



VIRGINIA REGISTER OF REGULATIONS

VOL. 34 ISS. 8

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

DECEMBER 11, 2017

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VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **29:5 V.A.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **James M. LeMunyon**, Vice Chair; **Gregory D. Habeeb**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Noah P. Sullivan**; **Mark J. Vucci**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **Karen Perrine**, Assistant Registrar; **Anne Bloomsburg**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

December 2017 through January 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
34:8	November 21, 2017 (Tuesday)	December 11, 2017
34:9	December 6, 2017	December 25, 2017
34:10	December 19, 2017 (Tuesday)	January 8, 2018
34:11	January 3, 2018	January 22, 2018
34:12	January 17, 2018	February 5, 2018
34:13	January 31, 2018	February 19, 2018
34:14	February 14, 2018	March 5, 2018
34:15	February 28, 2018	March 19, 2018
34:16	March 14, 2018	April 2, 2018
34:17	March 28, 2018	April 16, 2018
34:18	April 11, 2018	April 30, 2018
34:19	April 25, 2018	May 14, 2018
34:20	May 9, 2018	May 28, 2018
34:21	May 23, 2018	June 11, 2018
34:22	June 6, 2018	June 25, 2018
34:23	June 20, 2018	July 9, 2018
34:24	July 3, 2018 (Tuesday)	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018
35:1	August 15, 2018	September 3, 2018
35:2	August 29, 2018	September 17, 2018
35:3	September 12, 2018	October 1, 2018
35:4	September 26, 2018	October 15, 2018
35:5	October 10, 2018	October 29, 2018
35:6	October 24, 2018	November 12, 2018
35:7	November 7, 2018	November 26, 2018
35:8	November 19, 2018 (Monday)	December 10, 2018
35:9	December 5, 2018	December 24, 2018
35:10	December 14, 2018 (Friday)	January 7, 2019

*Filing deadlines are Wednesdays unless otherwise specified.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 1. ADMINISTRATION

DEPARTMENT OF GENERAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of General Services intends to consider promulgating **1VAC30-150, Regulations for Public Use of Robert E. Lee Monument, Richmond, VA**. The purpose of the proposed action is to promulgate a permanent regulation to replace emergency regulations adopted pursuant to Executive Order 67 (2017) regarding public use of the Lee Monument located in Richmond, Virginia, on Monument Avenue (the Lee Monument). Pursuant to Executive Order 67, the emergency regulations were based on the recommendations of the Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest (the Task Force), which was established by Executive Order 68 (2017). Executive Order 67 (2017) also required the Department of General Services (DGS) to undertake a thorough review of the permitting rules for the monument.

A key finding of the Task Force is that implementing robust permitting processes is one of the most important parts of preparing for mass demonstrations and preventing violence. This proposed regulatory action will consider the results of the comprehensive review conducted by the Task Force, which included substantial input from public safety officers, local permitting officials, and legal experts on various issues related to the Lee Monument and how to update the rules for public use of the Lee Monument. Rules regarding use of the Lee Monument have never been codified in the Virginia Administrative Code, and a comprehensive review has not been done in decades.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 2.2-1100 and 2.2-1102 of the Code of Virginia.

Public Comment Deadline: January 10, 2018.

Agency Contact: Rhonda Bishton, Regulatory Coordinator, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305, or email rhonda.bishton@dgs.virginia.gov.

V.A.R. Doc. No. R18-5342; Filed November 17, 2017, 4:51 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Education intends to consider promulgating **8VAC20-760, Regulations Governing the Designation of School Divisions of Innovation**. The purpose of the proposed action is to adopt a regulation that will establish, pursuant to Chapter 760 of the 2017 Acts of Assembly, the School Divisions of Innovation (SDI) designation process in which a local school board shall, pursuant to a plan of innovation, be exempted from selected regulatory provisions and be permitted to adopt alternative policies for school administrators, teachers, and staff to meet the diverse needs of students. The new regulation sets the SDI designation process and timeline, expectations for a plan of innovation, procedures for ongoing evaluation of an SDI, and regulations that may be waived in conjunction with an SDI application.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 22.1-16 and 22.1-212.29 of the Code of Virginia.

Public Comment Deadline: January 10, 2018.

Agency Contact: Emily V. Webb, Director for Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2924, FAX (804) 225-2524, or email emily.webb@doe.virginia.gov.

V.A.R. Doc. No. R18-5324; Filed November 9, 2017, 4:44 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Psychology intends to consider amending **18VAC125-20, Regulations Governing the Practice of Psychology**. The purpose of the proposed action is to update its regulations for consistency and clarity, reduce the regulatory hurdle for licensure by endorsement, increase the opportunities for continuing education credits, specify a timeframe within which an applicant must have passed the national examination, and simplify the requirement for individual supervision in a residency. The board will also consider requiring all psychology doctoral programs to be accredited by the American Psychological Association, the

Notices of Intended Regulatory Action

Canadian Psychologic Association, or another accrediting body acceptable to the board within three years of the effective date of the regulation. Finally, the board intends to revamp provisions for standards of conduct to emphasize rules for professionalism, confidentiality, client records, and prohibitions on dual relationships.

This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Comment Deadline: January 10, 2018.

Agency Contact: Jaime Hoyle, Executive Director, Board of Psychology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4406, FAX (804) 327-4435, or email jaimie.hoyle@dhp.virginia.gov.

V.A.R. Doc. No. R18-5213; Filed November 9, 2017, 8:28 p.m.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text.
Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 1. ADMINISTRATION

DEPARTMENT OF GENERAL SERVICES

Emergency Regulation

Title of Regulation: **1VAC30-150. Regulations for Public Use of Robert E. Lee Monument, Richmond, VA (adding 1VAC30-150-10 through 1VAC30-150-50).**

Statutory Authority: §§ 2.2-1100 and 2.2-1102 of the Code of Virginia.

Effective Dates: November 17, 2017, through May 16, 2019.

Agency Contact: Rhonda Bishton, Regulatory Coordinator, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305, or email rhonda.bishton@dgs.virginia.gov.

Preamble:

Section 2.2-4011 A of the Code of Virginia states that regulations that an agency finds are necessitated by an emergency situation may be adopted upon consultation with the Attorney General, which approval shall be granted only after the agency has submitted a request stating in writing the nature of the emergency, and the necessity for such action shall be at the sole discretion of the Governor.

The emergency action establishes the regulations for public use of the Robert E. Lee Monument located at 1700 Monument Avenue in the City of Richmond.

CHAPTER 150

REGULATIONS FOR PUBLIC USE OF ROBERT E. LEE MONUMENT, RICHMOND, VA

1VAC30-150-10. Purpose, applicability, and definitions.

The Robert E. Lee Monument, located at 1700 Monument Avenue, is the largest monument on the City of Richmond's Monument Avenue. The 60-foot high statue, composed of a granite base and 14-foot tall bronze equestrian statue of Robert E. Lee, stands in the middle of Lee Circle, a traffic circle at the intersection of Monument Avenue and Allen Avenue. The purpose of this chapter is to establish and codify regulations governing the use of this state-owned property. This chapter applies to the Lee Monument.

The following word or term when used in this chapter shall have the following meaning unless the context clearly indicates otherwise:

"Lee Monument" means the statue of Robert E. Lee and the surrounding 25,000 square feet of state-owned property located at 1700 Monument Avenue in the City of Richmond.

The Lee Monument does not include the abutting sidewalk or streets, which are the property of the City of Richmond.

1VAC30-150-20. General rules.

The following rules apply to any person including permit applicants and permit holders at the Lee Monument.

1. The Lee Monument shall be closed to the public from sunset each night until sunrise the following morning.
2. Any event that is expected to draw 10 or more participants requires a special event permit.
3. The maximum occupancy of the Lee Monument is 500 persons.
4. There shall be no motor vehicles on the Lee Monument at any time.
5. No banners, flags, posters, or other objects shall be placed on or affixed to the statue itself.
6. No persons shall climb on the statue itself. This provision also applies to the steps of the statue.
7. Unlawful activity is prohibited.

1VAC30-150-30. Rules regarding permitted events.

A. All permitted events must be coordinated with the City of Richmond to ensure that such event will not interfere with major vehicular traffic within the traffic circle. The areas surrounding the Lee Monument are residential zones. In conjunction with § 18.2-419 of the Code of Virginia and the City of Richmond's noise ordinance level restrictions, events at the grounds may only occur during the following hours, unless the times referenced in this subsection conflict with subdivision 1 of 1VAC30-150-20:

1. Monday through Friday: 9 a.m. to 4 p.m. and 7 p.m. to 9 p.m.
2. Saturday: 9 a.m. to 9 p.m.
3. Sunday: 2 p.m. to 9 p.m.

B. Permitted events may last a maximum of two hours, with an additional 30 minutes to set up and 30 minutes to break down the event. If the City of Richmond will require road closure, permitted events will be authorized to last one hour, with an additional 30 minutes to set up and 30 minutes to break down the event. Permitted events shall not exceed these time parameters.

C. The following items and activities are prohibited on the Lee Monument, and any violation will result in an immediate revocation of the permit and removal from the Lee Monument:

1. Weapons: any pistol, rifle, shotgun, or other firearm of any kind, whether loaded or unloaded, air rifle, air pistol,

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paintball gun, paintball rifle, explosive, blasting cap, knife, hatchet, ax, slingshot, blackjack, metal knuckles, mace, iron buckle, ax handle, chains, crowbar, hammer, or any club, bludgeon, or any other instrumentality used, or intended to be used, as a dangerous weapon.

2. Bricks, stones, rocks, or pieces of asphalt or concrete.

3. Glass bottles, glass jars, or glass containers of any kind.

4. Tents, tables, scaffolding, or staging.

5. Penetration of the ground by any object.

6. Stick-holding placards.

7. Solicitations, sales, collections, or fundraising activities.

8. Food, alcohol, or beverages of any type.

9. Auxiliary and portable lights.

10. Open air burning. Hand-held candles with drip guards are acceptable.

11. The use of unmanned aircraft systems (drones).

12. Hazardous, flammable, or combustible liquids or materials.

13. Animals, except service animals that are individually trained to do work or perform tasks for people with disabilities.

14. Fossil-fuel powered generators.

15. Any mask, hood, or other device whereby a substantial portion of the face is hidden or covered unless otherwise permitted by law.

