

# Virginia Board of Education Agenda Item



**Agenda Item:** A

**Date:** November 21, 2013

<b>Title</b>	Final Review of Permanent Amendments to the <i>Regulations Governing Adult High School Programs</i> (8 VAC 20-30) and Repeal of the <i>Regulations Governing the General Achievement Diploma</i> (8 VAC 20-680) to Replace the Emergency Regulations Required by HB 1061 and SB 489 (2012) (Proposed Stage)		
<b>Presenter</b>	Mr. Lan Neugent, Assistant Superintendent, Technology, Career & Adult Education		
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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: October 24, 2013

Action: First Review

**Action Requested:**

Final review: Action requested at this meeting.

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

<input checked="" type="checkbox"/>	Goal 1: Accountability for Student Learning
<input type="checkbox"/>	Goal 2: Rigorous Standards to Promote College and Career Readiness
<input checked="" type="checkbox"/>	Goal 3: Expanded Opportunities to Learn
<input type="checkbox"/>	Goal 4: Nurturing Young Learners
<input type="checkbox"/>	Goal 5: Highly Qualified and Effective Educators
<input checked="" type="checkbox"/>	Goal 6: Sound Policies for Student Success
<input type="checkbox"/>	Goal 7: Safe and Secure Schools
<input type="checkbox"/>	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 for student learning in adult high school programs.

Goal 3: The regulations as amended would expand opportunities to learn by setting forth the expectations for adults to be prepared for a career upon graduation by requiring students to earn a career credential.

Goal 6: The regulations would provide the Board with the opportunity to develop and implement sound policies for student success by focusing on career readiness for adult students.

The 2012 General Assembly passed, and the Governor signed into law, HB 1061 and SB 489, which amend § 22.1-253.13:4 of the *Code of Virginia* to strengthen postsecondary education and workplace readiness opportunities for all students, and to consolidate the number of Board of Education-approved diplomas. The legislation says, in part:

F. The Board shall establish, by regulation, requirements for the award of a general achievement *adult high school* diploma for those persons who *are not subject to the compulsory school attendance requirements of § 22.1-254* and have (i) achieved a passing score on the GED examination; (ii) successfully completed an education and training program designated by the Board of Education; ~~and~~ (iii) *earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and* (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

The legislation eliminated the General Achievement Diploma by folding it into the Adult High School Diploma, which would be re-named the General Achievement Adult High School Diploma. It added a requirement that adult students would need to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment in order to be awarded the diploma.

The legislation also contained a second enactment clause to require the Board of Education to adopt emergency regulations to implement these changes.

2. That the Board of Education shall eliminate technical diplomas that have not been implemented and shall promulgate regulations to implement the other provisions of this act to be effective within 280 days of its enactment.

The Board of Education approved the proposed emergency regulations June 28, 2012, and they became effective July 17, 2013.

**Summary of Important Issues:**

The following changes would be made to the *Regulations Governing Adult High School Programs* to comport with the legislation:

- The proposed regulations would specify that only students not subject to compulsory attendance could be enrolled in adult high school programs, consistent with language in the legislation. Language permitting younger students to enroll in adult high school programs under exceptional conditions would be eliminated. It should be noted that this is consistent with federal funding constraints for adult education programs.
- The regulations would set forth the requirements for a student to earn a General Achievement Adult High School Diploma by:
  1. Successfully completing the requirements to earn a General Educational Development (GED) certificate,

2. Successfully completing an education and training program designated by the Board of Education that would include successfully completing 20 standard units of credit in the following subjects, as specified in the current *Regulations Governing the General Achievement Diploma*:
  - ✓ English (4 credits),
  - ✓ Mathematics (3 credits),
  - ✓ Science (2 credits),
  - ✓ History and social science (2 credits), and
  - ✓ Electives (9 credits);
3. Earning a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.

- The *Regulations Governing the General Achievement Diploma* would be repealed.

The permanent amendments are the same as in the emergency regulations approved by the Board of Education.

**Impact on Fiscal and Human Resources:**

The administrative impact required in promulgating these regulations will be absorbed within existing resources.

**Timetable for Further Review/Action:**

The timetable for further action will be governed by the requirements of the Administrative Process Act.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education approve the permanent amendments to revise the *Regulations Governing Adult High School Programs* (8 VAC 20-30) and to repeal the *Regulations Governing the General Achievement Diploma* (8 VAC 20-680)(Proposed Stage).

