

Virginia Board of Education Agenda Item



Agenda Item: B

Date: April 25, 2013

Title	Final Review of the Proposed Amendments to the <i>Regulations Establishing the Standards for Accrediting Public Schools in Virginia</i> (8 VAC 20-131) Addressing Public Virtual Schools (Proposed Stage)		
Presenter	Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications		
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Purpose of Presentation:

Action required by state or federal law or regulation.

Previous Review or Action:

Previous review and action. Specify date and action taken below:

Date: January 10, 2013

Action: First review of the proposed amendments

Action Requested:

Final review: Action requested at this meeting.

Action: Approval of the proposed amendments for executive review, publication in the Virginia Register, and a 60-day public comment period.

Alignment with Board of Education Goals: Please indicate (X) all that apply:

X	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
X	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners
	Goal 5: Highly Qualified and Effective Educators
X	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
	Other Priority or Initiative. Specify:

Background Information and Statutory Authority:

Goal 1: In promulgating these regulations, the Board would establish the policies and standards necessary to ensure accountability of student learning in public virtual schools.

Goal 3: The regulations governing public virtual schools would expand opportunities to learn by setting forth the expectations for a public virtual school as an option for students and school divisions.

Goal 6: Finally, the regulations would provide the Board with the opportunity to develop and implement sound policies for student success in a virtual setting.

[HB 1215](#) (R.P. Bell) was approved during the 2012 General Assembly Session and has been signed by the Governor. The legislation became effective July 1, 2012. As amended by that bill, § [22.1-253.13:3.A](#) of the *Code of Virginia* (the Standards of Quality) states:

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The intent of this legislation is to address situations where local school boards could establish a public virtual school, with all students taking coursework virtually, rather than in a traditional “brick and mortar” environment. The Board’s [Regulations Establishing the Standards for Accrediting Public Schools in Virginia](#) (SOA) are designed to ensure that an effective educational program is established and maintained in Virginia's public schools. These regulations are applicable to all public schools in Virginia and are geared to the traditional “brick and mortar” public school. The regulations do not specifically address differences in service delivery that exist between a “brick and mortar” public school and a public virtual school that enrolls students full-time.

SOA standards, such as those related to library media, staffing requirements, hours of instruction, extracurricular activities, and school facilities and safety, need to be examined for public virtual schools and for appropriate service delivery in a full-time virtual environment. Per 8 VAC 20-131-350, waivers shall not be granted to the requirements of Part III (Student Achievement) with limited exceptions regarding graduation. Once these regulations are promulgated, school divisions will no longer be required to request waivers of those regulations that would not be applicable to public virtual schools.

As the options available to Virginia’s public school students through virtual learning programs continue to expand, students enrolled in public schools may be able to take all coursework virtually and may not attend traditional “brick and mortar” schools at all. Therefore, the standards governing public virtual schools are designed to maintain a level of student achievement commensurate with high-quality instruction delivered in traditional “brick and mortar” schools.

Summary of Important Issues:

The proposed amendments to these regulations are intended to assure that the SOA requirements will address instructional service delivery for both public brick-and-mortar schools and public virtual schools, further ensuring educational quality for Virginia’s public school students.

The proposed amendments would revise the definitions section of these regulations, 8 VAC 20-131-05, and would add a new section, 8 VAC 20-131-185, to address provisions specific to public virtual schools.

The first review of the proposed amendments included provisions that public virtual schools would be required to meet all laws and regulations required of all other public schools. They would be required to accommodate all students, including students with disabilities, students identified as gifted, and students who have limited English proficiency. Instruction would be required to comport with the requirements of the Standards of Learning and career and technical education competencies, and must be provided by teachers licensed by the Board of Education and endorsed in the subjects in which they provide instruction. Students enrolled in a public virtual school would be required to take all applicable Virginia assessment program tests in a secure, controlled and proctored environment. If a student enrolled in a public virtual school participates in a career and technical education course that requires cooperative education/work-based experience, the safety training provided in the virtual classroom would be

required to be equivalent to the safety training given at a worksite.

