

Virginia Board of Education Agenda Item



Agenda Item: E

Date: May 26, 2016

Title	Final Review of Proposed Revisions to the <i>Regulations Governing the Secondary School Transcript</i> , 8 VAC 20-160 (Fast Track)		
Presenter	John Eisenberg, Assistant Superintendent, Special Education and Student Services		
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Purpose of Presentation:

Action required by Board of Education regulation.

Previous Review or Action:

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

April 28, 2016: First Review

Action Requested:

Final review: Action requested at this meeting.

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

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	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:

Changes in professional practice in postsecondary institutions have necessitated a change to one item in the *Regulations Governing Secondary School Transcripts* (8 VAC 20-160-30). It is recommended that the regulations be revised to allow for flexibility in the mandate regarding sending standardized test scores to postsecondary institutions. The Virginia Board of Education is proposing an amendment to the wording of 8 VAC 20-160-30, Item #25, of the *Regulations Governing Secondary School Transcripts* to add an Opt-Out policy to allow flexibility to certain students who do not want standardized test scores sent to postsecondary institutions.

The amendment to add the Opt-Out policy is a result of numerous educator and constituent calls expressing concern with the mandate to send standardized test scores as a part of the official transcript. Families and students want the ability to choose whether the standardized test scores are sent by the school or through the College Board, or at all, based on college admission requirements.

The last revisions to the *Regulations Governing Secondary School Transcripts* were made by the Board of Education in 2007. The *Regulations Governing Secondary School Transcripts* are composed of the following sections: Definitions, Effective date, Format options, Profile data sheet, Advanced-level courses, and Elements for weighting.

The Board's overall regulatory authority may be found in § 22.1-16. In 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

Summary of Important Issues:

Changes in professional practice in postsecondary institutions have necessitated a change to one item in the *Regulations Governing Secondary School Transcripts* (8 VAC 20-160-30). It is recommended that the regulations be revised to allow for flexibility in the mandate regarding sending standardized test scores to postsecondary institutions. The Virginia Board of Education is proposing an amendment to the wording of 8 VAC 20-160-30, Item #25, of the *Regulations Governing Secondary School Transcripts* to add an Opt-Out policy to allow flexibility to certain students who do not want standardized test scores sent to postsecondary institutions.

Currently, the required information for transcripts includes:

"25. Test record, to include at least the highest score earned, if available, on college performance-related standardized tests such as SAT and ACT, excluding *Standards of Learning* (SOL) test scores;"

The proposed change to this required item is as follows: (the highlighted portion was amended after feedback by Board members during first review to better reflect diverse family structures)

"25. Test record, to include at least the highest score earned, if available, on college performance-related standardized tests such as SAT and ACT, excluding *Standards of Learning* (SOL) test scores; except that each local school board shall adopt a policy setting forth the procedure by which parents, guardians, or others having legal control or charge can elect in writing to have their child's test record excluded from the student transcript ("opt-out").

Impact on Fiscal and Human Resources:

There will be minimal to no impact on school divisions for the amendment to the regulations and changes to existing school division policy.

Timetable for Further Review/Action:

Upon the Board's approval the regulations will be submitted for executive review in compliance with the Administrative Process Act.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education approve the proposed amendment to the *Regulations Governing the Secondary School Transcript*.



Fast-Track Regulation Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation(s)	8 VAC 20-160-10 et.seq.
Regulation title(s)	Regulations Governing Secondary School Transcripts (amending 8 VAC 20-160-30).
Action title	Amendment to Allow Flexibility to LEA's to add an Opt-Out Policy for Sending Standardized Test Scores to Postsecondary Institutions for 8 VAC 20-160-30, item #25.
Date this document prepared	April 15, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Changes in professional practice in postsecondary institutions have necessitated a change to one item in the Regulations Governing Secondary School Transcripts (8 VAC 20-160-30). The regulations should be revised to allow for flexibility in the mandate regarding sending standardized test scores to postsecondary institutions.

The Virginia Board of Education is proposing an amendment to the wording of 8 VAC 20-160-30, Item #25 of the Regulations Governing Secondary School Transcripts to add an Opt-Out policy to allow flexibility to certain students who do not want standardized test scores sent to postsecondary institutions.