## Regulations Governing Adult High School Programs

### 8 VAC 20-30-10. Responsibility.

Local school officials are responsible for evaluating and awarding credit for educational achievement, other than that earned in the high school program.

### 8 VAC 20-30-20. Minimum requirements for adult high school programs.

Adult high school programs are not part of the 9 through 12 high school program and shall meet the following minimum requirements:

1. Age. ~~Only those students not subject to the compulsory attendance requirements of § 22.1-254 of the Code of Virginia shall be enrolled in an adult high school program. An adult student shall be at least 18 years of age. Under circumstances which local school authorities consider justifiable, students of school age may enroll in courses offered by the adult high school. Only in exceptional circumstances should school officials permit a school-aged individual enrolled in grades 9 through 12 to earn credits toward high school graduation in adult classes. All educational alternatives must have been considered prior to placing an enrolled student in an adult class. Such students would be able to earn a diploma, as provided in 8 VAC 20-131-50, but would not be eligible to earn an adult high school diploma.~~
2. Credit.
  - a. Satisfactory completion of 108 hours of classroom instruction in a subject shall constitute sufficient evidence for one unit of credit toward a high school diploma.
  - b. When, in the judgment of the principal or the superintendent, an adult not regularly enrolled in the grades 9 through 12 high school program is able to demonstrate by examination or other objective evidence, satisfactory completion of the work, he may receive credit in accordance with policies adopted by the local school board. It is the responsibility of the school issuing the credit to document the types of examinations employed or other objective evidence used, the testing or assessment procedures, and the extent of progress in each case.
  - c. Credits earned in adult high school programs shall be transferable as prescribed in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* within the sponsoring school division and shall be transferable to public secondary schools outside of the sponsoring school division.
3. Diplomas.
  - a. A diploma, as provided in 8 VAC 20-131-50, shall be awarded to an adult student who completes all requirements of the diploma regulated by the Board of Education, with the exception of health and physical education requirements, in effect at the time he will graduate.

- b. An adult high school diploma shall be awarded to an adult student who completes the course credit requirements in effect for any Board of Education diploma, with the exception of health and physical education course requirements, at the time he first entered the ninth grade. The requirement for specific assessments may be waived if the assessments are no longer administered to students in Virginia public schools.
- c. An adult high school diploma shall be awarded to an adult student who demonstrates through applied performance assessment full mastery of the National External Diploma Program **Generalized** Competencies **Correlated with CASAS Competencies, 1996**, as promulgated by the American Council on Education and validated and endorsed by the United States Department of Education.

d. A General Achievement Adult High School Diploma shall be awarded to a student who is not subject to the compulsory attendance requirements of § 22.1-254 of the *Code of Virginia* and who:

- 1) Successfully completes the General Educational Development (GED) program that meets the requirements of the Board of Education’s *Regulations Governing General Education Development Certificates* (8 VAC 20-360) and earns a GED certificate;
- 2) Earns a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia Workplace Readiness Skills Assessment; and
- 3) Successfully completes the following courses that incorporate or exceed the applicable Standards of Learning:

<b>Discipline Area</b>	<b>Standard Units of Credit Required</b>
English	4
Mathematics	3
Science	2
History and Social Sciences	2
Electives	9
<b>TOTAL</b>	<b>20</b>

Courses completed to satisfy the requirements in mathematics and science shall include content in courses that incorporate or exceed the content of courses approved by the Board of Education (board) to satisfy any other board-recognized diploma.

Courses completed to satisfy the history/social science requirements shall include one unit of credit in Virginia and U.S. History and one unit of credit in Virginia and U.S. Government in courses that incorporate or exceed the content of courses approved by the board to satisfy any other board-recognized diploma.

Courses completed to satisfy the electives requirement shall include at least two sequential electives in an area of concentration or specialization, which may include career and technical education and training.

~~d. A General Achievement Diploma, as provided in 8 VAC 20-680, shall be awarded to an adult student who completes all requirements of the diploma.~~

**8 VAC 20-30-30. Minimum qualifications of teachers.**

Teachers teaching in the adult high school program shall be licensed and endorsed in the subject areas they teach.

**8 VAC 20-30-40. Library facilities.**

The adult high school program shall have library media services, science laboratories, and computer technology accessible to instructional staff and adult learners.