Each student enrolled in a public virtual school would need to have access to the necessary technology for participation in public virtual school courses, such as a computer and printer, and to an Internet connection for school work purposes. Students and teachers would be required to have the necessary technical security to ensure student safety while using the computer for school work, and technical support services and training must be provided to assist in the resolution of technical problems for teachers and students.

The length of the school term is required by statute to be not less than 180 teaching days or 990 teaching hours unless there are severe weather conditions or other emergency situations resulting in the closing of the school. Furthermore, students in public virtual schools are subject to the compulsory attendance law, even if they complete their course requirements in fewer than 180 days or 990 hours. Therefore, when a student has mastered the course content and completed all course requirements in fewer than 180 days or 990 hours, the school could enroll the student in the next course level or in another course, provide remediation if needed, focus on increasing the student's academic proficiency, provide enrichment, or meet the student's academic needs in another way as determined by school board policies.

The school board would be required to develop a written policy to ensure that all students receiving instruction in a public virtual school setting have access to adequate and appropriate library resources. Guidance counseling and other student support services are required to be available to students in the public virtual school from appropriately licensed and endorsed personnel. Extracurricular activities and eligibility requirements for students in virtual school settings shall be established and approved by the superintendent and the school board.

Public virtual schools would be exempt from the school facilities and safety requirements unless the public virtual school is operated in a stand-alone facility. The public virtual school principal or designee would be responsible for monitoring and analyzing data, and student and teacher records. Public virtual schools would be required to provide all policies and procedures unique to enrollment and matriculation in the public virtual school to parents prior to enrollment and post such information for the public on the school division's Web site. Public virtual schools would be required to develop policies and procedures regarding the monitoring of student attendance, notification of parents and students regarding attendance issues and related disciplinary actions, and maintenance of records of attendance and this information shall be provided to parents prior to enrollment.

Several changes are recommended to the proposed regulations:

- The definitions of “blended instruction,” “traditional school setting,” and “virtual school setting” would be deleted for clarity, as would the new language in the definition of “school.”
- The definition of “public virtual school” would be revised for clarity, and would be defined as “a school under the authority of the local school board where a student receives instruction primarily electronically, using the Internet or other computer-based methods.”
- Language would be added to permit licensed personnel employed the public virtual school provider to supervise student testing for the Virginia assessment program. The original provision was to require licensed personnel employed by the school division to supervise student testing.

- Language would be added to specify that any teacher providing instruction in a full-time virtual school must hold a valid Virginia teaching license and be appropriately endorsed by the Board of Education for their assignment.
- Language would be added to require that the required Internet connection must be a broadband connection.
- The local school board would be required to develop a policy that students who are unable to afford the necessary technology, including the hardware and the broadband connection to the Internet, shall be provided with these items at a reduced price or free of charge. The policy shall provide for the reduction or waiver of charges for economically disadvantaged students and students whose families are undergoing economic hardships and are financially unable to pay them. This shall include, but not be limited to, families receiving unemployment benefits or public assistance, including Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI) or Medicaid; foster families caring for children in foster care; and families that are homeless.
- A new provision would require the local school board to develop a policy that students who are unable to afford the necessary technology, including the hardware and the broadband connection to the Internet, shall be provided with these items at a reduced price or free of charge.
- The language about the waiver of the 140-clock hours would be modified to permit the waiver if the content of the course is comparable a course that would otherwise require 140 clock hours of instruction in a non-virtual setting and, upon completion, the student would be able to demonstrate mastery of the course.
- An amendment would be added to require a full time public virtual school to have a learning management system that provides secure and appropriate access to the virtual learning environment; supports the creation and management of content and assessments; provides communication tools that facilitate synchronous and asynchronous discussion and collaboration among learners and teachers; and supports the collection, management, and reporting of data on learning outcomes.
- Student engagement would be required to be monitored. If a student fails to interact with the learning management system every day, the public virtual school principal or designee would be required to contact the student's parent or guardian.