D. Nothing in this chapter shall prohibit a disabled person from carrying, possessing, or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that the person may participate in a permitted event.

E. Nothing in this chapter shall prohibit certified law-enforcement officers or other public safety officials acting in their official capacity from carrying or possessing materials, weapons, or devices used in the performance of law-enforcement duties.

F. Certain portions of subsections A, B, and C of this section may not apply to established events that have been approved for more than three consecutive years within the Commonwealth or the City of Richmond permitting processes prior to the enactment of this regulation.

1VAC30-150-40. Special event permit process.

A. Requests for a special event permit must be submitted in writing, on the forms required by the Department of General Services, and must be submitted to the Director of the Division of Engineering and Buildings at least 45 days prior to the requested event date.

B. All applications shall contain at a minimum, the following information:

1. Type and purpose of event, meeting, or function.

2. Name, address, telephone numbers, and email address of the applicant.

3. Name of the organization, date of origin, status (corporation, unincorporated association, partnership, nonprofit corporation, etc.), address, and telephone numbers. If applicable, the federal tax ID number, registered agent's address, telephone numbers, and email address.

4. Organization's primary point of contact, to include name, title, permanent address, telephone numbers, and email addresses.

5. Organization's primary and alternative point of contact who will be on-site at the Lee Monument for the event, to include name, address, telephone numbers, and email addresses. The organization's on-site primary point of contact shall be responsible for the conduct of participants at the event.

6. If the event is designed to be held by, on behalf of, or for any person other than the applicant, the applicant shall file with the director written documentation from the person or organization seeking to host the event, authorizing the applicant to apply for the permit on behalf of the person or organization.

7. The estimated number of participants for the event. The maximum occupancy for the Lee Monument is 500 persons.

8. Requested date and start and end times.

9. Whether the event is being advertised, to include advertising on social media platforms.

10. Proof that all needed permits have been submitted to the City of Richmond, to include a road closure permit if necessary. The applicant understands that if the City of Richmond will require road closure, authorized events will be permitted to last one hour, with an additional 30 minutes to set up and 30 minutes to break down the event. All events will begin at the agreed upon time and must fall within the allowable time periods addressed in this section.

11. List of requested items or equipment to be used during the event.

C. Notwithstanding the 45-day requirement for a special event permit, the applicant may apply for a permit for an event that is proposed to be conducted in less than six days, provided:

1. The applicant submits a completed special event permit application in accordance with this chapter.

2. A showing by the applicant, in writing, clearly describing why the circumstances giving rise to the proposed event did not reasonably allow the applicant to apply for a permit within the 45-day time period.

3. The event has not been planned for more than six days in advance of the proposed event.

4. Proof that all needed permits have been submitted to the City of Richmond, to include a road closure permit if necessary. The applicant understands that if the City of

Richmond will require road closure based on the size of the event, authorized events will be permitted to last one hour, with an additional 30 minutes to set up and 30 minutes to break down the event. All events will begin at the agreed upon time and must fall within the allowable time periods addressed in this section.

D. Permit applications may be submitted up to one year in advance of the proposed event. The Director of the Division of Engineering and Buildings shall not grant final approval until proof that a permit has been approved by the City of Richmond, to include a road closure permit if necessary.

E. The Director of the Division of Engineering and Buildings shall take action on all permit applications within 10 business days of receiving a special event permit application, and within three business days of receiving a special event permit that is proposed to be conducted within six days of the application as outlined in subsection C of this section. All actions by the director are pending proof of a final determination from the City of Richmond on whether any permits, to include a road closure permit, are required by the city. If any permits are required by the city, the applicant shall be required to furnish proof to the director that the proper permits have been obtained.

F. The Director of Engineering and Buildings (director) shall deny a request for a permit if:

1. Another application has been previously submitted with a request for the same date and time;
2. Upon advisement from law enforcement, the director determines that approving the permit and allowing the event to occur would pose a significant threat to public safety;
3. Any of the conditions are not agreed to by the applicant;
4. The director concludes that the event could not possibly conform to the conditions prescribed in this chapter;
5. Any of the information contained in the application is found to be false or inaccurate; or
6. The City of Richmond denies a needed permit.

G. If a permit request is denied, the director shall send, in writing, an explanation of why the event permit was denied and if applicable, provide the applicant with alternative times or dates.

H. If a permit is denied due to a preexisting application for the same time and date, the director shall notify the applicant if the originally requested date and time become available.

I. Authorization for the use of the Lee Monument will be set forth in a letter addressed to the applicant.

J. The director or his designee may contact the applicant and the event organizer at any time to discuss or clarify the contents of the application or any additional conditions or restrictions to be applied.

1VAC30-150-50. Permit holder responsibilities.

A. The event organizer is responsible for providing a safe and secure event and may be required to provide general security, crowd control, and assistance to participants based on the size of the event. If general security is required, it shall be provided by law-enforcement personnel licensed by the Commonwealth of Virginia.

B. By submitting an application for a special event permit under this chapter, the applicant understands the following statements and conditions and agrees to comply with all rules, conditions, and restrictions:

1. The applicant agrees to all prohibitions and restrictions identified in this chapter;
2. The applicant and organization agree to indemnify the Commonwealth of Virginia against any loss or damage to the monument that may occur in connection with the applicant or event organizer's use of the property;
3. The applicant agrees to leave the premises clean and orderly. The applicant will provide a waste management plan and a point of contact for the plan;
4. The applicant and participants agree to obey all state and local laws and ordinances;
5. The applicant agrees to notify law enforcement, to include the Division of Capitol Police, if any unlawful activities occur during the permitted event. In addition to 9-1-1, the applicant should call the Capitol Police emergency number at (804) 786-4357. For nonemergencies, applicants should call (804) 786-2568;
6. Unlawful activities will be handled by law enforcement, to include the Division of Capitol Police; and
7. The applicant shall be required to notify the Director of the Division of Engineering and Buildings of any changes to the information contained in the permit application as soon as practicable.

C. Violations of this chapter shall result in immediate revocation of the permit by the Director of the Division of Engineering and Buildings or his designee, and in the event such revocation occurs, all participants shall be required to immediately vacate the monument. Failure of any person to immediately vacate the monument after proper notice shall be considered trespassing in violation of § 18.2-119 of the Code of Virginia.

V.A.R. Doc. No. R18-5342; Filed November 17, 2017, 4:51 p.m.

Regulations

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

Title of Regulation: 8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-5 through 8VAC20-131-120, 8VAC20-131-140 through 8VAC20-131-220, 8VAC20-131-240 through 8VAC20-131-270; adding 8VAC20-131-51, 8VAC20-131-370 through 8VAC20-131-430; repealing 8VAC20-131-280 through 8VAC20-131-360).

Statutory Authority: §§ 22.1-16 and 22.1-253.13:3 of the Code of Virginia.

Effective Date: January 11, 2018.

Agency Contact: Dr. Cynthia Cave, Assistant Superintendent, Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092, FAX (804) 225-2524, or email cynthia.cave@doe.virginia.gov.

Summary:

The amendments provide for the implementation of the Profile of a Virginia Graduate as required by Chapters 720 and 750 of the 2016 Acts of Assembly, as well as additional changes identified by the board as part of its comprehensive review. The amendments include the following:

1. *Revising the philosophy, goals, and objectives of individual schools to reflect expectations for preparation of a Virginia public school graduate; recognition of multiple areas affecting school quality; and provision of continuous improvement and support.*
2. *Expanding the use of performance assessments and reducing the number of credits verified by Standards of Learning tests to satisfy high school graduation requirements.*
3. *Increasing the emphasis on internships and work-based learning experiences in high school.*
4. *Increasing career exposure, exploration, and planning in elementary, middle, and high school.*
5. *Emphasizing critical thinking, creative thinking, collaboration, communication, and citizenship (the five Cs).*
6. *Implementing the Profile of a Virginia Graduate.*
7. *Reflecting changes in the School Quality Profile.*
8. *Establishing a new school accreditation system that measures school quality through multiple indicators and the designation of performance levels for each indicator.*

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Part I Definitions and Purpose

8VAC20-131-5. Definitions.

The following words and terms apply only to ~~these regulations this chapter~~ 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 this chapter~~, 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 this chapter~~.

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

"Authentic performance assessment" means a test that complies with guidelines adopted by the board that requires students to perform a task or create a product that is typically scored using a rubric. An authentic performance assessment may be used to confer verified credit in accordance with the provisions of 8VAC20-131-110 B 4 and B 5.

"Board of Education" or "board" means the board responsible for the general supervision of the public schools system in Virginia as prescribed in Section 4 of Article VIII of the Constitution of Virginia and § 22.1-8 of the Code of Virginia.

"Class period" means a segment of time ~~in~~ during the ~~school instructional~~ day that is ~~approximately 1/6 of the instructional day allocated to lessons, courses, testing and assessments, or other instructional activities and excludes homeroom.~~

"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.

"Credit accommodations" means adjustments to meet the standard and verified credit requirements for earning a Standard Diploma for students with disabilities.

"Department" means the Virginia Department of Education.

"Elementary school" means a public school with any grades kindergarten through ~~five~~ 5.

"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 G and 8VAC20-131-280 D relative to limited English proficient (LEP) students.

"English learner" or "EL" means, as prescribed in the Elementary and Secondary Education Act (P.L. 89-10, as amended), an individual:

1. Who is aged three through 21 years;
2. Who is enrolled or preparing to enroll in an elementary school or secondary school;
3. a. Who was not born in the United States or whose native language is a language other than English;
 - b. (1) Who is a Native American or Alaska native, or a native resident of the outlying areas; and
 - (2) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
 - c. Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
4. Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the:
 - a. Ability to meet the challenging state academic standards;
 - b. Ability to successfully achieve in classrooms where the language of instruction is English; or
 - c. Opportunity to participate fully in society.

"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 board~~ recognized diploma, which includes the Advanced Studies Diploma, the Standard Diploma, and the Applied Studies Diploma.

["Growth" or "student growth" means student progress toward achievement as demonstrated through a valid and reliable measure.]

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

"Instructional day" means all the time in a standard school day, from the beginning of the first scheduled class period to the end of the last scheduled class period, including passing time for class changes and excluding breaks for meals and recess.