The last revisions to the Regulations Governing Secondary School Transcripts were made by the Board of Education in 2007. The *Regulations Governing Secondary School Transcripts* are composed of the

following sections: Definitions, Effective date, Format options, Profile data sheet, Advanced-level courses, and Elements for weighting.

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.

N/A

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 Board of Education authorized the Department of Education to proceed with the fast track revision to the regulation at its (date) meeting.

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's overall regulatory authority may be found in § 22.1-16. In 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. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The amendment to add the Opt-Out policy is a result of numerous educator and constituent calls expressing concern with the mandate to send standardized test scores as a part of the official transcript. Parents and students want the ability to choose whether the standardized test scores are sent by the school or through the College Board, or at all, based on college admission requirements.

Rationale for using fast-track process

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

The fast track rulemaking process is for regulations expected to be noncontroversial. This revision is noncontroversial because its only purpose is to add flexibility to an already existing transcript item. Time is of the essence in amending these regulations because students send transcripts to postsecondary institutions continuously throughout the year and some postsecondary institutions have already omitted the requirement for sending standardized scores. In addition, it is probable that more postsecondary institutions will omit this requirement in the future.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

Changes in professional practice in postsecondary institutions have necessitated a change to one item in the regulations governing secondary school transcripts. The Regulations Governing Secondary School Transcripts should be revised to allow for flexibility in the mandate regarding sending standardized test scores to postsecondary institutions.

Currently, the required information for transcripts includes:

“25. Test record, to include at least the highest score earned, if available, on college performance-related standardized tests such as SAT and ACT, excluding *Standards of Learning* (SOL) test scores;”

The change to this required item is as follows:

“25. Test record, to include at least the highest score earned, if available, on college performance-related standardized tests such as SAT and ACT, excluding Standards of Learning (SOL) test scores;, except that each local school board shall adopt a policy setting_forth the procedure by which parents, guardians,

or others having legal control or charge can elect in writing to have their child's test record excluded from the student transcript ("opt-out").

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

There are no disadvantages to the public, the agency, or the Commonwealth. The amendment simply adds flexibility to an already existing transcript mandate. The Opt-Out policy will allow students to choose whether they have their standardized test scores sent to postsecondary institutions based on local policy rather than it being mandatory that the scores are sent.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

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.

All local school boards and school divisions will be affected equally.

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.

This amendment is proposed to allow flexibility for students when sending transcripts to colleges where

standardized test scores are “optional.” Therefore, there are no alternative regulatory methods that will accomplish the objectives of the statutory requirements. In addition, there is no adverse impact on small businesses.

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.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	None
Projected cost of the new regulations or changes to existing regulations on localities.	Minimum
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Local school boards and local school divisions
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: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	132 local school divisions and local school boards. No small businesses.
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 including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) 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.	None
Beneficial impact the regulation is designed to produce.	The amendment will allow students to choose when and where their transcripts are sent based on local school board policy.

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.

There are no viable alternatives to revisions of the regulations.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Periodic review and small business impact review report of findings

If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Commenter	Comment	Agency response

This is not the result of a periodic review/small business impact review and will not affect small businesses.

Family impact

Please assess the impact of this 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 is expected to impact the family by providing the flexibility to choose if standardized test scores are sent to postsecondary institutions. Currently it is mandated that "at least the highest score earned, if available" be sent as part of the transcript. Because some postsecondary institutions do not require standardized test scores be sent for admission purposes, it will be the choice of the family whether to send the scores with the transcript, according to division policy.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. 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 follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
8 VAC 20-160-30, item #25		Test record, to include at least the highest score earned, if available, on college performance-related standardized tests such as SAT and ACT, excluding <i>Standards of Learning (SOL)</i> test scores;	Test record, to include at least the highest score earned, if available, on college performance-related standardized tests such as SAT and ACT, excluding Standards of Learning (SOL) test scores; except that each local school board shall adopt a policy setting forth the procedure by which parents, guardians, or others having legal control or charge can elect in writing to have their child’s test record excluded from the student transcript ("opt-out").

