

Superintendent's Recommendation

The Superintendent of Public Instruction recommends that the Board of Education adopt the URP for FY2024.

Rationale for Action

The Board must approve a URP in order to comply with EO19.

Previous Review or Action

No previous review or action.

Background Information and Statutory Authority

According to § [2.2-103](#), except as otherwise provided by the Constitution of Virginia or law, the Governor has “the authority and responsibility for the formulation and administration of the policies of the executive branch.” Although the Board of Education (“Board”) is created by Article VIII, Section 4, of the Virginia Constitution, the Virginia General Assembly has specifically classified the Board as a supervisory board “within the executive branch of state government.” § [2.2-2100](#).

Moreover, the General Assembly has granted the Board broad authority to 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].” § [22.1-16](#). In promulgating such regulations, the Board is subject to the provisions of the Virginia Administrative Process Act (“APA”; § [2.2-4000 et seq.](#) of the Code of Virginia), the purpose of which is “to supplement present and future basic laws conferring authority on agencies either to make regulations or decide cases” § [2.2-4000](#). In supplementing the basic law conferring authority on the Board to make regulations (§ [22.1-16](#)), the APA has also subjected the Board to requirements for periodic reviews of regulations (§§ [2.2-4007.1](#) and [2.2-4017](#)) and the executive review of regulations (§ [2.2-4013](#)).

Pursuant to § [2.2-4013](#), the Governor is required to “adopt and publish procedures by executive order for review of all proposed regulations governed by [the APA] by June 30 of the year in which the Governor takes office.

On June 30, 2022, Governor Youngkin issued [EO19](#) to establish procedures for executive review of proposed and final regulations pursuant to § [2.2-4013](#) and the periodic review of regulations pursuant to § [2.2-4017](#).

[EO19](#), as well as the [policies and procedures](#) that implement [EO19](#), initiated a number of significant changes to Virginia’s regulatory environment and processes, including the following:

- The creation of ORM within the Office of the Governor. ORM will work to ensure that all regulations are reviewed for their impact on local governments, the regulated communities, and private citizens.
- All executive branch agencies will be required to submit a URP by July 1 of each following year. The URP will either be approved or modified by ORM and then posted on Town Hall. Regulations that become necessary after the publication of the URP may be submitted to ORM for potential inclusion in the plan.

- All regulations promulgated by executive branch agencies shall be required to undergo periodic review every four years, pursuant to §§ [2.2-4007.1](#) and [2.2-4017](#), with additional requirements as outlined in the [policies and procedures](#) that implement [EO19](#).

Due to changes in leadership, the Board has not yet submitted a URP pursuant to [EO19](#).

Stakeholder Engagement

The development of the URP is a formal matter. The Board and VDOE will continue stakeholder engagement for each regulatory action as appropriate.

Implementation and Communication

Once approved by the Board, a final version of the URP will be sent to ORM.

Impact on Fiscal and Human Resources

In this section, state the projected impact of the action on the Department of Education's resources, both fiscal and staff impact. If there will be an impact on local school divisions' resources that should also be noted.