Impact on Fiscal and Human Resources:

There will be an administrative impact as Department of Education staff will need to develop draft regulations for public comments, prepare and file all documentation related to the Administrative Process Act, and ensure that public comments are solicited and addressed. This impact will be absorbed within existing resources. The impact on local school divisions could vary considerably for those school divisions that would choose to operate a public full-time virtual school, and would be affected by the number of students who would be unable to afford the computer hardware and a broadband Internet connection.

Timetable for Further Review/Action:

Following approval by the Board, the regulations will undergo executive review by the Office of the

Attorney General, the Department of Planning and Budget, the Secretary of Education, and the Governor. Upon approval by the Governor, the proposed regulations are published in the *Virginia Register* and there is a 60-day public comment period. Once the 60-day comment period is complete, the regulations come back to the Board, with any changes as a result of public comment, for final review and approval.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board accept for final review the proposed amendments to the *Regulations Establishing the Standards for Accrediting Public Schools in Virginia* (final stage).

**Proposed Amendments to the
Regulations Establishing the Standards for Accrediting Public Schools in Virginia
8 VAC 20-131
Standards of Accreditation**

8VAC20-131-5. Definitions.

The following words and terms apply only to these regulations and do not supersede those definitions used for federal reporting purposes or for the calculation of costs related to the Standards of Quality (§ 22.1-253.13:1 et seq. of the Code of Virginia). When used in these regulations, these words shall have the following meanings, unless the context clearly indicates otherwise:

"Accreditation" means a process used by the Virginia Department of Education (hereinafter "department") to evaluate the educational performance of public schools in accordance with these regulations.

"Additional test" means a test, including substitute tests approved by the Board of Education that students may use in lieu of a Standards of Learning test to obtain verified credit.

~~“Blended instruction” means instruction in which a student learns at least in part using the Internet or other computer-based methods and in part at an on-site location with face-to-face instruction.~~

"Class period" means a segment of time in the school day that is approximately 1/6 of the instructional day.

"Combined school" means a public school that contains any combination of or all of the grade levels from kindergarten through grade 12. This definition does not include those schools defined as elementary, middle, or secondary schools.

"Elementary school" means a public school with any grades kindergarten through five.

"Eligible students" means the total number of students of school age enrolled in the school at a grade or course for which a Standards of Learning test is required unless excluded under the provisions of 8VAC20-131-30 F and 8VAC20-131-280 D relative to limited English proficient (LEP) students.

"Enrollment" means the act of complying with state and local requirements relative to the registration or admission of a child for attendance in a school within a local school division. This term also means registration for courses within the student's home school or within related schools or programs.

"First time" means the student has not been enrolled in the school at any time during the current school year (for purposes of 8VAC20-131-60 with reference to students who transfer in during the school year).

"Four core areas" or "four core academic areas" means English, mathematics, science, and history and social science for purposes of testing for the Standards of Learning.

"Graduate" means a student who has earned a Board of Education recognized diploma, which includes the Advanced Studies, Advanced Technical, Standard, Standard Technical, Modified Standard, Special, and General Achievement diplomas.

"Homebound instruction" means academic instruction provided to students who are confined at home or in a health care facility for periods that would prevent normal school attendance based upon certification of need by a licensed physician or a licensed clinical psychologist.

"Locally awarded verified credit" means a verified unit of credit awarded by a local school board in accordance with 8VAC20-131-110.

"Middle school" means a public school with any grades 6 through 8.

"Planning period" means one class period per day or the equivalent unencumbered of any teaching or supervisory duties.

"Public virtual school" means a school under the authority of the local school board where a student ~~may receive all of his instruction electronically, using the Internet or other computer-based methods, with the exception of any required on-site instruction or blended instruction. is enrolled full-time and receives instruction primarily electronically, using the Internet or other computer-based methods.~~

"Recess" means a segment of free time exclusive of time provided for meals during the standard school day in which students are given a break from instruction.

"Reconstitution" means a process that may be used to initiate a range of accountability actions to improve pupil performance, curriculum, and instruction to address deficiencies that caused a school to be rated Accreditation Denied that may include, but not be limited to, restructuring a school's governance, instructional program, staff or student population.