**8 VAC 20-30-50. [Repealed]**

**8 VAC 20-30-60. Administration and supervision.**

The adult high school program shall be under the supervision of the high school principal, assistant principal, or a qualified staff member approved by the division superintendent.

**8 VAC 20-30-70. Guidance services.**

The adult high school program shall have appropriate guidance services available.

**DOCUMENTS INCORPORATED BY REFERENCE (8VAC20-30)**

National External Diploma Program Competencies as promulgated by the American Council on Education and validated and endorsed by the United States Department of Education.

National External Diploma Program Generalized Competencies Correlated with CASAS Competencies, Comprehensive Adult Student Assessment System EDP/CASAS, 1996.

## **Regulations Governing the General Achievement Diploma**

### **8 VAC 20-680-10. Eligibility requirements for the General Achievement Diploma.**

The General Achievement Diploma is intended to provide a diploma option for individuals who exit high school without a diploma. It should not be a first option for high school students. Individuals who meet one of the following criteria shall be eligible to earn the General Achievement Diploma:

1. Individuals who are at least 18 years of age and not enrolled in public school; or
2. Individuals who are not otherwise subject to the compulsory school attendance requirements set forth in § 22.1-254 of the Code of Virginia.

### **8 VAC 20-680-20. Course, credit, and assessment requirements.**

A. Credit and assessment requirements for graduation with a General Achievement Diploma are as follows:

<b>Discipline Area</b>	<b>Standard Units of Credit Required</b>
English	4
Mathematics	3
Science	2
History and Social Sciences	2
Electives	9
<b>TOTAL</b>	<b>20</b>

Assessment required: Achieve a passing score on the GED examination

- B. Courses completed to satisfy the requirements in mathematics and science shall include content in courses that incorporate or exceed the content of courses approved by the Board of Education (board) to satisfy any other board-recognized diploma.
- C. Courses completed to satisfy the history/social science requirements shall include one unit of credit in Virginia and U.S. History and one unit of credit in Virginia and U.S. Government in courses that incorporate or exceed the content of courses approved by the board to satisfy any other board-recognized diploma.
- D. Courses completed to satisfy the electives requirement shall include at least two sequential electives in an area of concentration or specialization, which may include career and technical education and training.
- E. The required number of standard units of credit may be earned by enrolling in:
1. A public school if the individual meets the age requirements;
  2. A community college or other institution of higher education;

~~3. An adult high school program; or~~

~~4. Correspondence, distance learning, and online courses.~~

~~F. Diploma candidates shall participate in GED preparation.~~



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Board of Education
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20-30 and 8 VAC 20-680
<b>Regulation title</b>	<i>Regulations Governing Adult High School Programs and Regulations Governing the General Achievement Diploma</i>
<b>Action title</b>	Permanent amendments to comport with legislative changes made by HB 1061 and SB 489 (2012) to amend the <i>Regulations Governing Adult High School Programs</i> and to repeal <i>Regulations Governing the General Achievement Diploma</i>
<b>Date this document prepared</b>	October 31, 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 2012 General Assembly passed, and the Governor signed into law, HB 1061 and SB 489, which amend § 22.1-253.13:4 of the *Code of Virginia* to strengthen postsecondary education and workplace readiness opportunities for all students and to consolidate the number of Board of Education-approved diplomas. The legislation includes a second enactment clause that requires the Board to promulgate permanent amendments to the regulations to implement the provisions of this legislation.

The legislation would eliminate the General Achievement Diploma by folding it into the Adult High School Diploma, which would be re-named the General Achievement Adult High School Diploma. The legislation would add a requirement that adult students must earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment in order to be awarded the diploma. The legislation further provides that the General Achievement Adult High School Diploma would include the following requirements:

- Achievement of a passing score on the General Educational Development (GED®) test;
- Successful completion of an education and training program designated by the Board of Education;
- Achievement of a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and
- Completion of other requirements as may be established by the Board.

The emergency regulations became effective July 17, 2013. The proposed permanent regulations are the same as the emergency regulations.

### 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.*

Not Applicable

### 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.*

Section [22.1-16](#) of the *Code of Virginia* states that 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 Title 22.1.

HB 1061 and SB 489, passed by the 2012 General Assembly and signed by the Governor, amend § 22.1-253.13:4 of the *Code of Virginia* to require the Board of Education to promulgate these changes to the regulations to implement the provisions of the legislation.

### 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.*

These amendments would make the emergency regulations permanent. The permanent regulations comport with the provisions of HB 1061 and SB 489, as passed by the General Assembly and signed by the Governor.

## 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.)*

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*Please detail any changes that will be proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate.*

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These regulations are necessary to implement the provisions of HB 1061 and SB 489. The legislation eliminated the General Achievement Diploma by folding it into the Adult High School Diploma, which would be re-named the General Achievement Adult High School Diploma. The legislation added a requirement that adult students must earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment in order to be awarded the diploma. The legislation further provides that the General Achievement Adult High School Diploma would include the following requirements:

- Achievement of a passing score on the General Educational Development (GED<sup>®</sup>) test;
- Successful completion of an education and training program designated by the Board of Education;
- Achievement of a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and
- Completion of other requirements as may be established by the Board.

These regulations are designed to enhance preparedness for the workplace and for postsecondary education and strengthen educational and career opportunities for adult students. They also support expanded learning opportunities for adult students by enhancing workplace skills through the attainment of a career and technical education credential for adult students earning the General Achievement Adult High School Diploma.

## 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.*

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This regulatory action comports with the Code and poses no disadvantages to the public or Commonwealth.

## 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.*

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There are no applicable federal 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.*

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No locality would be disproportionately affected.

### 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.*

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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 website (<http://www.townhall.virginia.gov>) or by mail, email, or fax to Dr. Susan M. Clair, Director, Office of Adult Education and Literacy, Virginia Department of Education, P.O. Box 2120, Richmond VA 23218-2120, [Susan.Claire@doe.virginia.gov](mailto:Susan.Claire@doe.virginia.gov), or (804) 225-3352. 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 website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<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 requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.*

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It is anticipated that there will be little or no administrative costs related to consolidation of the diplomas. However, to the extent that school divisions must provide additional services to meet the other new requirements, there could be local fiscal impact. Because any impact will depend on the current services offered in each division, the Department is not able to determine any fiscal impact at this time.

**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.*

HB 1061 and SB 489 include a second enactment clause that states: “That the Board of Education shall eliminate technical diplomas that have not been implemented and shall promulgate regulations to implement the other provisions of this act to be effective within 280 days of its enactment.” Therefore, there are no alternatives to this regulatory action.

**Regulatory flexibility analysis**

*Pursuant to §2.2-4007.1B of the Code of Virginia, 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 regulations do not affect small businesses. The deadlines and reporting requirements specified in these regulations are required by HB 1061 and SB 489. No additional deadlines or reporting requirements are proposed.

**Public comment**

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

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
None	N/A	N/A

**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.

This regulatory action will impact the family by providing opportunities for adult learners to gain career skills to become productive citizens and be prepared for postsecondary education and for employment. The increased rigor of the adult high school diplomas addressed in the legislation will increase economic self-sufficiency and provide the basis for securing more highly-skilled employment opportunities after diploma attainment.

**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) or regulations that are being repealed and replaced, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, and likely impact of proposed requirements
<a href="#">8 VAC 20-30-20</a>		Minimum requirements for adult high school diplomas	<p>Consistent with the legislation, the proposed regulations would specify that only students not subject to compulsory attendance could be enrolled in adult high school programs, consistent with language in the legislation. Language permitting younger students to enroll in adult high school programs under exceptional conditions would be eliminated.</p> <p>The regulations would set forth the requirements for a student to earn a General Achievement Adult High School Diploma by:</p> <ol style="list-style-type: none"> <li>1. Successfully completing the requirements to earn a General Educational Development (GED®) certificate;</li> <li>2. Successfully completing an education and training program designated by the Board of Education by completing 20</li> </ol>

			<p>standard units of credit in the following subjects: English (4 credits), mathematics (3 credits), science (2 credits), history and social science (2 credits), and electives (9 credits), as specified in the current <i>Regulations Governing the General Achievement Diploma</i>; and</p> <p><b>3.</b> Earning a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.</p>
8 VAC 20-680-10		Eligibility for the General Achievement diploma	The legislation would eliminate the General Achievement Diploma; therefore, the associated regulations would need to be repealed.
8 VAC 20-680-20		Course, credit, and assessment requirements	The legislation would eliminate the General Achievement Diploma; therefore, the associated regulations would need to be repealed.