"Instructional hours" means the hours in a standard school day, from the beginning of the first scheduled class period to the end of the last scheduled class period, including passing time for class changes and excluding breaks for meals and recess.

"Locally awarded verified credit" means a verified unit of credit awarded by a local school board in accordance with 8VAC20-131-110 B 3.

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

"Planning period" means ~~one class period per day or the equivalent~~ a segment of time in middle and secondary schools during the instructional day that is unencumbered of any teaching or supervisory duties, is not less than 45 minutes or the equivalent of a class period, whichever is greater, and that includes passing time for class changes.

"Planning time" means a segment of time for elementary teachers that provides at least an average of 30 minutes per day for planning during the student's school week as provided in § 22.1-291.1 of the Code of Virginia.

"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 [structured classroom] 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.~~

"Reporting group" means a subgroup of students who are identified as having common characteristics such as students identified as belonging to major racial and ethnic groups, economically disadvantaged students, students with disabilities, and English learners.

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

1. Those students are reported in fall membership at the institution; and
2. At a minimum, the institution meets the preaccreditation eligibility requirements of ~~these regulations this chapter~~ as adopted by the ~~Board of Education board~~.

"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 instructional

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hours per year, as specified in § 22.1-98 of the Code of Virginia.

"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 and in accordance with board guidelines.

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

"Standards of Quality" means the Standards of Quality prescribed in Chapter 13.2 (§ 22.1-253.13:1 et seq.) of Title 22.1 of the Code of Virginia.

"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 for whom English is a second language 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.

"Verified unit of credit" or "verified credit" means credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test or; (ii) achieves a passing score on an additional test approved by the Board of Education as defined in this section as part of the Virginia assessment program Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; (iv) meets the criteria for the receipt of a verified credit for history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment as provided in 8VAC20-131-110 B 4; or (v) meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 5.

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

8VAC20-131-10. Purpose.

The foremost purpose of public education in Virginia is to provide children with a high quality education giving them opportunities to meet their fullest potential in life. The standards for the accreditation of public schools in Virginia are designed to ensure that an effective educational program is established and maintained in Virginia's public schools. The mission of the public education system is to educate students in the essential academic knowledge and skills in order that they may be equipped for citizenship, work, and a an informed and successful [private] life that is informed and free. The accreditation standards:

The Standards of Accreditation provide the foundation for the provision of a high quality public education within a system of accountability and continuous improvement. They are intended to:

1. Provide an essential foundation of educational programs of high quality in all schools for all students.
2. Encourage and promote school quality and acknowledge achievement and continuous improvement and appraisal of the school program for the purpose of raising student achievement improvements by schools and school divisions in multiple areas.
3. Foster public confidence that graduating students have mastered multiple areas of learning to include academic subjects, workplace skills, career exploration and planning, and civic and community responsibility.
4. Assure recognition of Virginia's public schools by other institutions of learning.
5. Establish a the means of determining the effectiveness of schools as prescribed in the Standards of Quality at § 22.1-253.13:3 of the Code of Virginia, including student learning and progress and student outcomes for multiple areas affecting school quality.

Section 22.1-253.13:3 B A of the Code of Virginia requires the Virginia Board of Education (hereinafter "board") board promulgate regulations establishing standards for accreditation, which shall include 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 statutory authority for these regulations this chapter is delineated in § 22.1-19 of the Code of Virginia, which includes the requirement that the board shall provide for the accreditation of public elementary, middle, and secondary schools in accordance with regulations prescribed by it.

These regulations govern This chapter governs public schools operated by local school boards providing instruction to students as defined in 8VAC20-131-5. Other schools licensed under other state statutes are exempt from these requirements.

Part II

Philosophy, Goals, and Objectives

8VAC20-131-20. Philosophy, goals, and objectives.

A. Achieving school quality and continuous improvement are accomplishments dependent upon multiple factors, including instruction, leadership, learning environment, professional staff development, student supports, parent and community engagement, and continual evaluation of outcomes. Goals and objectives to be achieved through these and other areas include student opportunities for learning, closure of achievement gaps, reduction of the dropout rate, increased graduation rates, and student mastery beyond minimum requirements.

Preparation of all students should result in graduates who have explored and understand what opportunities exist for them after high school and have the knowledge and abilities necessary for the next phase of their lives as adults. Students should attain essential knowledge and skills in order that they may be equipped to be responsible citizens, understand and meet expectations for work, gain and apply knowledge, and plan and achieve personal life goals. In addition to academic and technical knowledge, their education should encompass mastery of creative and critical thinking, analysis and problem solving, and the development of personal attributes such as communication and collaboration skills, dependability, and persistence.

The philosophy, goals, and objectives of individual schools should reflect and encompass the means by which the Standards of Learning and Standards of Accreditation are to be achieved.

The board's objective is to provide an educational foundation that ensures students are ready to be successful in a global economy, which includes changing and growing technology. Families, students, employers, representatives from institutions of higher education, and educators have all expressed concerns about adequate preparation of Virginia's students for the future. In addition to appropriate content knowledge, stakeholders have asked that graduates be prepared with skills and attributes such as critical thinking, creative thinking, communication, collaboration, and citizenship in order to be prepared to be successful in life and competitive in the work world. In response, the board is redesigning the public school experience for Virginia's students so that they are adequately prepared for the future challenges they face.

In Virginia, as a student progresses through elementary, middle, and secondary school, the college-ready, career-ready, and citizenship-ready student is expected to achieve and apply appropriate academic and technical knowledge;

attain and demonstrate age-appropriate productive workplace skills, qualities, and behavior; align knowledge, skills, and personal interests with career and civic opportunities; and attain and demonstrate knowledge and skills necessary for productive citizenship and participation in communities and governments.

A. B. Each school shall have a current philosophy, goals, and objectives that shall serve as the basis for all policies and practices and shall be developed using the following criteria:

1. The philosophy, goals, and objectives shall be developed with the advice of professional and lay people who represent the various populations served by the school and in consideration of the needs of the community and shall serve as a basis for the creation and review of the biennial school plan.
2. The school's philosophy, goals, and objectives shall be consistent with the Standards of Quality.
3. The goals and objectives shall (i) be written in plain language so as to be understandable to noneducators, including parents; (ii) to the extent possible, be stated in measurable terms; and (iii) consist primarily of measurable objectives to raise student and school achievement in the core academic areas of the Standards of Learning (SOL), to improve student and staff attendance, to reduce student drop out dropout rates, to increase graduation rates, and to increase the quality of instruction through professional staff development and licensure.
4. The school staff and community representatives shall review annually the extent to which the school has met its prior goals and objectives, analyze the school's student performance data, including data by grade level or academic department as necessary, and report these outcomes to the division superintendent and the community in accordance with local school board policy. This report shall be in addition to the school report card quality profile required by 8VAC20-131-270 B A.

B. C. Copies of the school's philosophy, goals, and objectives shall be available upon request.

Part III

Student Achievement

8VAC20-131-30. Student achievement expectations.

A. Each student should learn the relevant grade level/course subject matter before promotion to the next grade. The division superintendent shall certify to the Department of Education that the division's promotion/retention promotion and retention policy does not exclude students from membership in a grade, or participation in a course, in which SOL tests are to be administered. Each school shall have a process, as appropriate, to identify and recommend strategies to address the learning, behavior, communication, or development of individual children who are having difficulty in the educational setting.

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B. In kindergarten through eighth grade, where the administration of Virginia ~~assessment program~~ Assessment Program tests are required by the ~~Board of Education~~ board, each student shall be expected to take the tests ~~students following instruction. Students~~ who are accelerated shall take the tests of the grade level enrolled or the tests for the grade level of the content received in instruction test aligned with the highest grade level, following instruction in the content. No student shall take more than one test in any content area in each year, except in the case of expedited retakes as provided for in this section. Schools shall use the Virginia ~~assessment program~~ Assessment Program test results in kindergarten through eighth grade as part of a set of multiple criteria for determining the promotion or retention of students. Students promoted to high school from eighth grade should have attained basic mastery of the Standards of Learning in English, history and social science, mathematics, and science and should be prepared for high school work. Students shall not be required to retake the Virginia ~~assessment program~~ Assessment Program tests unless they are retained in grade and have not previously passed the related tests.

~~With such funds as may be appropriated by the General Assembly, the Board of Education~~ The board shall provide the same criteria for eligibility for an expedited retake of any Standards of Learning SOL test, with the exception of the writing Standards of Learning SOL tests, to each student regardless of grade level or course.

C. In kindergarten through grade 12, students may participate in a remediation recovery program as established by the board in English (~~Reading~~) reading or mathematics or both.

D. The board recommends that students in kindergarten through grade 8 not be required to attend summer school or weekend remediation classes solely based on failing a SOL test in science or ~~history/social history and social~~ science. However, any student who fails to achieve a passing score on all Standard of Learning assessments for the relevant grade level in grades 3 through 8 shall be required to attend a remediation program or to participate in another form of remediation. Further, any student who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation.

E. Each student in middle and secondary schools shall take all applicable end-of-course SOL tests following course instruction. ~~The division superintendent shall certify to the Department of Education that the division's policy for dropping courses ensures that students' course schedules are not changed to avoid end-of-course SOL tests.~~ Students who achieve a passing score on an end-of-course SOL test shall be awarded a verified unit of credit in that course in accordance with the provisions of 8VAC20-131-110. Students may earn verified units of credit in any courses for which end-of-course SOL tests are available. Students shall not be required to take

an end-of-course SOL test in an academic subject after they have earned the number of verified credits required for that academic content area for graduation, unless such test is necessary in order for the school to meet federal accountability requirements. Middle and secondary schools may consider the student's end-of-course SOL test score in determining the student's final course grade. However, no student who has failed an end-of-course SOL test but passed the related course shall be prevented from taking any other course in a content area and from taking the applicable end-of-course SOL test. The board may approve additional tests to verify student achievement in accordance with guidelines adopted for verified units of credit described in 8VAC20-131-110.

F. Participation in the Virginia ~~assessment program~~ Assessment Program by students with disabilities shall be prescribed by provisions of their Individualized Education Program (IEP) or 504 Plan. All students with disabilities shall be assessed with appropriate accommodations and alternate assessments where necessary.