"School" means a publicly funded institution where students are enrolled for all or a majority of the instructional day and:

- Those students are reported in fall membership at the institution;
- At a minimum, the institution meets the preaccreditation eligibility requirements of these regulations as adopted by the Board of Education[~~;~~ **and**];
- ~~**The student is receiving instruction in a traditional school setting or in a public virtual school setting, including blended instruction.**~~

"Secondary school" means a public school with any grades 9 through 12.

"Standard school day" means a calendar day that averages at least five and one-half instructional hours for students in grades 1 through 12, excluding breaks for meals and recess, and a minimum of three instructional hours for students in kindergarten.

"Standard school year" means a school year of at least 180 teaching days or a total of at least 990 teaching hours per year.

"Standard unit of credit" or "standard credit" means credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school

boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110.

"Standards of Learning (SOL) tests" means those criterion referenced assessments approved by the Board of Education for use in the Virginia assessment program that measure attainment of knowledge and skills required by the Standards of Learning.

"Student" means a person of school age as defined by § 22.1-1 of the Code of Virginia, a child with disabilities as defined in § 22.1-213 of the Code of Virginia, and a person with limited English proficiency in accordance with § 22.1-5 of the Code of Virginia.

"Student periods" means the number of students a teacher instructs per class period multiplied by the number of class periods taught.

["Traditional school setting" means that a student is receiving his instruction in a course at a brick and mortar school facility that is a school.]

"Verified unit of credit" or "verified credit" means credit awarded for a course in which a student earns a standard unit of credit and achieves a passing score on a corresponding end-of-course SOL test or an additional test approved by the Board of Education as part of the Virginia assessment program.

"Virginia assessment program" means a system used to evaluate student achievement that includes Standards of Learning tests and additional tests that may be approved from time to time by the Board of Education.

["Virtual school setting" means that a student is receiving his instruction in a course in a public virtual school or electronically in another school-approved location that is separate from a brick and mortar facility that is a school.]

8VAC20-131-185. Public virtual schools.

A. Public virtual schools shall meet all of the laws and regulations required of all other public schools, unless otherwise specified in this section.

Instruction in a public virtual school shall be designed to accommodate all students, including those identified with disabilities in accordance with the Individuals with Disabilities Education Act or § 504 of the Rehabilitation Act, as amended, those identified as gifted, and those who have limited English proficiency. Any school division providing instruction to students in a virtual school setting must have written policies and procedures that address service delivery to accommodate all students. Instruction provided by a public virtual school must comport with the requirements of the Standards of Learning and career and technical education competencies, and must be provided by teachers licensed by the Board of Education and endorsed in the subjects in which they provide instruction.

Students enrolled in a public virtual school shall be required to take all applicable Virginia assessment program tests in a secure, controlled and proctored environment under the supervision of licensed personnel employed by a local school division [for the public virtual school provider] and trained in administering the tests.

If a student enrolled in a public virtual school participates in a career and technical education course that requires cooperative education/work-based experience, the safety training provided in the virtual classroom must be equivalent and related to the safety training given at a worksite. To achieve the competencies related to the use of equipment/machinery may require on-site instruction ~~[or blended instruction]~~ during the course, which may be conducted in a ~~[brick and mortar]~~ classroom laboratory or in a work-based instructional environment in which any safety requirements would apply.

- B. A school division shall provide instruction in a public virtual school (a) through a contract with an approved multidivision online provider, (b) through a contract with a provider not required by § 22.1-212.23 of the Code of Virginia to be approved as a multidivision online provider, or (c) the school division may design the curriculum and provide the instruction itself.
- C. ~~[A public virtual school that provides a virtual school program that is required by § 22.1-212.23 of the Code of Virginia to be delivered by an approved multidivision online provider shall meet all teacher licensure and staffing requirements for the virtual school programs set forth in § 22.1-212.23. Any teacher providing instruction in a full-time virtual school in Virginia shall hold a valid Virginia teaching license and shall be appropriately endorsed for their assignment by the Board of Education.]~~
- D. Each student enrolled in a public virtual school shall have access to the necessary technology for participation in public virtual school courses, such as a computer and printer, and to ~~an~~ a broadband Internet connection for school work purposes. ~~[The local school board shall develop a policy that students who are unable to afford the necessary technology, including the hardware and the broadband connection to the Internet, shall be provided with these items at a reduced price or free of charge. The policy shall provide for the reduction or waiver of charges for economically disadvantaged students and students whose families are undergoing economic hardships and are financially unable to pay them. This shall include, but not be limited to, families receiving unemployment benefits or public assistance, including Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI) or Medicaid; foster families caring for children in foster care; and families that are homeless.]~~ In addition, students and teachers shall have the necessary technical security to ensure student safety while using the computer for school work.

Technical support services and training shall be provided to assist in the resolution of technical problems for teachers and students.

New and experienced online teachers employed to instruct students in the public virtual school shall participate annually in professional development for online teaching.

- E. The requirement for 140-clock hours of instruction to earn a standard unit of credit may be waived ~~[pursuant to 8 VAC 20-131-110 if the content of the course is comparable to a course that would otherwise require 140 clock hours of instruction in a non-virtual school setting and, upon completion, the student will be able to demonstrate mastery of the course.]~~
- F. Section 22.1-98 of the Code of Virginia requires the length of the school term to be not less than 180 teaching days or 990 teaching hours in any school year unless there are severe weather conditions or other emergency situations resulting in the closing of the school. Furthermore, students who complete their course requirements in fewer than 180 days or 990 hours (a standard school year)

are still subject to § 22.1-154 of the Code, the compulsory attendance law. The school division shall develop policies and procedures to ensure that the student is in compliance with the compulsory attendance law throughout the school year.

Where a student has mastered the course content and completed all course requirements in fewer than 180 days or 990 hours, the school shall enroll the student in the next course level or in another course, provide remediation if needed, focus on increasing the student's academic proficiency, provide enrichment, or meet the student's academic needs in another way as determined by school board policies.

- G. Each local school board that authorizes a public virtual school must develop a written policy to ensure that all students receiving instruction in a public virtual school setting have access to adequate and appropriate library resources sufficient to meet research, inquiry, and reading requirements of the instructional program and general student interest.
- H. Guidance counseling and other student support services shall be available to students in the public virtual school from appropriately licensed and endorsed personnel.
- I. Extracurricular activities and eligibility requirements for students in virtual school settings shall be established and approved by the superintendent and the school board.
- J. Public virtual schools are exempt from the requirements in 8 VAC 20-131-260, related to school facilities and safety, unless the public virtual school is operated in a stand-alone facility.
- K. [A full time public virtual school shall have a learning management system that provides secure and appropriate access to the virtual learning environment; supports the creation and management of content and assessments; provides communication tools that facilitate synchronous and asynchronous discussion and collaboration among learners and teachers; and supports the collection, management, and reporting of data on learning outcomes.]
- L. [Student engagement shall be monitored. If a student fails to interact with the learning management system every day, the public virtual school principal or designee shall contact the student's parent or guardian.]
- M. The public virtual school principal or designee shall be responsible for:
 - 1. Analyzing the school's test scores annually, by grade and by discipline, to:
 - a. Direct and require appropriate prevention, intervention, and/or remediation to those students performing below grade level or not passing the SOL tests;
 - b. Involve the staff of the school in identifying the types of staff development needed to improve student achievement and ensure that the staff participate in those activities; and
 - c. Analyze classroom practices and methods for improvement of online instruction;
 - 2. Ensuring that student records are maintained and that criteria used in making placement and promotion decisions, as well as any instructional interventions used to improve the student's performance, are included in the record;
 - 3. Monitoring and evaluating the quality of instruction, providing staff development, providing

support that is designed to improve instruction, and seeking to ensure the successful attainment of the knowledge and skills required for students by the SOL tests and for college and career readiness;

4. Maintaining records of students who drop out of school, including their reasons for dropping out and actions taken to prevent these students from dropping out;
5. Notifying the parents of rising eleventh-grade and twelfth-grade students of:
 - a. The number of standard and verified units of credit required for graduation; and
 - b. The remaining number of such units of credit the individual student requires for graduation;
6. Maintaining a current record of licensure, endorsement, and in-service training completed by staff; and
7. Maintaining records of receipts and disbursements of all funds handled. These records shall be audited annually by a professional accountant approved by the local school board.

