

missed time that has not been waived in accordance with the regulations. The proposed amendment to these regulations is to revise the language in 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually.” This revision will permit this certification to be added to the *Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications*, which is due by the end of May.

The Administrative Process Act (APA) provides for expedited rulemaking for regulatory actions that are expected to be non-controversial. The “fast track” process specifies that after the proposed action is reviewed and approved by the Governor, a notice that an agency proposes to amend or repeal a regulation using the fast track process will be published in the Virginia Register and will appear on the Virginia Regulatory Town Hall (the electronic site for all state agency regulations).

The publication of this notice will be followed by a public comment period of at least 60 days. If an objection to the proposed regulatory change is received during the public comment period, the proposed rulemaking is continued using the usual APA process. If, however, there are no objections, the proposed regulation or repeal will become effective 15 days after the close of the public comment period, unless the regulation is withdrawn or a later effective date is specified by the Board of Education.

Summary of Major Elements: The regulations prescribe specific requirements for the number of teaching days or teaching hours that must be made up based on the number of days a school or school division has been closed, authorization for school divisions to make up missed teaching days by providing equivalent teaching hours, and a provision for the Board of Education to waive the requirement that school divisions provide additional teaching days or hours to compensate for school closings resulting from a declared state of emergency. Further, the regulations authorize the Superintendent of Public Instruction to approve reductions in the school term without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

The regulations require local school divisions to include in requests for waivers evidence of efforts that have been made by the school division to reschedule as many days as possible and to certify that every reasonable effort has been made to make up lost teaching days or hours before requesting a waiver of this requirement. They also require local school division superintendents to certify by April 15 of each school year that they have read and complied with the provisions of the regulations and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations.

As noted above, many of the required reports and certifications are provided to local school divisions online so that they may submit them electronically. One of these is the Standards of Quality (SOQ) certification that must be submitted to the department in May of each year. This certification currently includes two questions regarding compliance with non-SOQ standards, specifically continuing contract personnel evaluations and compulsory attendance requirements.

In order to add the required certification regarding compliance with the *Regulations Governing Reduction of State Aid When Length of School Term Below 180 Days or 990 Teaching Hours* to the SOQ certification, the April 15 reporting date in the current regulations must be changed. The proposed amendment to these regulations is to revise the language in 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually, at a time and in a form prescribed by the

Virginia Department of Education.” The proposed amended language is attached.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education accept this item for first review.

Impact on Resources: The proposed amendment to the regulations is expected to have no fiscal impact on the local school divisions or on the Department of Education because the report in question is already required. It will aid school divisions by permitting them to include the information in a certification that they are already required to provide.

Timetable for Further Review/Action: It is anticipated that this item will be placed on the Board of Education's May 21, 2008 agenda for final review. Following the Board's final approval of the proposed amendment, the fast track provisions of the Administrative Process Act will be initiated. All appropriate entities, including local division superintendents, will be notified and given opportunity to comment.

REGULATIONS GOVERNING REDUCTION OF STATE AID WHEN LENGTH OF SCHOOL TERM BELOW 180 TEACHING DAYS OR 990 TEACHING HOURS

8VAC20-521-10. Definitions.

The following words and terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:

"Declared state of emergency" means the declaration of an emergency before or after an event by the Governor or by officials in a locality that requires the closure of any or all schools within a school division.

"Instructional time" means the period that students are in school on a daily or annual basis as defined in the Regulations Establishing Standards for Accrediting Public Schools in Virginia, 8VAC20-131.

"Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures.

"Teaching days" means days when instruction is provided.

"Teaching hours" means hours when instruction is provided.

8VAC20-521-20. Length of school term.

A. The length of every school's term in every school division shall be a minimum of 180 teaching days or 990 teaching hours in any school year.

B. Nothing in these regulations shall prohibit a school division from exceeding the 180 teaching day or 990 teaching hour requirement in any of its schools.

8VAC20-521-30. Completion of teaching hours.

A. When severe weather conditions or other emergency situations have resulted in the closing of a school or schools in a school division for five or fewer days, the school or schools shall make up all missed days by adding teaching days to the school calendar or extending the length of the teaching day.

B. When severe weather conditions or other emergency situations have resulted in the closing of a school or schools in a school division for six or more days, the school or schools shall make up the missed

days in accordance with §22.1-98 of the Code of Virginia by adding teaching days to the school calendar or extending the length of the teaching day.

C. Nothing in these regulations shall preclude a school division from making up missed teaching days by providing students with teaching hours equivalent to such missed teaching days.

8VAC20-521-40. Waivers for a declared state of emergency.

A. The Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for closings resulting from a declared state of emergency.

B. If the local school board desires a waiver for days missed as the result of a declared state of emergency, it shall submit a request for a waiver to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible.

C. The division superintendent and the chair of the local school board shall certify that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of the requirement.

D. The Board of Education authorizes the Superintendent of Public Instruction to approve, in compliance with these regulations, reductions in the school term for a school or the schools in a school division.