G. ~~All students~~ Any student identified as ~~limited English proficient (LEP)~~ an English Learner (EL) shall participate in the Virginia ~~assessment program~~ Assessment Program. A school-based committee shall convene and make determinations regarding the participation level of ~~LEP~~ EL students in the Virginia ~~assessment program~~ Assessment Program. In kindergarten through eighth grade, ~~limited English proficient~~ EL students may be granted a one-time exemption from SOL testing in the areas of writing, science, and history and social science.

H. Students identified as foreign exchange students taking courses for credit shall be required to take the relevant Virginia ~~assessment program~~ Assessment Program tests, as specified in subsection E of this section. Foreign exchange students who are auditing courses ~~are not eligible for academic credit for those courses and who will not receive a standard unit of credit for such courses~~ shall not be required to take the Standards of Learning SOL tests for those courses.

8VAC20-131-50. Requirements for graduation (effective for the students entering ninth grade prior to the 2018-2019 school year).

A. The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.

The Advanced Studies Diploma shall be the recommended diploma for students pursuing baccalaureate study. Both the Standard Diploma and the Advanced Studies Diploma shall prepare students for postsecondary education and the career readiness required by the Commonwealth's economy.

When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for

graduation provided the courses are equivalent in content and academic rigor as those courses offered at the secondary level. To earn a verified unit of credit for these courses, students must meet the requirements of 8VAC20-131-110.

The following requirements shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the Board of Education board. All additional requirements prescribed by local school boards that have been approved by the Board of Education board remain in effect until such time as the local school board submits a request to the board to amend or discontinue them.

B. Requirements for a Standard Diploma.

1. Beginning with the ninth-grade class of 2013-2014 and beyond through the ninth-grade class of 2017-2018, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.
2. Credits required for graduation with a Standard Diploma.

Discipline Area	Standard Units of Credit Required	Verified Credits Required
English	4	2
Mathematics ¹	3	1
Laboratory Science ^{2,6}	3	1
History and Social Sciences ^{3,6}	3	1
Health and Physical Education	2	
[Foreign World] Language, Fine Arts or Career and Technical Education ⁷	2	
Economics and Personal Finance	1	
Electives ⁴	4	
Student Selected Test ⁵		1
Career and Technical Education Credential ⁸		
Total ⁹	22	6

¹Courses completed to satisfy this requirement shall include at least two different course selections from among: Algebra I, Geometry, Algebra, Functions, and Data Analysis, Algebra II, or other mathematics courses above the level of Algebra II. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.

²Courses completed to satisfy this requirement shall include course selections from at least two different science disciplines: earth sciences, biology, chemistry, or physics, or completion of the sequence of science courses required for the International Baccalaureate Diploma. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.

³Courses completed to satisfy this requirement shall include U.S. and Virginia History, U.S. and Virginia Government, and one course in either world history or geography or both. The board shall approve courses to satisfy this requirement.

⁴Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.

⁵A student may utilize additional tests for earning verified credit in computer science, technology, career and technical education, economics or other areas as prescribed by the board in 8VAC20-131-110.

⁶Students who complete a career and technical education program sequence and pass an examination or occupational competency assessment in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, or trade or professional association, or [~~acquires acquire~~] a professional license in a career and technical education field from the Commonwealth of Virginia may substitute the certification, competency credential, or license for (i) the student-selected verified credit and (ii) either a science or history and social science verified credit when the certification, license, or credential confers more than one verified credit. The examination or occupational competency assessment must be approved by the Board of Education board as an additional test to verify student achievement.

⁷Pursuant to § 22.1-253.13:4 of the Code of Virginia, credits earned for this requirement shall include one credit in fine or performing arts or career and technical education. Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical education course credit.

⁸Students shall earn a career and technical education credential approved by the Board of Education, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.

⁹Students shall successfully complete one virtual course, which may be a noncredit-bearing course or a required or elective credit-bearing course that is offered online.

Beginning with first-time ninth-grade students in the 2016-2017 school year, students shall be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an Individualized Education Program (IEP) or 504 Plan [~~which that~~] documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-350 8VAC20-131-420 B.

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3. The Board of Education board shall establish, through guidelines, credit accommodations to the standard and verified credit requirements for a Standard Diploma. Such credit accommodations for students with disabilities may include:

- a. Approval of alternative courses to meet the standard credit requirements;
- b. Modifications to the requirements for local school divisions to award locally awarded verified credits;
- c. Approval of additional tests to earn a verified credit;
- d. Adjusted cut scores required to earn verified credit; and
- e. Allowance of work-based learning experiences.

The student's Individualized Education Program (IEP) IEP or 504 Plan would shall specify any credit accommodations that would be are applicable for the student.

Students completing the requirements for the Standard Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

C. Requirements for an Advanced Studies Diploma.

1. Beginning with the ninth-grade class of 2013-2014 and beyond through the ninth-grade class of 2017-2018, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.
2. Credits required for graduation with an Advanced Studies Diploma.

Discipline Area	Standard Units of Credit Required	Verified Credits Required
English	4	2
Mathematics ¹	4	2
Laboratory Science ²	4	2
History and Social Sciences ³	4	2
[Foreign World] Language ⁴	3	
Health and Physical Education	2	
Fine Arts or Career and Technical Education ⁵	1	
Economics and Personal Finance	1	

Electives	3	
Student Selected Test ⁵ ⁶		1
Total ⁶ ⁷	26	9

¹Courses completed to satisfy this requirement shall include at least three different course selections from among: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra II. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.

²Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of science courses required for the International Baccalaureate Diploma. The board shall approve additional courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.

³Courses completed to satisfy this requirement shall include U.S. and Virginia History, U.S. and Virginia Government, and two courses in either world history or geography or both. The board shall approve additional courses to satisfy this requirement.

⁴Courses completed to satisfy this requirement shall include three years of one language or two years of two languages.

⁵Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical education course credit.

⁶A student may utilize additional tests for earning verified credit in computer science, technology, career or technical education, economics or other areas as prescribed by the board in 8VAC20-131-110.

⁷Students shall successfully complete one virtual course, which may be a noncredit-bearing course, or may be a course required to earn this diploma that is offered online.

Students completing the requirements for the Advanced Studies Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

Beginning with first-time ninth-grade students in the 2016-2017 school year, students shall be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an Individualized Education Program (IEP) IEP or 504 Plan which that documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-350 8VAC20-131-420 B.

D. In accordance with the requirements of the Standards of Quality, students with disabilities who complete the requirements of their Individualized Education Program (IEP) IEP and do not meet the requirements for other diplomas shall be awarded Applied Studies Diplomas.

E. In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board but do not qualify for a Standard Diploma, an Advanced Studies Diploma, or an

Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

F. In accordance with the provisions of the compulsory attendance law and 8VAC20-30, Regulations Governing Adult High School Programs, students who do not qualify for diplomas may earn a high school equivalency credential.

G. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and that the value of such a diploma is not affected in any way by the accreditation status of the student's school.

H. Awards for exemplary student performance. Students who demonstrate academic excellence ~~and/or or~~ outstanding achievement may be eligible for one or more of the following awards:

1. ~~Students The Governor's Seal shall be awarded to students~~ who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better, and successfully complete college-level coursework that will earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses ~~shall receive the Governor's Seal on the diploma.~~

2. ~~Students The Board of Education Seal shall be awarded to students~~ who complete the requirements for a Standard Diploma or an Advanced Studies Diploma with an average grade of "A" ~~shall receive a Board of Education Seal on the diploma.~~

3. The Board of Education's Career and Technical Education Seal ~~will shall~~ be awarded to students who earn a Standard Diploma or an Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses; or (i) pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade or professional association or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The ~~Board of Education board~~ shall approve all professional licenses and examinations used to satisfy these requirements.

4. The Board of Education's Seal of Advanced Mathematics and Technology ~~will shall~~ be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) satisfy all of the mathematics requirements for the Advanced Studies Diploma (four units of credit including Algebra II; two

verified units of credit) with a "B" average or better; and (ii) either (a) pass an examination in a career and technical education field that confers certification from a recognized industry, ~~or~~ trade, or professional association; (b) acquire a professional license in a career and technical education field from the Commonwealth of Virginia; or (c) pass an examination approved by the board that confers college-level credit in a technology or computer science area. The ~~Board of Education board~~ shall approve all professional licenses and examinations used to satisfy these requirements.

5. The Board of Education's Seal for Excellence in Civics Education ~~will shall~~ be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) complete Virginia and United States History ~~history~~ and Virginia and United States Government ~~government~~ courses with a grade of "B" or higher; (ii) have good attendance and no disciplinary infractions as determined by local school board policies; and (iii) complete 50 hours of voluntary participation in community service or extracurricular activities. Activities that ~~would~~ satisfy the requirements of clause (iii) of this subdivision include: (a) volunteering for a charitable or religious organization that provides services to the poor, sick, or less fortunate; (b) participating in Boy Scouts, Girl Scouts, or similar youth organizations; (c) participating in JROTC; (d) participating in political campaigns or government internships, or Boys State, Girls State, or Model General Assembly; or (e) participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation ~~will shall~~ be deemed to have met this community service requirement.

6. The Board of Education's Seal of Biliteracy ~~will shall~~ be awarded to students who demonstrate proficiency in English and at least one other language and meet additional criteria established by the board. Such seal ~~will shall~~ be awarded to eligible students graduating from public high schools in the Commonwealth beginning in 2016.

7. Students may receive other seals or awards for exceptional academic, career and technical, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

I. Students completing graduation requirements in a summer school program shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

J. Students who complete Advanced Placement courses, college-level courses, or courses required for an International Baccalaureate Diploma shall be deemed to have completed the requirements for graduation under these standards provided they have earned the standard units of credit and earned verified units of credit in accordance with the

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requirements for the Standard Diploma and the Advanced Studies Diploma, as specified in subsections B and C of this section.

K. Students shall be counseled annually regarding the opportunities for using additional tests for earning verified credits, as provided in accordance with the provisions of 8VAC20-131-110, and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.

8VAC20-131-51. Requirements for graduation (effective with the students who enter the ninth grade in the 2018-2019 school year).

A. The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.

Both the Standard Diploma and the Advanced Studies Diploma shall provide multiple paths toward college, career, and citizenship readiness for students to follow in the later years of high school. Each such pathway shall provide meaningful and rigorous opportunities tied to instruction to achieve workplace and citizenship skills through [experiences such as] internships, externships, credentialing, and blended learning, which may be offered for credit toward high school graduation [in accordance with department guidelines].