All of the records, reports, and other information maintained by the public virtual school related to these documents, student scholastic records, and any other record or document maintained by the public virtual school shall be made available as may be necessary to the school board, superintendent, and school board employees.

- N. Public virtual schools shall provide all policies and procedures unique to enrollment and matriculation in the public virtual school to parents prior to enrollment and post such information for the public on the school division's Web site.
- O. Public virtual schools shall develop policies and procedures regarding the monitoring of student attendance, notification of parents and students regarding attendance issues and related disciplinary actions, and maintenance of records of attendance and this information shall be provided to parents prior to enrollment.
- P. Information regarding student accountability and assessment shall be provided to the parents prior to enrollment. Public virtual schools shall develop policies and procedures to ensure that each student shall be assessed annually to determine what remediation and other support structures are needed to help the student achieve academic success. As determined by the school division, traditional and non-traditional assessments, such as state assessments and portfolios, may be used as part of this annual assessment process.



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Proposed Regulation Agency Background Document

Agency name	Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-131
Regulation title	Regulations Establishing the Standards for Accrediting Public Schools in Virginia
Action title	In response to HB 1215, passed by the 2012 General Assembly, the Board of Education is require to “promulgate regulations establishing standards for accreditation public virtual schools under the authority of the local school board that enroll students full time.” (§ 22.1-253.13:3 of the <i>Code of Virginia</i>)
Date this document prepared	April 8, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The proposed amendments would define a public virtual school as a school under the authority of the local school board where a student may receive all of his instruction electronically, using the Internet or other computer-based methods, with the exception of any required on-site instruction or blended instruction. It would further specify those provisions in the current regulations that would apply to public brick-and-mortar schools, but would not apply to public virtual schools (such as exempting the school from school facilities and safety requirements unless the school is in a stand-alone facility, and providing appropriate options for library services, counseling and student services, and extracurricular activities). It would add provisions that would apply to public virtual schools, but not to public brick-and-mortar schools (such as ensuring the necessary technology Internet connection, and monitoring student engagement online).

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

None.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The Board of Education's authority for promulgating regulations governing standards for accrediting public schools may be found in § 22.1-253.13:3 of the *Code of Virginia*:

"The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

"The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time."

The Board of Education's overall regulatory authority may be found in § 22.1-16 of the Code of Virginia:

"The 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 this title. "

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

This regulatory action is essential to comport with the *Code of Virginia*, and to ensure that an effective educational program is established and maintained in all of Virginia's public schools, including Virginia's public virtual schools.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

The proposed amendments would define a public virtual school as a school under the authority of the local school board where a student is enrolled full-time and receives instruction primarily electronically, using the Internet or other computer-based methods.

The proposed amendments are designed to provide public virtual schools with an alternative way of meeting the requirements that are currently in place for public brick-and-mortar schools, or an exemption from any requirement that would not be reasonable for a public virtual school. Specifically, the proposed amendment would provide for the following:

- Licensed personnel employed either by the school division or the public virtual school provider would be required to supervise student testing for the Virginia assessment program.
- If a student enrolled in a public virtual school participates in a career and technical education course that requires cooperative education/work-based experience, the safety training provided in the virtual classroom would be required to be equivalent to the safety training given at a worksite.
- Any teacher providing instruction in a full-time virtual school in Virginia shall hold a valid Virginia teaching license and shall be appropriately endorsed by the Board of Education for their assignment.]
- Each student enrolled in a public virtual school must have access to the necessary technology for participation in public virtual school courses, including a computer and printer, as well as a broadband Internet connection for school work purposes.
- The local school board would be required to develop a policy that students who are unable to afford the necessary technology, including the hardware and the broadband connection to the Internet, shall be provided with these items at a reduced price or free of charge. The policy shall provide for the reduction or waiver of charges for economically disadvantaged students and students whose families are undergoing economic hardships and are financially unable to pay them. This shall include, but not be limited to, families receiving unemployment benefits or public assistance, including Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI) or Medicaid; foster families caring for children in foster care; and families that are homeless.
- Students and teachers would be required to have the necessary technical security to ensure student safety while using the computer for school work.
- Technical support services and training must be provided to assist in the resolution of technical problems for teachers and students.
- New and experienced online teachers employed to instruct students in the public virtual school must participate annually in professional development for online teaching.
- The requirement for 140-clock hours of instruction to earn a standard unit of credit may be waived if the content of the course is comparable to a course that would otherwise require 140 clock hours of instruction in a non-virtual setting and, upon completion, the student would be able to demonstrate mastery of the course.

