



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: O

Date: June 21, 2024

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.

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 between July and December 2024:

- Regulations Governing Educational Services for Gifted Students (8VAC20-40)
- Regulations Governing Pupil Transportation (8VAC20-70)
- Procedure for Adjusting Grievances (8VAC20-90)
- Regulations Governing Literary Loan Applications in Virginia (8VAC20-100)

- Regulations Governing Career and Technical Education (8VAC20-120)
- Management of the Student’s Scholastic Record in the Public Schools of Virginia (8VAC20-150)
- Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs (8VAC20-281)
- Rules Governing Alternative Education (8VAC20-330)
- Regulations Governing Driver Education (8VAC20-340)
- Rules Governing Division Superintendent of Schools (8VAC20-390)
- Regulations Governing Allowable Credit for Teaching Experience (8VAC20-410)
- Regulations for the School Breakfast Program (8VAC20-580)
- Regulations Governing the Designation of School Divisions of Innovation (8VAC20-760)

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 between July and December 2024.

Previous Review or Action

None

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

Upon approval, VDOE staff will open the periodic reviews on Town Hall in accordance with the Administrative Process Act and ORM procedures.

Impact on Fiscal and Human Resources

Any impact on fiscal and human resources can be absorbed within existing agency structures.