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation is identical to the emergency regulation, please choose and fill out the appropriate chart template from the choices above. In this case “current section number” or “current chapter-section number” would refer to the **pre-emergency** regulation.

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation includes changes since the emergency regulation, please create two charts: 1) a chart describing changes from the pre-emergency regulation to the proposed regulation as described in the paragraph above, and 2) a chart describing changes from the emergency regulation to the proposed regulation. For the second chart please use the following title: “Changes from the Emergency Regulation.” In this case “current section number” or “current chapter-section number” would refer to the emergency regulation.

Regulations Governing Secondary School Transcripts 8VAC20-160

8VAC20-160-10. Definitions.

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

"Accelerated course" means a course that can be completed in less than the normal amount of time; the process of progressing through the school grades at a rate faster than that of the average student, either by skipping grades or by rapidly mastering the work of one course and moving on to the next higher course.

"Advanced-level courses/programs" means those academic, career/technical, fine and performing arts, or interdisciplinary high school courses/programs that enable students to acquire and master advanced knowledge. Such courses may be suitable for weighted credit in order to encourage students to take these courses and to be rewarded for the extra endeavor and academic performance these courses/programs require.

"Advanced Placement (AP) course" means an advanced-level course with a syllabus equivalent to the relevant Advanced Placement syllabus disseminated by the College Board.

"Assessment component" means any of the means by which one obtains information on the progress of the learner and the effectiveness of instruction; quantitative data, objective measures, subjective impressions, tests, and observations may all serve as instruments for deciding whether instructional objectives have been attained.

"Certificate of Program Completion award date" means the date when a Certificate of Program Completion is awarded. A Certificate of Program Completion is not to be included as a diploma option.

"Commonwealth College Course Collaborative (CCCC)" means a set of approved courses taken in high school that fully transfer as core requirements and degree credits at Virginia colleges and universities.

"Commonwealth Scholar" means a student who completes all of the requirements for at least a Standard Diploma and additional prescribed rigorous coursework in foreign language, history, mathematics, science, and other approved discipline areas consistent with the United States Department of Education's State Scholars Initiative.

"Credit" means a standard or a verified credit as specified in Regulations Establishing Standards for Accrediting Public Schools in Virginia ([8VAC20-131](#)).

"Credit summary" means the number of courses successfully completed in each discipline as required

for graduation.

"Curriculum" means an official guide prepared for use by administrators, supervisors, and teachers of a particular school or school system as an aid to teaching in a given subject or area of study for a given grade; includes the goals and objectives of the course, the expected outcomes, assessment component, and the scope and nature of the materials to be studied.

"Dual enrollment course" means a course that carries both high school and college credit.

"Early College Scholar" means a student who signs the Early College Scholars agreement and completes the requirements of the program, which includes a prescribed number of potentially transferable college credits, maintaining a "B" average or better, and earning an Advanced Studies diploma.

"Grade point average" means a measure of average scholastic success in all high school credit-bearing courses taken by a student during a certain term or semester, or accumulated for several terms or semesters; obtained by dividing grade points by number of courses taken.

"Graduation date" means the date when diploma requirements have been met and a diploma is awarded.

"Honors course" means a course offered to academically advanced students to provide opportunities to study and learn with other advanced students and to accelerate their learning in a specific content area. These courses are designed to be more challenging by covering additional topics or some topics in greater depth.

"Industry certification credential" means a career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, a state-issued professional license, or an occupational competency examination.

"International Baccalaureate (IB) course" means an advanced-level course with a syllabus approved by the International Baccalaureate Organization (IBO) and meeting the criteria offered through the IBO program.

"Secondary course" means a high school-level course of study that awards high school credits. In addition to providing content and knowledge, secondary courses encourage students to develop higher level thinking skills such as problem solving, critical analyses and syntheses of ideas. Students are encouraged to understand, appreciate, and formulate ideas related to scientific, technical and social concepts.

"Secondary school profile data" means information given in a summary format of a particular secondary

school, such as location; description; achievement data; definition of curriculum; grading scale, grade distribution; weighted grades; rank in class, if a ranking procedure is used; graduation requirements; and an explanation of advanced-level, accelerated, and honors courses, industry certifications, and other specialized programs.