In accordance with the Profile of a Virginia Graduate approved by the board, the instructional program leading to a Standard Diploma or Advanced Studies Diploma shall ensure that students (i) attain the knowledge, skills, competencies, and experiences necessary to be successful in the evolving global economy whether immediately entering the world of work or pursuing a postsecondary education and (ii) acquire and be able to demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship.

When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for graduation provided the courses are equivalent in content and academic rigor as those courses offered at the secondary level. To earn a verified unit of credit for these courses, students must meet the requirements of 8VAC20-131-110.

The requirements in this section shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the board. All additional requirements prescribed by local school boards that have been approved by the board remain in effect until such time as the local school board submits a request to the board to amend or discontinue them.

B. Requirements for a Standard Diploma.

1. Beginning with the ninth-grade class of 2018-2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with a Standard Diploma.

A "standard unit of credit" or "standard credit" is a 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 and in accordance with board guidelines.

A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test, as defined in 8VAC20-131-5 as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; (iv) meets the criteria for the receipt of a verified credit for history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 4; or (v) meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on authentic performance assessments as provided in 8VAC20-131-110 B 5.

No more than one locally awarded verified credit may be used to satisfy these requirements, except as provided in subdivision 3 of this subsection for credit accommodations for students with disabilities.

<u>Discipline Area</u>	<u>Standard Units of Credit Required</u>	<u>Verified Credits Required</u>
English (reading and writing)	4	2
Mathematics	3	1
Laboratory Science	3	1
History and Social Science	3	1
Health and Physical Education	2	

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<u>World Language, Fine Arts or Career and Technical Education</u>	<u>2</u>	
<u>Economics and Personal Finance</u>	<u>1</u>	
<u>Electives</u>	<u>4</u>	
<u>Total</u>	<u>22</u>	<u>5</u>
<u>Discipline Area</u>	<u>Specifications</u>	
[<u>English (reading and writing)</u>]	[<u>The board shall approve courses to satisfy this requirement.</u>]	
<u>Mathematics</u>	<p>Courses completed to satisfy this requirement shall include at least two different course selections from among: algebra I, geometry, algebra functions, and data analysis, algebra II, or other mathematics courses approved by the board to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.</p>	
<u>Laboratory Science</u>	<p>Courses completed to satisfy this requirement shall include course selection from at least two different science disciplines: earth sciences, biology, chemistry, or physics, or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.</p>	
<u>History and Social Science</u>	<p>Courses completed to satisfy this requirement shall include Virginia and U.S. history, Virginia and U.S. government, and one course in either world history or geography or both. The board shall approve courses to satisfy this requirement.</p>	
<u>World Language, Fine Arts or Career and Technical Education</u>	<p>Students who complete a career and technical education program sequence and pass an examination or occupational competency assessment in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, or trade or professional association, or acquires a professional license in a career and technical education field from the Commonwealth of Virginia may substitute the certification, competency credential, or license for either a laboratory science or history and social science verified credit when the certification, license, or credential confers more than one verified credit. The examination or occupational competency assessment must be approved by the board as an additional test to verify student achievement.</p>	
<u>Electives</u>	<p>Per the Standards of Quality, credits earned for this requirement shall include one credit in fine or performing arts or career and technical education. Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical course credit.</p>	

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Additional Requirements for Graduation	
<u>Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential</u>	<p><u>In accordance with the Standards of Quality, students shall either (i) complete an Advanced Placement, honors, or International Baccalaureate course, or (ii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.</u></p>
<u>Virtual Course</u>	<p><u>Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.</u></p>
<u>Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED)</u>	<p><u>Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an IEP or 504 Plan that documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-420 B.</u></p>
<u>Demonstration of the five Cs</u>	<p><u>Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.</u></p>

3. The board shall establish through guidelines credit accommodations to the standard and verified credit requirements for a Standard Diploma. Such credit accommodations for students with disabilities may include:
 - a. Approval of alternative courses to meet the standard credit requirements;
 - b. Modifications to the requirements for local school divisions to award locally awarded verified credits;
 - c. Approval of additional tests to earn a verified credit;
 - d. Adjusted cut scores required to earn verified credit; and
 - e. Allowance of work-based learning experiences.

The student's IEP or 504 Plan shall specify any credit accommodations applicable for the student.

Students completing the requirements for the Standard Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

C. Requirements for an Advanced Studies Diploma.

1. Beginning with the ninth-grade class of 2018-2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with an Advanced Studies Diploma.

A "standard unit of credit" or "standard credit" is a 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 and in accordance with board guidelines.

A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test, as defined in 8VAC20-131-5, as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; (iv) meets the criteria for the receipt of a verified credit for history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 4; or (v) meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 5.

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No more than one locally awarded verified credit may be used to satisfy these requirements.

<u>Discipline Area</u>	<u>Standard Units of Credit Required</u>	<u>Verified Credits Required</u>
<u>English (reading and writing)</u>	<u>4</u>	<u>2</u>
<u>Mathematics</u>	<u>4</u>	<u>1</u>
<u>Laboratory Science</u>	<u>4</u>	<u>1</u>
<u>History and Social Science</u>	<u>4</u>	<u>1</u>
<u>World Language</u>	<u>3</u>	
<u>Health and Physical Education</u>	<u>2</u>	
<u>Fine Arts or Career and Technical Education</u>	<u>1</u>	
<u>Economics and Personal Finance</u>	<u>1</u>	
<u>Electives</u>	<u>3</u>	
<u>Total</u>	<u>26</u>	<u>5</u>

<u>Discipline Area</u>	<u>Specifications</u>
[<u>English (reading and writing)</u>]	[<u>The board shall approve courses to satisfy this requirement.</u>]
<u>Mathematics</u>	<u>Courses completed to satisfy this requirement shall include at least three different course selections from among: algebra I, geometry, algebra II, or other mathematics courses above the level of algebra II. The board shall approve courses to satisfy this requirement.</u> <u>Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.</u>
<u>Laboratory Science</u>	<u>Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of</u>

<u>science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve additional courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.</u>
<u>History and Social Science</u>
<u>Courses completed to satisfy this requirement shall include Virginia and U.S. history, Virginia and U.S. government, and two courses in either world history or geography or both. The board shall approve additional courses to satisfy this requirement.</u>
<u>World Language</u>
<u>Courses completed to satisfy this requirement shall include three years of one language or two years of two languages.</u>
<u>Fine Arts or Career and Technical Education</u>
<u>Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical credit.</u>
<u>Electives</u>
<u>[Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.]</u>

<u>Additional Requirements for Graduation</u>	
<u>Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential</u>	<u>In accordance with the Standards of Quality, students shall either (i) complete an Advanced Placement, honors, or International Baccalaureate course or (ii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive</u>

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	<p><u>satisfactory competency-based instruction in the subject area to satisfy the advanced studies diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.</u></p>
<u>Virtual Course</u>	<p><u>Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.</u></p>
<u>Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED).</u>	<p><u>Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an IEP or 504 Plan that documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-420 B.</u></p>
<u>Demonstration of the five Cs</u>	<p><u>Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.</u></p>

D. Requirements for an Applied Studies Diploma. In accordance with the requirements of the Standards of Quality, a student with disabilities who completes the requirements of the student's IEP and does not meet the requirements for other diplomas shall be awarded Applied Studies Diplomas in accordance with state and federal laws and regulations regarding special education.

Students who pursue an Applied Studies Diploma shall be allowed to pursue a Standard Diploma or an Advanced Studies Diploma at any time during high school. Such students shall not be excluded from courses or tests required to earn these diplomas.

E. Requirements for Certificates of Program Completion. In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board but do not qualify for a

Standard Diploma, an Advanced Studies Diploma, or an Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

F. In accordance with the provisions of the compulsory attendance law and 8VAC20-30, Regulations Governing Adult High School Programs, students who do not qualify for diplomas may earn a high school equivalency credential. The requirements for the General Achievement [Adult High School] Diploma are provided in [8VAC20-20 8VAC20-30-20].

G. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and that the value of such a diploma is not affected in any way by the accreditation status of the student's school.

H. Awards for exemplary student performance. Students who demonstrate academic excellence and outstanding achievement may be eligible for one or more of the following awards:

1. The Governor's Seal shall be awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better and successfully complete college-level coursework that shall earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses.

2. The Board of Education Seal shall be awarded to students who complete the requirements for a Standard Diploma or an Advanced Studies Diploma with an average grade of "A."

3. The Board of Education's Career and Technical Education Seal shall be awarded to students who earn a Standard Diploma or an Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses or (i) pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade, or professional association or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The board shall approve all professional licenses and examinations used to satisfy these requirements.

4. The Board of Education's Seal of Advanced Mathematics and Technology shall be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) satisfy all of the mathematics

requirements for the Advanced Studies Diploma with a "B" average or better and (ii) pass an examination in a career and technical education field that confers certification from a recognized industry, or trade or professional association; acquire a professional license in a career and technical education field from the Commonwealth of Virginia; or pass an examination approved by the board that confers college-level credit in a technology or computer science area. The board shall approve all professional licenses and examinations used to satisfy these requirements.

5. The Board of Education's Seal for Excellence in Civics Education shall be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) complete Virginia and United States history and Virginia and United States government courses with a grade of "B" or higher; (ii) have good attendance and no disciplinary infractions as determined by local school board policies; and (iii) complete 50 hours of voluntary participation in community service or extracurricular activities. Activities that satisfy the requirements of clause (iii) of this subdivision include (a) volunteering for a charitable or religious organization that provides services to the poor, sick, or less fortunate; (b) participating in Boy Scouts, Girl Scouts, or similar youth organizations; (c) participating in JROTC; (d) participating in political campaigns or government internships, or Boys State, Girls State, or Model General Assembly; or (e) participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation shall be deemed to have met this community service requirement.

6. The Board of Education's Seal of Biliteracy shall be awarded to students who demonstrate proficiency in English and at least one other language and meet additional criteria established by the board.

