

# Board of Education Agenda Item

Item: A.

Date: November 18, 2010

**Topic:** First Review of Proposed Amendments to the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8 VAC 20-131) to Conform to HB 1199 by the 2010 General Assembly

**Presenter:** Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

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**Origin:**

Topic presented for information only (no board action required)

Board review required by  
 State or federal law or regulation  
 Board of Education regulation  
 Other: \_\_\_\_\_

Action requested at this meeting

Action requested at future meeting: January 13, 2011

**Previous Review/Action:**

No previous board review/action  
 Previous review/action  
dates \_\_\_\_\_  
actions \_\_\_\_\_

**Background Information:** The 2010 General Assembly passed [HB 1199](#), which requires the Board of Education to provide for the waiver of certain graduation requirements to be granted only for good cause and to be considered on a case-by-case basis.

The legislation passed by the 2010 General Assembly amended [§ 22.1-253.13:4](#) of the *Code of Virginia* to add the following provision:

**§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

....D. In establishing course and credit requirements for a high school diploma, the Board shall:

**...7. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.**

Virginia Board of Education [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) outline student achievement expectations and graduation requirements for public school students as well as the standards under which all public schools will receive accreditation ratings.

The Administrative Process Act (APA), in [§ 2.2-4006](#) of the *Code of Virginia*, provides for exemptions from the rulemaking process for regulatory actions that are necessary to conform to state and federal laws, federal regulations, and state and federal court orders when there is no agency discretion involved.

This is a final action that, upon certification by the Office of the Attorney General, is published in the Virginia Register and posted to the Virginia Regulatory Town Hall (the electronic Web site for all state agency regulations). The regulation becomes effective 30 days following publication in the Virginia Register.

**Summary of Major Elements:** The waiver provision in the [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) would be amended to address the requirements of [HB 1199](#). The amended language would say:

“Waivers of some of the requirements of these regulations may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The request shall include documentation of the need for the waiver. In no event shall waivers be granted to the requirements of Part III (8 VAC 20-131-30 through 8 VAC 20-131-60) of these regulations **except that the Board of Education may provide for the waiver of certain graduation requirements in 8 VAC 20-131-50 (i) upon the Board's initiative or (ii) at the request of a local school board on a case-by-case basis in accordance with guidelines established by the Board.**”

It is the intent of the Board to develop guidelines that address submission procedures needed in order to implement this legislation. These guidelines would be included in the Board's [Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia](#).

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board of Education accept for first review the proposed revisions to the [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#).

**Impact on Resources:** The impact on resources for these regulations is expected to be minimal.

**Timetable for Further Review/Action:** Final approval will be requested at the January 13, 2011 Board meeting.

## Attachment A

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

#### 8 VAC 20-131-350. Waivers.

Waivers of some of the requirements of these regulations may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The request shall include documentation of the need for the waiver. In no event shall waivers be granted to the requirements of Part III (8 VAC 20-131-30 through 8 VAC 20-131-60) of these regulations *except that the Board of Education may provide for the waiver of certain graduation requirements in 8 VAC 20-131-50 (i) upon the Board's initiative or (ii) at the request of a local school board on a case-by-case basis in accordance with guidelines established by the Board.*



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Board of Education
<b>Virginia Administrative Code (VAC) citation</b>	<u>8 VAC 20 – 131</u>
<b>Regulation title</b>	<u><a href="#">Regulations Establishing Standards for Accrediting Public Schools in Virginia</a></u>
<b>Action title</b>	This regulatory change, which is proposed in response to legislation enacted by the 2010 General Assembly, will permit the Virginia Board of Education to waive certain requirements for graduation.
<b>Final agency action date</b>	Expected January 13, 2011
<b>Document preparation date</b>	November 1, 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, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### 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 proposed amendments are needed to address legislation enacted by the 2010 General Assembly. [House Bill 1199](#) requires the Board of Education to provide for the waiver of certain graduation requirements to be granted only for good cause and on a case-by-case basis. The legislation states that the Board of Education shall: “...Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.”

The Virginia Board of Education [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#), outline student achievement expectations and graduation requirements for public school students as well as the standards under which all public schools will receive accreditation ratings. One section of these regulations ([8 VAC 20-131-350](#)) provides for waivers as follows: *“Waivers of some of the requirements of these regulations may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The request shall include documentation of the need for the waiver. In no event shall waivers be granted to the requirements of Part III (8 VAC 20-131-30 et seq.) of these regulations.”* The wavier provision in the [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) would be amended to address the requirements of [House Bill 1199](#).

This proposed regulatory change would amend [8 VAC 20-131-350](#) by adding a provision that would permit the Board to develop and implement guidelines under which local school boards could request a waiver of some of the graduation requirements outlined in the regulation for individual students under certain conditions.

### 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.*

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At the meeting of the Board of Education on November 18, 2010, the Board is expected to accept for first review proposed revisions to the [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) 8VAC 20-131-10 et seq. to address [House Bill 1199](#). Final action will be taken by the Board of Education on January 13, 2011, at which time it is anticipated that the Board will direct the Department of Education to proceed with the final stages of the regulatory process.

### Family impact

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

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The proposed amendment does not negatively impact the institution of the family or the stability of families. The amendment is intended to address a legislative mandate that would provide relief from certain graduation requirements to those students with extenuating circumstances, as determined by the Board of Education.