



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: I

Date: September 26, 2024

Title: First and Final Review of Finalization of Periodic Reviews of Regulations

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 Younkin’s Executive Order 19.

In December 2023, the Board approved opening periodic reviews on twenty-one regulatory chapters. Each periodic review was published on Town Hall and results of the following chapters are being presented to the Board for finalization:

- 8VAC20-310 Rules Governing Instructions Concerning Drugs and Substance Abuse
- 8VAC20-320 Regulations Governing Physical and Health Education
- 8VAC20-565 Regulations for the Protection of Students as Participants in Human Research

- 8VAC20-730 Regulations Governing the Collection and Reporting of Truancy-Related Data and Student Attendance Policies

By closing the periodic reviews, the Board will fulfill its statutory obligation. Additionally, the reviews initiated by the periodic reviews will result in future regulatory actions that will count toward the agency's regulatory reduction requirements as outlined in Executive Order 19.

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 closing the periodic reviews on the regulatory chapters identified in this item as presented to the Board.

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.

VDOE staff recommends closing the periodic reviews identified below, which includes summaries of the findings:

1. 8VAC20-310 Rules Governing Instructions Concerning Drugs and Substance Abuse

VDOE staff recommends that this chapter is amended for clarity and concision, and that the Board consider moving its underlying requirements to 8VAC20-720.

2. 8VAC20-320 Regulations Governing Physical and Health Education

VDOE staff recommends that this chapter is repealed. The underlying statutory directive for the chapter is now fulfilled by the Standards of Learning, which renders the chapter redundant.

3. 8VAC20-565 Regulations for the Protection of Students as Participants in Human Research

VDOE staff recommends that this chapter is retained as is.

4. 8VAC20-730 Regulations Governing the Collection and Reporting of Truancy-Related Data and Student Attendance Policies

VDOE staff recommends that the chapter be repealed as numerous requirements overlap and compete with the statutory requirements of § 22.1-258. The data collection requirements in 8VAC20-730-30 as well as the definitions of “excused absence,” “instructional school day,” “truancy,” and “unexcused absence,” could be moved to 8VAC20-720.

Implementation and Communication

Upon approval, VDOE staff will close the periodic reviews on Town Hall in accordance with the Administrative Process Act and the procedures published by the Governor’s Office of Regulatory Management. Any regulatory actions recommended by VDOE staff will be brought to the Board in a separate action at a future Board meeting.

Impact on Fiscal and Human Resources

There is no impact on the agency’s fiscal or human resources.