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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	State Board of Education
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	8 VAC20-132
<b>VAC Chapter title(s)</b>	Virginia Standards of Accreditation
<b>Action title</b>	Regulatory Actions for the Standards of Accreditation
<b>Date this document prepared</b>	September 26, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.*

During the 2024 legislative session, the General Assembly passed—and the Governor subsequently signed—Chapter [612](#), Chapter [432](#), and Chapter [194](#). This regulatory action will update the Board's regulations to implement the legislation.

The Board is also amending provisions to enact Chapter [26](#) for the 2021 legislative session and Chapter [841](#) of the 2001 legislative session. Each of the proposed regulatory amendments included in this item are necessary to conform to changes in Virginia statutory law. The Board is not exercising discretion, but simply amending its regulations in order to align with legislative changes to the *Code of 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.

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Board – Virginia Board of Education  
Department – Virginia Department of Education

### 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.

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On September 26, 2024, the Board approved the amendments to 8VAC20-132.

### 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 the ORM procedures, “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.”

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

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The regulatory action was initiated as a result of changes to Virginia statutory law.

### 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.

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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 [Title 22.1 of the Code of Virginia].”

Further, § 22.1-253.13:3 of the Code of Virginia specifically authorizes the Board to promulgate regulations establishing standards of accreditation.

### 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 is intended to solve.

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The purpose of the regulatory change is to ensure that the Board's regulations remain in compliance with the Code of Virginia.

## 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.*

[Chapter 612](#) directs the Board to revise its regulations relating to student eligibility for an expedited retake of any Standards of Learning assessment, except for the writing Standards of Learning assessment, to (i) provide that any student in grades three through 12 who scores in the 375 to 399 range, or an equivalent range on an alternative scoring scale, on any such Standards of Learning assessment shall be eligible to retake such assessment on an expedited basis at least once prior to the next scheduled assessment administration and (ii) establish guidelines for and require each eligible student to complete prior to retaking any Standards of Learning assessment on an expedited basis a comprehensive remediation program based on such student's particular educational needs as identified by such student's results on such assessment. 8VAC20-131-30 contains the relevant regulatory requirements and must be amended to align with Chapter 612.

[Chapter 432](#) Requires every public school to hold fire drills during the school session in accordance with the requirements of the Statewide Fire Prevention Code. Current law requires such fire drills to be conducted at least twice during the first 20 school days of each school session and at least twice more during the remainder of the school session. 8VAC20-132-240 contains the relevant regulatory requirements and must be amended to align with Chapter 432.

[Chapter 26](#) Reduces the minimum number of mandatory annual lock-down drills in each public elementary and secondary school in the Commonwealth from three to two. 8VAC20-132-240 contains the relevant regulatory requirements and must be amended to align with Chapter 432.

[Chapter 841](#) Requires public schools to institute tornado drills every school year to familiarize students with drill procedures to safeguard their health, safety, and welfare. 8VAC20-132-240 contains the relevant regulatory requirements and must be amended to align with Chapter 841.

[Chapter 194](#) Requires any divisionwide or public elementary or secondary school-specific school building evacuation plan, policy, or protocol to include provisions that seek to maximize the opportunity for students with mobility impairments to evacuate the school building alongside their non-mobility-impaired peers. 8VAC20-132-240 contains the relevant regulatory requirements and must be amended to align with Chapter 194.

## 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 to both the public and the agency is that the Board's regulations will accurately reflect the contents of the Code of Virginia. There are no disadvantages to the public 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 or requirements that exceed federal requirements.

### Agencies, Localities, and Other Entities Particularly Affected

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "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

No state agencies are particularly affected.

Localities Particularly Affected

No localities are particularly affected.

Other Entities Particularly Affected

No other entities are particularly affected.

### Economic Impact

*Consistent with § 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 the proposed change versus the status quo.*

#### Impact on State Agencies

<p><i>For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including:</i> a) fund source / fund detail;</p>	<p>None</p>
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b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	
<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.	None
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The regulatory change is designed to ensure the Board's regulations comply with state law.

**Impact on Localities**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.*

Projected costs, savings, fees or revenues resulting from the regulatory change.	None
Benefits the regulatory change is designed to produce.	The regulatory change is designed to ensure the Board's regulations comply with state law.

**Impact on Other Entities**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.*

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.	None
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.	None
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.	None
Benefits the regulatory change is designed to produce.	The regulatory change is designed to ensure the Board's regulations comply with state law.

### 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.*

**The regulatory action results from changes in the Code of Virginia and no alternatives were considered.**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.*

### Regulatory Flexibility Analysis

*Consistent with § 2.2-4007.1 B 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.*

**The regulatory action results from changes in the Code of Virginia and no alternatives were considered. No small businesses will be impacted.**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.*

### 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.*

*Consistent with § 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 Department 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 by mail, email or fax to Jim Chapman, Director of Board Relations, at [jim.chapman@doe.virginia.gov](mailto:jim.chapman@doe.virginia.gov). 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
8VAC20-132-40		Details requirements for student achievement expectations and expedited retakes of Standards of Learning (SOL) tests. States in part, "the board shall provide the same criteria for eligibility for an expedited retake of any SOL test, with the exception of the writing SOL tests, to each student regardless of grade level or course."	"the board shall provide the same criteria for eligibility for an expedited retake of any SOL test, with the exception of the writing SOL tests, to each student regardless of grade level or course" will be deleted and the following language will be added: "With the exception of the writing Standards of Learning assessments, any student in grades three through 12 shall be eligible for an expedited retake of any of the Standards of Learning assessment prior to the next scheduled assessment administration if the student scored in the 375 to 399 range, or an equivalent range on an alternative scoring scale. Prior to taking any Standards of Learning assessment on an expedited basis, such student shall complete a comprehensive remediation program based on such student's particular educational needs as identified by such student's results on such assessment. The comprehensive



			<p>remediation program shall be in accordance with guidelines established by the Board.”</p> <p>This amendment is designed to bring the regulatory language into alignment with changes in the Code of Virginia.</p>
8VAC20-132-240		<p>Details requirements for school facilities and safety. States in part, “Each school shall...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 two additional lock down drills during the remainder of the school term.”</p> <p>Additionally, the regulation provides that “the school administration shall ensure that the school has: ... 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.”</p>	<p>This language will be amended to read: “2. Every public school shall hold fire drills during the school session in accordance with the requirements of the Statewide Fire Prevention Code (§ 27.94 et seq.). Evacuation routes for students shall be posted in each room; and 3. Conduct lock-down drills in accordance with § 22.1-137.2 of the Code of Virginia. 4. Tornado drills in accordance with § 22.1-137.1 of the Code Virginia.”</p> <p>The language concerning written procedures on exiting a facility will now read: “the school administration shall ensure that the school has: ... 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, which shall include provisions that seek to maximize the opportunity for students with mobility impairments to evacuate the school building alongside their non-mobility-impaired peers.”</p> <p>These amendments are designed to bring the regulatory language into alignment with changes in the Code of Virginia.</p>

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

**Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace**

New chapter-section number	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.



If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

**Table 3: Changes to the Emergency Regulation**

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage