



*regulation, or court action. Furthermore, the passing rates required for full accreditation in 2010-2011 based on assessments administered during the 2009-2010 school year shall be the same passing rates required for full accreditation during the 2008-2009 school year.*

Based on the 2009 legislation, on February 19, 2009, the Board adopted an effective date for the regulations as follows:

8 VAC 20-131-360. Effective date

The provisions in 8 VAC 20-131-30 B. relating to double testing and the provisions in 8 VAC 20-131-60 C. relating to Virtual Virginia shall become effective upon final adoption in accordance with the Administrative Process Act [July 31, 2009]. Unless otherwise specified, the remainder of these regulations shall be effective for the 2010-2011 academic year.

The 2010 General Assembly passed [HB111](#) and [SB352](#), which further delayed implementation of these provisions until the 2011-2012 academic year, with the exception of the Graduation and Completion Index. The legislation passed by the 2010 General Assembly states:

1. That § 1 of Chapter 463 of the Acts of Assembly of 2009 is amended and reenacted as follows

§ 1. That no statutes or regulations prescribing additional requirements upon which the accreditation rating of schools in the Commonwealth is based, pursuant to § [22.1-253.13:3](#) of the *Code of Virginia*, beyond those already in effect on July 1, 2008, shall become effective before July 1, ~~2010~~ **2011**, unless such statutes or regulations are also specifically required by federal code, federal regulation, or court action. Furthermore, that no statutes or regulations prescribing additional graduation requirements, pursuant to § [22.1-253.13:4](#) of the *Code of Virginia*, shall become effective before July 1, ~~2010~~ **2011**, unless such statutes or regulations are also specifically required by federal code, federal regulation, or court action. Furthermore, the passing rates required for full accreditation in ~~2010-2011~~ **2011-2012** based on assessments administered during the ~~2009-2010~~ **2010-2011** school year shall be the same passing rates required for full accreditation during the 2008-2009 school year. *Notwithstanding the provisions of this section, schools with a graduating class shall meet prescribed thresholds on a graduation and completion rate index, as prescribed by the Board of Education, for accreditation ratings for 2011 - 2012.*

Based on the 2010 legislation, the effective date would be delayed for an additional year, with the exception of the Graduation and Completion Index. The following amendment is proposed so that the regulations comport with the 2010 legislation:

8VAC20-131-360. Effective date.

The provisions in 8VAC20-131-30 B relating to double testing and the provisions in 8VAC20-131-60 C relating to Virtual Virginia shall become effective ~~upon final adoption in accordance with the Administrative Process Act July 31, 2009.~~ **Schools with a graduating class shall meet prescribed thresholds on a graduation and completion rate**

index, as prescribed in 8 VAC 20-131-280 and 8 VAC 20-131-300 for accreditation ratings earned in 2010-2011 and awarded in 2011-2012. Unless otherwise specified, the remainder of these regulations shall be effective beginning with the 2010-2011 2011-2012 academic year.

The Administrative Process Act provides for an exemption from executive branch review for regulations necessary to conform to changes in statutory law where no discretion is involved. The provision permits the regulation to become effective at the conclusion of the 30-day public comment period following publication in the *Virginia Register* unless a legislative or gubernatorial objection is filed or the Board suspends the regulatory process. Section 2.2-2006 of the *Code of Virginia* says, in part:

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § [2.2-4103](#) of the Virginia Register Act shall be exempted from the operation of this article:

...

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved; ...

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § [2.2-4015](#), except in the case of emergency regulations, which shall become effective as provided in subsection B of § [2.2-4012](#).

C. A regulation for which an exemption is claimed under this section or § [2.2-4002](#), or [2.2-4011](#) and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

**Summary of Major Elements:** The provision in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* related to the Graduation and Completion Index ([8 VAC 20-131-280](#)), to be used in the calculation of accreditation ratings, is not delayed.

The Graduation and Completion Index will be used in the calculation of accreditation ratings for schools with a twelfth grade class for the 2011-2012 school year, based on data from the 2010-2011 school year. For these schools, the accreditation rating shall be determined based on achievement of required Standards of Learning pass rates and percentage points on the Graduation and Completion Index.

School accreditation as it relates to the Graduation and Completion Index shall be determined by the school's current year index points or a trailing three-year average of index points that includes the current year and the two most recent years, whichever is higher. The Graduation and Completion Index shall include weighted points for diploma graduates (100 points), GED recipients (75 points), students not graduating but still in school (70 points), and students earning certificates of program completion (25

points). The Graduation and Completion Index shall account for all students in the graduating class's ninth-grade cohort, plus students transferring in, minus students transferring out and deceased students.

The following sections of the regulations are delayed until the 2011-2012 academic year:

1. The requirements of the Standard Technical Diploma and the Advanced Technical Diploma ([8 VAC 20-131-50](#)), which were to begin with the 9<sup>th</sup> grade class of 2010;
2. The increase in the number of standard units of credit for the Advanced Studies diploma ([8 VAC 20-131-50](#)), which was to begin with the 9<sup>th</sup> grade class of 2010;
3. Changes to credit requirements related to courses for the Standard and Advanced Studies Diplomas (which are found in the footnotes to [8 VAC 20-131-50](#)). The credit requirements currently in effect for the 2009-2010 academic year will remain in effect for the 2010-2011 academic year.
4. The requirement that each secondary school offer a minimum of one course in economics and personal finance ([8 VAC-131-100](#));
5. The addition of one credit in economics and personal finance as a graduation requirement for the Standard, Standard Technical, Advanced Studies, and Advanced Technical Diplomas, ([8 VAC 20-131-50](#) and [8 VAC-131-100](#)), which was to begin with the 9<sup>th</sup> grade class of 2010;
6. The requirement for all students, beginning in middle school, to have an Academic and Career Plan ([8 VAC 20-131-140](#)); and
7. The increase in the pass rate for full accreditation from pass rate to 75 percent in English and 70 percent in mathematics, science, and history and social science ([8 VAC 20-131-280](#) and [8 VAC 20-131-300](#)). (Currently the pass rate is 75 percent in English for grades three through five, and 70 percent for all other grades and courses. The pass rate is 50 percent for science and history and social science for grade three, and 70 percent for all other grades and courses.)

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve the proposed amendments to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*, and authorize staff of the Department of Education to proceed with the remaining steps required by the Administrative Process Act.

**Impact on Resources:** The impact on resources for these regulations is not expected to be significant.

**Timetable for Further Review/Action:** The Department of Education will notify local school divisions of the changes in the regulations when the regulations become final, pursuant to the requirements of the Administrative Process Act.

## Attachment A

### Proposed Amendments to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131-5 et seq.)

8VAC20-131-360. Effective date.

The provisions in 8VAC20-131-30 B relating to double testing and the provisions in 8VAC20-131-60 C relating to Virtual Virginia shall become effective July 31, 2009. Schools with a graduating class shall meet prescribed thresholds on a graduation and completion rate index, as prescribed in 8 VAC 20-131-280 and 8 VAC 20-131-300 for accreditation ratings earned in 2010-2011 and awarded in 2011-2012. Unless otherwise specified, the remainder of these regulations shall be effective beginning with the 2010-2011 2011-2012 academic year.



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Education
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20-131
<b>Regulation title</b>	Regulations Establishing Standards for Accrediting Public Schools in Virginia
<b>Action title</b>	Delayed effective date
<b>Final agency action date</b>	The Board of Education is expected to take final action on these amendments on June 24, 2010.
<b>Document preparation date</b>	June 7, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The effective date of these regulations, with the exception of the Graduation and Completion Index prescribed in 8 VAC 20-131-280 and 8 VAC 20-131-300 and the other provisions of the regulations already in effect, will be delayed until the 2011-2012 school year, pursuant to HB 111 and SB 352, passed by the 2010 General Assembly and signed by the Governor.

### 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.*

The Virginia Board of Education is expected to take final action to amend the effective date of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* on June 24, 2010, pursuant to HB 111 and SB 352 passed by the 2010 General Assembly and signed by the Governor.

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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Not applicable