- The school board would be required to develop a written policy to ensure that all students receiving instruction in a public virtual school setting have access to adequate and appropriate library resources.
- Guidance counseling and other student support services are required to be available to students in the public virtual school from appropriately licensed and endorsed personnel.
- Extracurricular activities and eligibility requirements for students in virtual school settings shall be established and approved by the superintendent and the school board.
- Public virtual schools would be exempt from the school facilities and safety requirements unless the public virtual school is operated in a stand-alone facility.
- A full time public virtual school shall have a learning management system that provides secure and appropriate access to the virtual learning environment; supports the creation and management of content and assessments; provides communication tools that facilitate synchronous and asynchronous discussion and collaboration among learners and teachers; and supports the collection, management, and reporting of data on learning outcomes.
- Student engagement shall be monitored. If a student fails to interact with the learning management system every day, the public virtual school principal or designee shall contact the student's parent or guardian.
- Public virtual schools would be required to provide all policies and procedures unique to enrollment and matriculation in the public virtual school to parents prior to enrollment and post such information for the public on the school division's Web site.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

Public virtual schools can be created by local school boards if they choose, but are not required to be created. Should a local school board decide that it is to the advantage of their students and the citizens of their locality to create a public virtual school, these proposed amendments are intended to ensure that the students who enroll in a public virtual school are receiving an education of the same quality as those students enrolled in a brick-and-mortar school.

Parents may choose to enroll their children in a public virtual school, but would not be required to do so. It would be up to the parents to determine what is best for their children. In addition, this could be an option for students who are homebound because of an illness or an injury, for students who are suspended or expelled from the brick-and-mortar school, and for students from military families who transfer frequently from one location to another.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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 federal regulations specifically governing virtual schools. The same accreditation requirements that govern public brick-and-mortar schools would apply to public virtual schools, and students would have to meet the same graduation requirements.

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.

Not applicable.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>), or by mail, e-mail or fax to Anne Wescott, Assistant Superintendent for Policy and Communications, Virginia Department of Education, P. O. Box 2120, Richmond, VA 23218-2120, phone (804) 225-2403, fax (804) 530-4502, e-mail SOAcomments@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall Web site (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar Web site (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>The cost of implementing and enforcing the proposed amendments is not expected to be significant, and would be absorbed within the agency's general fund appropriation.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>It would be optional to local school board to establish public virtual schools. If they choose to establish a virtual school, the cost could vary considerably, depending upon the size, grade levels, courses, and other services the local school board might wish to provide, as well as the number of students who would be unable to afford the necessary hardware and the broadband Internet connection.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Local school divisions, public school students, and providers of online courses for K-12 students.</p>
<p>Agency's best estimate of the number of such 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>Unknown. There is currently one public virtual school in Virginia, in Carroll County. The school is accredited, having been granted waivers by the Board of Education from certain provisions in these regulations that were not applicable to virtual schools. It is not known if other school boards will decide to establish virtual schools.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>Unknown. The costs could vary considerably from one school division to another. As this is an optional program, these amendments would apply only when a school board decides to establish a public virtual school.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The beneficial impact of public virtual schools is that it would provide parents and students with another option for public school choice.</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.

