



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: K

Date: October 24, 2024

Title: First Review of Regulatory Actions Resulting from Periodic Reviews

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 the following:

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.

After conducting several periodic reviews, the Board fulfilled its statutory obligation regarding those chapters. VDOE staff reviewed each chapter to assess the statutory authority for the regulations, whether they are necessary for the protection of public health, safety and welfare, and whether they are clearly written and easily understandable.

Staff has found the following chapters are not clearly written and easily understandable, the statutory authority for the regulations no longer exists, or are no longer necessary for the protection of public health, safety and welfare, and thus should be repealed:

- 8VAC20-290 Regulations Governing School Lunch Sale of Food Items
- 8VAC20-310 Regulations Governing Physical and Health Education

Staff suggests the following chapters should be amended for protection of public health, safety and welfare, or to increase clarity and understandability, or to be in line with the statutory authority for the regulations:

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

Action Requested

Action will be requested at a future meeting: December 3, 2024.

Superintendent's Recommendation

The Superintendent of Public Instruction recommends that the Board approve the regulatory changes described in the item.

Background Information and Statutory Authority

At the July Board meeting, the Board [approved](#) closing the periodic reviews for 12 chapters. VDOE staff suggested that after closing of those periodic reviews, the Board approve the repeal of 8VAC20-290 and 8VAC20-320 as well as the amendment of 8VAC20-730.

Section 22.1-16 of the Code of Virginia authorizes the State Board of Education to “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.

8VAC20-290 Regulations Governing School Lunch Sale of Food Items (REPEAL)

The periodic review found that chapter 8VAC20-290 uses out of date terminology and is no longer in use.

8VAC20-320 Regulations Governing Physical and Health Education (REPEAL)

The underlying statutory directive for the chapter is now fulfilled by the Standards of Learning, which renders the chapter redundant. While physical and health education is required by statute, this goal is now accomplished via the SOL framework required by § 22.1-253.13:1. 8VAC20-320 is out of date.

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

VDOE staff recommends that the chapter be amended 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.

Stakeholder Engagement

The 30-day public comment period concerning these actions will open when these actions are published in the Virginia Register following executive branch review.

Implementation and Communication

Upon approval by the Board, VDOE staff will begin the regulatory process pursuant to the relevant provisions of the Administrative Process Act.

Impact on Fiscal and Human Resources

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