7. The Board of Education's Seal for Excellence in Science and the Environment shall be awarded to students who earn either a Standard Diploma or Advanced Studies Diploma and (i) complete at least three different first-level board-approved laboratory science courses and at least one rigorous advanced-level or postsecondary-level laboratory science course, each with a grade of "B" or higher; (ii) complete laboratory or field-science research and present that research in a formal, juried setting; and (iii) complete at least 50 hours of voluntary participation in community service or extracurricular activities that involve the application of science such as environmental monitoring, protection, management, or restoration.

8. Students may receive other seals or awards for exceptional academic, career and technical, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

I. Students completing graduation requirements in a summer school program shall be eligible for a diploma. The last

school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

J. Students who complete Advanced Placement courses, college-level courses, or courses required for an International Baccalaureate Diploma shall be deemed to have completed the course requirements for graduation under these standards provided they have earned the total number of standard units of credit and verified units of credit in each discipline area in accordance with the requirements for the Standard Diploma and the Advanced Studies Diploma, as specified in subsections B and C of this section.

K. Students shall be counseled annually regarding the opportunities for using additional tests for earning verified credits, as provided in accordance with the provisions of 8VAC20-131-110, and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.

8VAC20-131-60. Transfer students.

A. The provisions of this section pertain generally to students who transfer into Virginia high schools. Students transferring in grades K-8 kindergarten through 8 from Virginia public schools or nonpublic schools accredited by one of the approved accrediting constituent members of the Virginia Council for Private Education (VCPE) shall be given recognition for all grade-level work completed. The academic record of students transferring from all other schools shall be evaluated to determine appropriate grade placement in accordance with policies adopted by the local school board. The State Testing Identifier (STI) for students who transfer into a Virginia public school from another Virginia public school shall be retained by the receiving school.

B. For the purposes of this section, the term "beginning" means within the first 20 hours of instruction per course. The term "during" means after the first 20 hours of instruction per course.

C. Standard or verified units of credit earned by a student in a Virginia public school shall be transferable without limitation regardless of the accreditation status of the Virginia public school in which the credits were earned. Virginia public schools shall accept standard and verified units of credit from other Virginia public schools, Virginia's virtual learning program, Virtual Virginia, and state-operated programs. Standard units of credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted or the student has been given credit by the previous school attended.

D. A secondary school shall accept credits toward graduation received from Virginia nonpublic schools accredited by one of the approved accrediting constituent members of the Virginia Council for Private Education (VCPE). The Board of Education will board shall maintain contact with the VCPE and may periodically review

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its accrediting procedures and policies as part of its policies under this section.

Nothing in these standards shall prohibit a public school from accepting standard units of credit toward graduation awarded to students who transfer from all other schools when the courses for which the student receives credit generally match the description of or can be substituted for courses for which the receiving school gives standard credit, and the school from which the child transfers certifies that the courses for which credit is given meet the requirements of 8VAC20-131-110 A.

~~Students transferring into a Virginia public school shall be required to meet the requirements prescribed in 8VAC20-131-50 to receive a Standard Diploma or an Advanced Studies Diploma, except as provided by subsection G of this section. To receive an Applied Studies Diploma or Certificate of Program Completion, a student must meet the requirements prescribed by the Standards of Quality.~~

E. The academic record of a student transferring from other Virginia public schools shall be sent directly to the school receiving the student upon request of the receiving school in accordance with the provisions of the 8VAC20-150, Management of the Student's Scholastic Record in the Public Schools of Virginia. The State Testing Identifier (STI) for students who transfer into a Virginia public school from another Virginia public school shall be retained by the receiving school.

F. The academic record of a student transferring into Virginia public schools from other than a Virginia public school shall be evaluated to determine the number of standard units of credit that have been earned, including credit from schools outside the United States, and the number of verified units of credit needed to graduate in accordance with subsection G of this section. Standard units of credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when the student has been given credit by the previous school attended.

Students transferring above the tenth grade from schools or other education programs that do not require or give credit for health and physical education shall not be required to take these courses to meet graduation requirements.

~~Students transferring into a Virginia public school from other than a Virginia public school shall earn no fewer than the number of verified units listed in subdivision G 1 or G 2 of this section. The school division shall accept the following tests from the sending state, country, private school, or Department of Defense Educational Activity school for the purpose of awarding verified units of credit in courses previously completed at another school or program of study, for the purpose of awarding a Virginia high school diploma:~~

1. End-of-course tests required for graduation by the sending state:

2. Exit tests required for graduation by the sending state; and

3. National norm-referenced achievement tests. When students transfer to a Virginia public school from a state that requires a national norm-referenced achievement test, and that state education agency has set a "cut score" or passing score for the purpose of graduation, the school division shall accept the test for the purpose of awarding a verified credit if the test includes some content in a subject for which a verified credit may be awarded. If that state education agency has not set a cut score for the norm-referenced test, the test may not be used for the purpose of awarding a verified credit or earning a high school diploma.

Any substitute test approved by the board for verified credit shall be accepted in lieu of the applicable SOL tests if the applicable standard credit has been earned by the student.

The sending state's test must include content in the subjects for which verified credit is awarded. The test does not have to be comparable to a Virginia SOL test, so long as the test includes some content in the subject area. If the test includes some content from more than one subject, verified credits shall be awarded for every subject area covered by the test.

G. Students entering a Virginia public high school for the first time after the tenth grade shall earn as many credits as possible toward the prescribed graduation requirements prescribed in 8VAC20-131-50. However, schools may substitute courses required in other states in the same content area if the student is unable to meet the specific content requirements of 8VAC20-131-50 or 8VAC20-131-51, respectively, without taking a heavier than normal course load in any semester, by taking summer school, or by taking courses after the time when ~~he~~ the student otherwise would have graduated. ~~In any event, no such student shall earn fewer than the following number of verified units, nor shall such students be required to take SOL tests or additional tests as defined in 8VAC20-131-110 for verified units of credit in courses previously completed at another school or program of study, unless necessary to meet the requirements listed in subdivisions 1 and 2 of this subsection:~~

The graduation requirements for students transferring into a Virginia high school for the first time shall be as follows:

1. For a Standard Diploma:

a. Students entering a Virginia high school for the first time at the beginning of or during the ninth grade or at the beginning of the tenth grade prior to the 2018-2019 school year shall earn credit as meet the graduation requirements prescribed in 8VAC20-131-50;. Students entering a Virginia high school for the first time at the beginning of or during the ninth grade in the 2018-2019 school year or thereafter shall meet the graduation requirements prescribed in 8VAC20-131-51.

b. Students entering a Virginia high school for the first time at the beginning of or during the tenth grade prior to the 2019-2020 school year or at the beginning of the eleventh grade prior to the 2020-2021 school year shall meet the graduation requirements prescribed in 8VAC20-131-50, except that such students shall only be required to earn a minimum of four verified units of credit: one each in English, mathematics, history, and science. Students who complete a career and technical education program sequence may substitute a certificate, occupational competency credential or license for either a science or history and social science verified credit pursuant to 8VAC20-131-50; and entering a Virginia high school for the first time at the beginning of or during the tenth grade in the 2019-2020 school year or thereafter or at the beginning of the eleventh grade in the 2020-2021 school year or thereafter, shall meet the graduation requirements prescribed in 8VAC20-131-51.

c. Students entering a Virginia high school for the first time during the eleventh grade prior to the 2020-2021 school year or at the beginning of the twelfth grade prior to the 2021-2022 school year shall meet the graduation requirements prescribed in 8VAC20-131-50, except that such students shall only be required to earn a minimum of two verified units of credit: one in English and one in mathematics if participation in mathematics testing is required by federal law, otherwise, such verified credit may be of the student's own choosing. Students entering a Virginia high school for the first time during the eleventh grade in the 2020-2021 school year or thereafter, or at the beginning of twelfth grade in the 2021-2022 school year or thereafter, shall meet the graduation requirements prescribed in 8VAC20-131-51, except that such students shall only be required to earn a minimum of two verified units of credit: one in English and one in mathematics if participation in mathematics testing is required by federal law, otherwise, such verified credit may be of the student's own choosing.

d. Students transferring after 20 instructional hours per course of their senior or twelfth grade year shall be given every opportunity to earn a diploma following the graduation requirements prescribed in 8VAC20-131-50 for students entering prior to the 2021-2022 school year, or following the graduation requirements prescribed in 8VAC20-131-51 for students entering in the 2021-2022 school year or thereafter. If it is not possible for the student to meet the requirements for a diploma, arrangements should be made for the student's previous school to award the diploma. If these arrangements cannot be made, a waiver of the verified unit of credit requirements may be available to the student. The Department of Education may grant such waivers upon request by the local school board in accordance with guidelines prescribed by the board.

2. For an Advanced Studies Diploma:

a. Students entering a Virginia high school for the first time at the beginning of or during the ninth grade or at the beginning of the tenth grade prior to the 2018-2019 school year shall earn credit as prescribed in 8VAC20-131-50. Students entering a Virginia high school for the first time at the beginning of or during the ninth grade in the 2018-2019 school year or thereafter shall earn credit as prescribed in 8VAC20-131-51.

b. Students entering a Virginia high school for the first time at the beginning of or during the tenth grade prior to the 2019-2020 school year or at the beginning of the eleventh grade prior to the 2020-2021 school year shall meet the graduation requirements prescribed in 8VAC20-131-50, except that such students shall only be required to earn a minimum of six verified units of credit: two in English and one each in mathematics, history, and science and one of the student's own choosing; and, Students entering a Virginia high school for the first time [at the beginning of or] during the tenth grade in the 2019-2020 school year or thereafter or at the beginning of the eleventh grade in the 2020-2021 school year or thereafter shall earn credit as prescribed in 8VAC20-131-51.

c. Students entering a Virginia high school for the first time during the eleventh grade prior to the 2020-2021 school year or at the beginning of the twelfth grade prior to the 2021-2022 school year shall meet the graduation requirements prescribed in 8VAC20-131-50, except that such students shall only be required to earn a minimum of four verified units of credit: one in English and three, one in mathematics if required participation in mathematics testing is required by federal law, otherwise such verified credit may be of the student's own choosing, and two additional verified credits of the student's own choosing. Students entering a Virginia high school for the first time during the eleventh grade in the 2020-2021 school year or thereafter, or at the beginning of the twelfth grade in the 2021-2022 school year or thereafter, shall meet the graduation requirements prescribed in 8VAC20-131-51, except that such students shall only be required to earn a minimum of two verified units of credit: one in English, and one in mathematics if required participation in mathematics testing is required by federal law, otherwise such verified credit may be of the student's own choosing.

d. Students transferring after 20 instructional hours per course of their senior or twelfth grade year shall be given every opportunity to earn a diploma following the graduation requirements prescribed in 8VAC20-131-50 for students entering prior to the 2021-2022 school year, or following the graduation requirements prescribed in 8VAC20-131-51 for students entering in the 2021-2022 school year or thereafter. If it is not possible for the

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student to meet the requirements for a diploma, arrangements should be made for the student's previous school to award the diploma. If these arrangements cannot be made, a waiver of the verified unit of credit requirements may be available to the student. The Department of Education may grant such waivers upon request by the local school board in accordance with guidelines prescribed by the board.

