



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: H

Date: December 12, 2023

Title: First and Final Review of Periodic Review of Regulations Schedule

Presenter: Jim Chapman, Director of Board Relations

Purpose of Presentation

Action required by state law and regulation.

Executive Summary

The Board has stated in [8VAC20-11-110](#) that the agency shall conduct a periodic review of regulations consistent with

1. An executive order issued by the governor pursuant to § [2.2-4017](#) of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § [2.2-4007.1](#) of the Administrative Process Act regarding regulatory flexibility for small businesses.

Since the Board promulgated [8VAC20-11-110](#) in 2009, none of the Board's sixty-five chapters have been reviewed in accordance with statute and the Board's regulations. With each periodic review, the published notice will invite public comments on the entire regulatory chapter. The Department of Education ("VDOE") will abide by [8VAC20-11-110](#) and follow the procedures laid out by Governor Youngkin's Executive Order 19.

In order to comply with the Board's regulations and the requirements of §§ [2.2-4007.1](#) and [2.2-4017](#), VDOE recommends opening periodic reviews on the following chapters in the first six months of 2024:

- Regulations Governing Public Participation ([8VAC20-11](#))
- Licensure Regulations for School Personnel ([8VAC20-23](#))

- Technology Standards for Instructional Personnel ([8VAC20-25](#))
- Regulations Governing Adult High School Programs([8VAC20-30](#))
- Regulations Governing Pupil Accounting Records ([8VAC20-110](#))
- Regulations Governing School Community Programs ([8VAC20-180](#))
- Classifications of Expenditures ([8VAC20-210](#))
- Regulations Governing School Activity Funds ([8VAC20-240](#))
- Regulations Governing the Testing of Sight and Hearing of Pupils ([8VAC20-250](#))
- Regulations Governing School Lunch Sale of Food Items ([8VAC20-290](#))
- Rules Governing Instructions Concerning Drugs and Substance Abuse ([8VAC20-310](#))
- Regulations Governing Physical and Health Education ([8VAC20-320](#))
- Rules Governing General Educational Development Certificates ([8VAC20-360](#))
- Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards ([8VAC20-420](#))
- Regulations Governing School Boards Local ([8VAC20-490](#))
- Regulations Governing Reduction of State Aid When Length of School Terms Below 180 Teaching Days or 990 Teaching Hours ([8VAC20-521](#))
- Regulations Governing Criteria to Identify Toxic Art Materials, Labeling, Use in Elementary Grades Prohibited ([8VAC20-530](#))
- Regulations Governing the Review and Approval of Education Programs in Virginia ([8VAC20-543](#))
- Regulations for the Protection of Students as Participants in Human Research ([8VAC20-565](#))
- Regulations Governing Local School Boards and School Divisions ([8VAC20-720](#))
- [8VAC20-730](#), Regulations Governing Unexcused Absences and Truancy

Action Requested

Final review: Action requested at this meeting.

Superintendent’s Recommendation

The Superintendent of Public Instruction recommends that the Board waive first review and approve opening periodic reviews on the regulatory chapters identified in this item in the first six months of 2024.

Previous Review or Action

Never has the Board or the Department reviewed or acted on the four-year requirement for a regulatory periodic review.

Background Information and Statutory Authority

Section [2.2-4007.1\(D\)](#) of the Code of Virginia requires that “all regulations shall be reviewed every four years to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law.”

Section [2.2-4007.1\(E\)](#) requires that the regulatory review include consideration of the following:

1. The continued need for the rule;
2. The nature of complaints or comments received concerning the regulation from the public;
3. The complexity of the regulation;
4. The extent to 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.

In addition, the Board has stated in [8VAC20-11-110](#) that the agency shall conduct a periodic review of regulations consistent with

1. An executive order issued by the governor pursuant to § [2.2-4017](#) of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § [2.2-4007.1](#) of the Administrative Process Act regarding regulatory flexibility for small businesses.

Since the Board promulgated [8VAC20-11-110](#) in 2009, none of the Board’s sixty-five chapters have been reviewed in accordance with statute and the Board’s regulations. With each periodic review, the published notice will invite public comments on the entire regulatory chapter. The Department of Education (“VDOE”) will abide by [8VAC20-11-110](#) and follow the procedures laid out by Governor Youngkin’s Executive Order 19.

Implementation and Communication

The Board will need to decide if it wants to approve the period review schedule as presented.

Impact on Fiscal and Human Resources

Some staff impact is expected.