"Secondary school transcript" means an official list of secondary courses taken by a student, except those purged from a middle school record in accordance with [8VAC20-131](#), Regulations Establishing Standards for Accrediting Public Schools in Virginia, showing the final grade received for each course, with definitions of the various grades given.

"Weighted course" means an advanced-level course in which credit is increased as determined by local school board policies and defined on the school profile.

8VAC20-160-20. Effective Date.

The secondary school transcript regulations shall become effective for students who take secondary courses for credit beginning in 2008-2009.

8VAC20-160-30. Format Options.

Localities have options for the secondary school transcript format. They may use the Department of Education model or develop their own following board regulations. Localities may also use a digital data exchange format for electronic transcript transmission. The accreditation status of a high school shall not be included on the student transcript provided to colleges, universities, or employers.

The required information is as follows:

1. Name of school division;
2. Student legal name;
3. State Testing Identifier (STI);
4. Birthdate;
5. Gender;
6. Home address;
7. Home telephone number;
8. Graduation date;

9. Type of diploma, to include "Advanced Studies," "Standard," or "Other Diplomas Authorized by the Board of Education";
10. Type of industry certification credential and date of completion, if applicable;
11. Certificate of Program Completion and award date, if applicable;
12. Notation of Early College Scholar Designation;
13. Notation of Commonwealth Scholar Designation;
14. Name, address, email address, and telephone number of schools student attended each year;
15. Number of days absent within given school year;
16. Course work listed by year with grades;
17. Total credits earned by year;
18. A list of verified credits earned, including any credits earned by substitution;
19. Credits to date;
20. Grade point average;
21. Credit summary for entire school experience;
22. Key to symbols and abbreviations used to denote accelerated, advanced-level courses, Commonwealth College Course Collaborative course, honors courses, and summer school courses, or credits earned by substitution;
23. Notification of whether school/program ranks students; if so, the rank in class with given number of semesters used for computation;
24. Final driver education grade;
25. Test record, to include at least the highest score earned, if applicable, on college performance-related standardized tests such as SAT and ACT, excluding Standards of Learning (SOL) test scores; except that each local school board shall adopt a policy setting forth the procedure by which parents, guardians, or others having legal control or charge can elect in writing to have their child's test record excluded from the student transcript ("opt-out");
26. Signature and title of school official;

27. Date of school official signature;
28. School name;
29. School address;
30. Telephone number of school;
31. Fax number of school;
32. The school's Department of Education 7-digit code number.

8VAC20-160-40. Profile Data Sheet.

A secondary school profile data sheet, for each school reflected on the transcript, if applicable, shall be attached to each student transcript sent to colleges, universities, and prospective employers. Schools may furnish additional information. The accreditation status of a high school shall not be included on the school profile data sheet. No standard format is required. The profile data sheet must contain the following information:

1. Name of school counseling director or school counselor;
2. Name, address, and telephone number of school;
3. Description - school/community;
4. Achievement data to include SAT and/or ACT scores using the most recent data available in comparison with Virginia and the nation;
5. Description of curriculum;
6. Grading scale;
7. Grade distribution;
8. Explanation of advanced-level, accelerated, and honors courses;
9. Weighted grades, explanation of weighting courses and the computation;
10. Explanation of rank in class, if applicable:
 - a. List courses excluded from computation;
 - b. Explanation of computation of pass/fail courses;

c. Student groups included/excluded from ranking in class;

11. Graduation requirements.

8VAC20-160-50. Weight of Advanced-Level Courses.

Advanced Placement (AP) and International Baccalaureate (IB) courses shall be weighted. Local school boards shall determine which other courses/programs are to receive weighted credits, the amount of weight such courses shall receive, and how those weighted credits will be used in the determination of grade point averages in the school or school division.

8VAC20-160-60. Elements for Weighting.

If the course is to be weighted , it must have the following elements:

1. Specified curriculum approved by local board or outside agency meeting criteria of program and/or organization;
2. Standards that exceed normal course requirements; and
3. Defined assessment component.