3. For an Applied Studies Diploma: In accordance with the requirements of the Standards of Quality, students with disabilities who complete the requirements of their Individualized Education Plan and do not meet the requirements for other diplomas shall be awarded Applied Studies Diplomas in accordance with state and federal laws and regulations regarding special education.

Students who pursue an Applied Studies Diploma shall be allowed to pursue a Standard Diploma or an Advanced Studies Diploma at any time during high school. Such students shall not be excluded from courses or tests required to earn these diplomas.

4. For a Certificate of Program Completion: In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board, but do not qualify for a Standard Diploma, an Advanced Studies Diploma, or an Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

H. Students entering a Virginia high school for the first time after the first semester of their eleventh grade year must meet the requirements of subdivision G 1 c or G 2 c of this section. Students transferring after 20 instructional hours per course of their senior or twelfth grade year shall be given every opportunity to earn a Standard Diploma or an Advanced Studies Diploma. If it is not possible for the student to meet the requirements for a diploma, arrangements should be made for the student's previous school to award the diploma. If these arrangements cannot be made, a waiver of the verified unit of credit requirements may be available to the student. The Department of Education may grant such waivers upon request by the local school board in accordance with guidelines prescribed by the Board of Education.

I. H. Any local school division receiving approval to increase its course credit requirements for a diploma may not deny either the Standard Diploma or the Advanced Studies Diploma to any transfer student who has otherwise met the requirements contained in these standards if the transfer student can only meet the division's additional requirements by taking a heavier than normal course load in any semester, by taking summer school, or by taking courses after the time when he the student otherwise would have graduated.

J. I. The transcript of a student who graduates or transfers from a Virginia secondary school shall conform to the

requirements of 8VAC20-160, Regulations Governing Secondary School Transcripts.

K. J. The accreditation status of a high school shall not be included on the student transcript provided to colleges, universities, or employers. The board expressly states that any student who has met the graduation requirements established in 8VAC20-131-50 and has received a Virginia diploma holds a diploma that should be recognized as equal to any other Virginia diploma of the same type, regardless of the accreditation status of the student's high school. It is the express policy of the board that no student shall be affected by the accreditation status of the student's school. The board shall take appropriate action, from time to time, to ensure that no student is affected by the accreditation status of the student's school.

Part IV School Instructional Program

8VAC20-131-70. Program of instruction and learning objectives.

A. As required by the Standards of Quality, each local school board shall develop and implement a program of instruction for grades kindergarten through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the board. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, [foreign world] languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

B. As described in 8VAC20-131-51 and in accordance with the Profile of a Virginia Graduate approved by the board, the instructional program and learning objectives shall ensure that students (i) attain the knowledge, skills, competencies, and experiences necessary to be successful in the evolving global economy whether immediately entering the world of work or pursuing a postsecondary education and (ii) acquire and be able to demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship. Consistent with the Profile of a Virginia Graduate, the instructional program and learning objectives shall ensure that, as age appropriate, during the kindergarten through grade 12 experience, students achieve and apply

appropriate career development and technical knowledge. During the elementary and middle school years, students shall explore personal interests, be exposed to different types of careers, and plan for career development. In the later school years students are to attain and demonstrate productive workplace skills, qualities, and behaviors; align knowledge, skills, and personal interests with career opportunities; and understand and demonstrate civic responsibility and community engagement.

A. C. Each school shall provide a program of instruction that promotes individual student academic achievement in the essential academic disciplines and shall provide additional instructional opportunities that meet the abilities, interests, and educational needs of students. Each school shall establish learning objectives to be achieved by students at successive grade levels that meet or exceed the knowledge and skills contained in the Standards of Learning for English, mathematics, science, and history/social history and social science adopted by the board and shall continually assess the progress of each student in relation to the objectives.

B. D. Instruction 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/talented gifted or talented, and those who have limited English proficiency are ELs. Each school shall provide students identified as gifted/talented with instructional programs taught by teachers with special training or experience in working with gifted/talented students. Students with disabilities shall have the opportunity to receive a full continuum of education services, in accordance with 8VAC20-80 8VAC20-81, Regulations Governing Special Education Programs for Children with Disabilities in Virginia and other pertinent federal and state laws and regulations.

8VAC20-131-80. Instructional program in elementary schools.

A. The elementary school shall provide each student a program of instruction that corresponds to the Standards of Learning for English, mathematics, science, and history/social history and social science. In addition, each school shall provide instruction in art, music, and physical education and health and shall require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the Board of Education board. In addition, each school shall provide instruction in career exploration in accordance with the provisions of 8VAC20-131-140.

B. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program. Schools shall maintain an early skills and knowledge achievement record in reading and mathematics for each student in grades kindergarten through grade 3 to monitor student progress and to promote successful

achievement on the third grade SOL tests. This record shall be included with the student's records if the student transfers to a new school.

In accordance with the Standards of Quality, local school boards shall implement early identification, diagnosis, and assistance for students with reading and mathematics problems and provide instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

C. To provide students with sufficient opportunity to learn, a minimum of 75% of the annual instructional time of 990 hours shall be given to instruction in the disciplines of English, mathematics, science, and history/social history and social science. Students who are not successfully progressing in early reading proficiency or who are unable to read with comprehension the materials used for instruction shall receive additional instructional time in reading, which may include summer school.

In accordance with the Standards of Quality, local school divisions shall provide reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on the SOL reading test or any reading diagnostic test that meets criteria established by the Department of Education. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade 3 to grade 4.

D. Elementary schools are encouraged to provide instruction in foreign world languages.

8VAC20-131-90. Instructional program in middle schools.

A. The middle school shall provide each student a program of instruction which that corresponds to the Standards of Learning for English, mathematics, science, and history/social history and social science. In addition, each school shall provide instruction in art, music, foreign world language, physical education and health, and career and technical exploration and shall require students to participate in a program of physical fitness during the regular school year in accordance with guidelines established by the Board of Education board. Each middle school shall provide a course in career investigation in accordance with the provisions of 8VAC20-131-140. School divisions may seek alternate means of delivering the career investigation course content provided it is equivalent in content and rigor and provides the foundation [for] students to develop their academic and career plans as described in 8VAC20-131-140 C 2. Possible alternative means to deliver the career investigation course content could include online methods, middle school exploratory course options, and delivering the course content through other courses.

B. The middle school shall provide a minimum of eight courses to students in the eighth grade. English, mathematics, science, and history/social history and social science shall be required. Four elective courses shall be available: level one of

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a foreign world language, one in health and physical education, one in fine arts, and one in career and technical exploration.

C. Level one of a foreign world language and an Algebra I course shall be available to all eighth grade students. For any high school credit-bearing course taken in middle school, parents may request that grades be omitted from the student's transcript and the student not earn high school credit for the course in accordance with policies adopted by the local school board. Notice of this provision must be provided to parents with a deadline and format for making such a request. Nothing in these regulations this chapter shall be construed to prevent a middle school from offering any other credit-bearing courses for graduation.

D. To provide students a sufficient opportunity to learn, each student shall be provided ~~140 clock~~ a total of 560 instructional hours per year ~~of instruction in each of in~~ the four academic disciplines of English, mathematics, science, and history/social history and social science. ~~Sixth-grade~~ students may receive an alternative schedule of instruction provided each student receives at least 560 total ~~clock~~ instruction hours in the four academic disciplines.

E. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading, which may include summer school.

F. In accordance with the Standards of Quality each school shall ensure that students in grades 6 through 8 who need targeted mathematics remediation and intervention, including remediation or intervention for computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level SOL mathematics test, shall receive additional instruction in mathematics, which may include summer school. Students in grades 6 through 8 who are at-risk of failing the algebra I end-of-course test shall be provided algebra readiness intervention services.

8VAC20-131-100. Instructional program in secondary schools.

A. The secondary school, in accordance with the Profile of a Virginia Graduate approved by the board, shall provide a program of instruction to ensure that students (i) attain the knowledge, skills, competencies, and experiences necessary to be successful in the evolving global economy whether immediately entering the world of work or pursuing a postsecondary education and (ii) acquire and be able to demonstrate foundational skills in critical thinking and creative thinking, collaboration, communication, and citizenship in accordance with 8VAC20-131-70 and the Profile of a Virginia Graduate.

The secondary school shall provide each student a program of instruction in the four core academic areas of English, mathematics, science, and history/social history and social science that identifies the knowledge and skills that students should attain, giving due consideration to critical thinking.

creative thinking, collaboration, communication, and citizenship, in the early years of high school and enables each student to meet the prescribed graduation requirements described in 8VAC20-131-50 and, The secondary school shall offer opportunities for students each student [to] pursue a program of studies in foreign languages, fine arts, and career and technical areas [, including include]:

1. Career and technical education choices that incorporate knowledge of regional workforce needs and opportunities; prepare the student as a career and technical education program completer in one of three or more occupational areas; and that prepare the student for technical or preprofessional postsecondary programs;
2. Coursework and experiences that prepare the student for college-level studies including access to at least three Advanced Placement (AP) courses, college-level courses for degree credit, International Baccalaureate (IB) courses, Cambridge courses, or any combination thereof;
3. Preparation for college admissions tests; and
4. Opportunities to study and explore Study and exploration of the fine arts and foreign world languages; and
5. Participation in [work experiences such as] internships, externships, and other work-based learning experiences, and [to] attaining workforce and career readiness and industry credentials.