None. The proposed amendments would make minimal changes to the current regulations to provide public virtual schools with an alternative way of meeting the requirements that are currently in place for public brick-and-mortar schools, or an exemption from the requirements when such requirement would not be reasonable for a public virtual school. These proposed amendments are neither intrusive nor costly to small businesses. Small businesses would not be affected unless they provide online courses for K-12 public schools and would choose to contract with a school board.

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.

These proposed amendments are neither intrusive nor costly to small businesses. Small businesses would not be affected unless they provide online courses for K-12 public schools and would choose to contract with a school board.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

No public comments have been received.

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 amendments would have positive impact on the family in that they would provide parents with another option for public school choice. If parents believe that their children would be more successful in a public virtual school than a brick-and-mortar school, they would be able to enroll their children in a public virtual school knowing that the school would meet the same accreditation requirements as the brick-and-mortar school.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

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

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
8 VAC 20-131-05		Definitions section	The definition of public virtual school would be amended for clarity.
N/A	8 VAC 20-131-185	N/A	<p>The following provisions in the proposed amendments would provide public virtual schools with an alternative way of meeting the requirements that are currently in place for public brick-and-mortar schools, or an exemption from any requirement that would not be reasonable for a public virtual school:</p> <ul style="list-style-type: none"> • Licensed personnel employed either by the school division or the public virtual school provider would be required to supervise student testing for the Virginia assessment program. • If a student enrolled in a public virtual school participates in a career and technical education course that requires cooperative education/work-based experience, the safety training provided in the virtual classroom would be required to be equivalent to the safety training given at a worksite. • Each student enrolled in a public virtual school must have access to the necessary technology for participation in public virtual school courses, such as a computer and printer, and to a broadband Internet connection for school work purposes.

			<ul style="list-style-type: none"> • The local school board would be required to develop a policy that students who are unable to afford the necessary technology, including the hardware and the broadband connection to the Internet, shall be provided with these items at a reduced price or free of charge. The policy shall provide for the reduction or waiver of charges for economically disadvantaged students and students whose families are undergoing economic hardships and are financially unable to pay them. This shall include, but not be limited to, families receiving unemployment benefits or public assistance, including Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI) or Medicaid; foster families caring for children in foster care; and families that are homeless. • Students and teachers would be required to have the necessary technical security to ensure student safety while using the computer for school work. • Technical support services and training must be provided to assist in the resolution of technical problems for teachers and students. • The requirement for 140-clock hours of instruction to earn a standard unit of credit may be waived if the content of the course is comparable to a course that would otherwise require 140 clock hours of instruction in a non-virtual setting and, upon completion, the student would be able to demonstrate mastery of the course. • New and experienced online teachers employed to instruct students in the public virtual school must participate annually in professional development for online teaching. • The school board would be required to develop a written policy to ensure that all students receiving instruction in a public virtual school setting have
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			<p>access to adequate and appropriate library resources.</p> <ul style="list-style-type: none"> • Guidance counseling and other student support services are required to be available to students in the public virtual school from appropriately licensed and endorsed personnel. • Extracurricular activities and eligibility requirements for students in virtual school settings shall be established and approved by the superintendent and the school board. • Public virtual schools would be exempt from the school facilities and safety requirements unless the public virtual school is operated in a stand-alone facility. • A full time public virtual school shall have a learning management system that provides secure and appropriate access to the virtual learning environment; supports the creation and management of content and assessments; provides communication tools that facilitate synchronous and asynchronous discussion and collaboration among learners and teachers; and supports the collection, management, and reporting of data on learning outcomes. • Student engagement shall be monitored. If a student fails to interact with the learning management system every day, the public virtual school principal or designee shall contact the student's parent or guardian. • Public virtual schools would be required to provide all policies and procedures unique to enrollment and matriculation in the public virtual school to parents prior to enrollment and post such information for the public on the school division's Web site. <p>The other proposed amendments simply reiterate requirements for all public schools, in order to make clear that public virtual schools are required to meet all laws and regulations required of all other public</p>
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			schools, unless otherwise specified, and to accommodate all students, including students with disabilities, students identified as gifted, and students who have limited English proficiency.
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