E. If the waiver is denied, the school division shall make up the missed instructional time in accordance with 8VAC20-521-30 and §22.1-98 of the Code of Virginia.

8VAC20-521-50. Funding.

A. There shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund if a local school division:

1. Completes instructional time in accordance with 8VAC20-521-30 and §22.1-98 of the Code of Virginia; or

2. Obtains a waiver for closings resulting from a declared state of emergency in accordance with 8VAC20-521-40.

B. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to a reduction in the length of the term of any school if the missed days are made up in accordance with 8VAC20-521-30 or the schools in a school division have been granted a waiver in accordance with 8VAC20-521-40.

8VAC20-521-60. Administration.

A. The Virginia Department of Education shall annually notify local school divisions of the provisions of these regulations and the Code of Virginia regarding reductions in the length of the school term.

B. Local school division superintendents shall certify ~~by April 15 of each school year~~ annually, at a time and in a form prescribed by the Virginia Department of Education, that they have read and complied with these provisions and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations.



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-521-10 et seq.
Regulation title	Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours
Action title	Minor revision to regulation
Date this document prepared	March 31, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The *Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours* (8 VAC 20-521-10 et seq.) became effective on September 15, 2006. The regulations, at 8 VAC 20-521-60, require local school division superintendents to certify by April 15 of each school year that they have read and complied with the provisions of the regulations and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations.

Currently, the Virginia Department of Education requires local school boards and superintendents to submit several reports and certifications throughout the school year. In an effort to make the system of reporting and certifying more effective and efficient, many of the reports and certifications are available online and may be completed and sent to the department via electronic mail. In a further effort to assist both the school superintendents and department staff, some of these reports and certifications are being combined.

As noted above, this regulation requires local school divisions to certify by April 15 of each year that they have read and complied with the provisions of the regulation and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations. The proposed amendment

to these regulations is to revise the language of 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually, at a time and in a form prescribed by the Virginia Department of Education.” This revision will permit this certification to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year.

Statement of final agency action

Please 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.

This regulation became effective on September 15, 2006. The Board of Education authorized the Department of Education to proceed with the fast track revision to the regulation at its April 24, 2008 meeting.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Section 22.1-16 of the Code of Virginia provides that “The Board of Education may adopt bylaws for its own governance and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” Additionally, § 22.1-98 of the Code of Virginia prescribes the legal requirements that are the basis for this regulation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Currently, the Virginia Department of Education requires local school boards and superintendents to submit several reports and certifications throughout the school year. In an effort to make the system of reporting and certifying more effective and efficient, many of the reports and certifications are available online and may be completed and sent to the department via electronic mail. In a further effort to assist both the school superintendents and department staff, some of these reports and certifications are being combined. This proposal will permit the certification required by this regulation to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-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 (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

This revision is non-controversial in nature. It does not require any additional reporting and, in fact, permits local school divisions to combine the certification already required by this regulation with another certification that is required by the end of May each year. It should, therefore, have a positive administrative impact on local school divisions.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the “Detail of changes” section.)

As noted above, this regulation requires local school divisions to certify by April 15 of each year that they have read and complied with the provisions of the regulation and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations. The proposed amendment to these regulations is to revise the language of 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually, at a time and in a form prescribed by the Virginia Department of Education.” This revision will permit this certification to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

There are no disadvantages to the public or the Commonwealth. The primary advantage of this regulatory action is that school divisions will be able to combine this certification requirement with another certification requirement by answering one additional question. It should have a positive administrative impact on local school divisions. It will also have a positive impact at the state level because of the increased efficiency in determining compliance with this certification at the same time compliance with the other certification requirements is determined.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.

There are no applicable federal requirements. This regulation concerns compliance with § 22.1-98 of the Code of Virginia.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

Local school boards and school divisions will be affected.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The purpose of the certification in this regulation is to ensure compliance with § 22.1-98 of the Code of Virginia. The purpose of the proposed change to the date of the certification is the consolidation of compliance reporting requirements.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	Local school divisions
Agency’s best estimate of the number of such	132 local school divisions; no businesses

<p>entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>None</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

The only viable alternative is to leave the requirement that local school divisions certify by April 15 of each year that they have read and complied with the provisions of the regulation and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations. The proposed amendment to these regulations is to revise the language of 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually, at a time and in a form prescribed by the Virginia Department of Education.” This revision will permit this certification to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year thus making the certification requirement less cumbersome and more efficient.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed change to this regulation will have no impact on the family.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8 VAC 20-521- 60	Same	Local school division superintendents shall certify by April 15 of each school year that they have read and complied with these provisions and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations.	The language is being changed to eliminate the due date of April 15 and require local school divisions to, instead, make the certification annually. Therefore, the language will read, "Local school division superintendents shall certify annually, at a time and in a form prescribed by the Virginia Department of Education, that they have read and complied with these provisions and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations."

Enter any other statement here