B. Minimum course offerings for each secondary school shall provide opportunities for students to meet the graduation requirements stated in 8VAC20-131-50 this chapter and must include:

English	4
Mathematics	4
Science (Laboratory)	4
History and Social Sciences Science	4
Foreign World Language	3
Electives	4
Career and Technical Education	11
Fine Arts	2
Health and Physical Education	2
Economics and Personal Finance	1
Total Units	39

C. Classroom driver education may count for 36 class periods, or the equivalent in minutes, of health education. Students shall not be removed from classes other than health and physical education for the in-car phase of driver education.

D. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading, which may include summer school.

E. In accordance with the Standards of Quality, each school shall ensure that students who need targeted mathematics remediation and intervention, including remediation or intervention for computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level SOL mathematics test shall receive additional instruction in mathematics, which may include summer school. Students in grade 9 who are at-risk of failing the algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the department, shall be provided algebra readiness intervention services.

8VAC20-131-110. Standard and verified units of credit.

A. The standard unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and successful completion of the requirements of the course. A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. A school division may waive the requirement that a student receive 140 clock hours of instruction to earn a standard credit, effective with students enrolled in the 2015-2016 school year, as prescribed in the Standards of Quality and board guidelines. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit on a basis other than the 140 clock hours of instruction required for a standard unit of credit defined in this subsection, the local school division shall provide the Board of Education board with satisfactory proof, based on board guidelines, that the students for whom the 140-clock-hour requirement is waived have learned the content and skills included in the relevant Standards of Learning. In addition, the local school division shall develop a written policy approved by the superintendent and school board that ensures:

1. That the content of the course for which credit is awarded is comparable to 140 clock hours of instruction; and
2. That upon completion, the student will have met the aims and objectives of the course have been met.

B. A verified unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction, successful completion of the requirements of the course, and the achievement by the student of a passing score on the end-of-course SOL test for that course or additional tests as described in this subsection. A student may also earn a verified unit of credit by the following methods. A "verified unit of credit" or "verified credit" is a credit awarded for a

course in which a student earns a standard unit of credit [and completes one of the following]:

1. Achieves a passing score on a corresponding end-of-course SOL test. In accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic SOL Standards of Learning course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the Board of Education board.

2. Upon waiver of the 140-clock-hour requirement according to Board of Education board guidelines, qualified students who have received a standard unit of credit will shall be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.

2. Achieves a passing score on an additional test, as defined in 8VAC20-131-5, as a part of the Virginia Assessment Program.

3. Meets the criteria for the receipt of a locally awarded verified credit when the student has not passed a corresponding SOL test.

a. Students who enter the ninth grade for the first time prior to the 2018-2019 school year and do not pass Standards of Learning SOL tests in science or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the Board of Education board. Credit accommodations for students with disabilities may be used to confer locally awarded verified credits as provided in 8VAC20-131-50 B 3.

b. Students who enter the ninth grade for the first time in the 2018-2019 school year or thereafter and do not pass SOL tests in English, mathematics, laboratory science, or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. No more than one locally awarded verified credit may be used to satisfy graduation requirements, except as provided in 8VAC20-131-51 B 3 for students with disabilities seeking a standard diploma.

4. Meets the criteria for the receipt of a verified credit in history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment that complies with guidelines adopted by the board. Such students shall not also be required to take the corresponding SOL test in history and social science.

5. Meets the criteria for the receipt of a verified credit in English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, that complies with guidelines adopted by the

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board. Such students shall not also be required to take the corresponding SOL test in English (writing).

C. The Board of Education board may from time to time approve additional tests for the purpose of awarding verified credit. Such additional tests, which enable students to earn verified units of credit, must, at a minimum, meet the following criteria:

1. The test must be standardized and graded independently of the school or school division in which the test is given;
2. The test must be knowledge based;
3. The test must be administered on a statewide [] multistate [] or international basis, or administered as part of another state's accountability assessment program; and
4. To be counted in a specific academic area, the test must measure content that incorporates or exceeds the SOL Standards of Learning content in the course for which verified credit is given.

The Board of Education will board shall set the score that must be achieved to earn a verified unit of credit on the additional test options.

D. With such funds as are appropriated by the General Assembly, the Board of Education will board shall provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

8VAC20-131-120. Summer school.

A. The courses offered and the quality of instruction in the summer school program shall be comparable to that offered during the regular school term. At the middle and secondary school levels, credit for courses taken for credit toward graduation other than a repeat course shall be awarded in accordance with the requirements of 8VAC20-131-110. Students must also meet the requirements for SOL testing if appropriate.

B. At the middle and secondary school levels, credit for repeat courses ordinarily will be granted on the same basis as that for new courses; however, with prior approval of the principal, students may be allowed to enroll in repeat courses to be completed in no less than 70 clock hours of instruction per unit of credit. Students must also meet the requirements for SOL testing if appropriate.

C. B. Summer school instruction at any level, which is provided as part of a state-funded remedial program, shall be designed to improve specific identified student deficiencies. Such programs shall be conducted in accordance with regulations adopted by the board.

8VAC20-131-140. College and career preparation programs readiness; career exposure, exploration, and planning; and opportunities for postsecondary credit.

Each middle and secondary school shall provide for the early identification and enrollment of students in a college

preparation program with a range of educational and academic experiences in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to attend college.

Beginning in the middle school years, students shall be counseled on opportunities for beginning postsecondary education and opportunities for obtaining industry certifications, occupational competency credentials, or professional licenses in a career and technical education field prior to high school graduation. Such opportunities shall include access to at least three Advanced Placement courses or three college level courses for degree credit pursuant to 8VAC20-131-100. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit (dual enrollment), under the following conditions:

1. Written approval of the high school principal prior to participation in dual enrollment must be obtained;
2. The college must accept the student for admission to the course or courses; and
3. The course or courses must be given by the college for degree credits (no remedial courses will be accepted).

Schools that comply with this standard shall not be penalized in receiving state appropriations.

Beginning with the 2013-2014 academic year, all schools shall begin development of a personal Academic and Career Plan for each seventh grade student with completion by the fall of the student's eighth grade year. Students who transfer from other than a Virginia public school into the eighth grade shall have the Plan developed as soon as practicable following enrollment. Beginning with the 2014-2015 academic year, students who transfer into a Virginia public school after their eighth grade year shall have an Academic and Career Plan developed upon enrollment. The components of the Plan shall include, but not be limited to, the student's program of study for high school graduation and a postsecondary career pathway based on the student's academic and career interests. The Academic and Career Plan shall be developed in accordance with guidelines established by the Board of Education and signed by the student, student's parent or guardian, and school official(s) designated by the principal. The Plan shall be included in the student's record and shall be reviewed and updated, if necessary, before the student enters the ninth and eleventh grades. The school shall have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the Plan. Any personal academic and career plans prescribed by local school boards for students in grades 7 through 12 and in effect as of June 30, 2009, are approved to continue without further action by the board.

A. Each middle and secondary school shall provide for the early identification and enrollment of students in a program with a range of educational and academic experiences related to college and career readiness in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to prepare for a career or postsecondary education.

B. Beginning with the 2013-2014 academic year and through the 2017-2018 academic year:

1. All schools shall begin development of a personal Academic and Career Plan (ACP) for each seventh-grade student with completion by the fall of the student's eighth-grade year. Students who transfer from other than a Virginia public school into the eighth grade shall have the plan developed as soon as practicable following enrollment. Beginning with the 2014-2015 academic year, students who transfer into a Virginia public school after their eighth-grade year shall have an ACP developed upon enrollment. The components of the ACP shall include the student's program of study for high school graduation and a postsecondary career pathway based on the student's academic and career interests. The ACP shall be developed in accordance with guidelines established by the board and signed by the student, student's parent or guardian, and school official or officials designated by the principal. The ACP shall be included in the student's record and shall be reviewed and updated, if necessary, before the student enters the ninth and eleventh grades. The school shall have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the ACP. Any personal ACPS prescribed by local school boards for students in grades 7 through 12 and in effect as of June 30, 2009, are approved to continue without further action by the board.

2. Beginning in the middle school years, students shall be counseled on opportunities for beginning postsecondary education and opportunities for obtaining industry certifications, occupational competency credentials, or professional licenses in a career and technical education field prior to high school graduation. Such opportunities shall include access to at least three Advanced Placement (AP), International Baccalaureate (IB), or Cambridge courses or three college-level courses for degree credit pursuant to 8VAC20-131-100. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit (dual enrollment), under the following conditions:

a. Written approval of the high school principal prior to participation in dual enrollment must be obtained;

b. The college must accept the student for admission to the course or courses; and

c. The course or courses must be given by the college for degree credits (no remedial courses will be accepted).

Schools that comply with this standard shall not be penalized in receiving state appropriations.

C. Beginning with the 2018-2019 academic year:

1. Each elementary, middle, and secondary school shall provide for the identification by all students of personal interests and abilities to support planning for postsecondary opportunities and career preparation. Such support shall include provision of information concerning exploration of career cluster areas in elementary schools, and course information and planning for college preparation programs, opportunities for educational and academic experiences in and outside the classroom, including internships and work-based learning, and the multiple pathways to college and career readiness in middle and high school.

2. Beginning in the elementary school years, students are to explore the different occupations associated with career clusters and select an area or areas of interest. Students shall begin the development of an academic and career plan portfolio (ACPP) in elementary grades to include information about interests, values such as dependability and responsibility, and skills supporting decisions about their future interests and goals. The ACPP is a repository for planning notes, class projects, interest inventory results, awards and recognitions, and other information related to academic and career plans and preparation. The ACPP is student led and updated and revised as the student continues to plan for the student's future throughout school years. The information contained in the ACPP shall serve as the foundation for creating the ACP in grade 7.

In middle school, students are to complete a locally selected career interest inventory and select a career pathway. To support development of the ACP, students shall complete a career investigations course selected from the career and technical education state-approved list, or a school division-provided alternative means of delivering the career investigations course content, provided that the alternative is equivalent in content and academic rigor. The course, or its alternative, shall address, at a minimum, planning for academic courses, work-based learning opportunities, completion of industry certifications, possible independent projects, and postsecondary education. The course, or its alternative, shall include demonstration of personal, professional, and technical workplace readiness skills.

All schools shall continue development of a personal ACP with each seventh-grade student with completion by the end of [the fall semester of] the student's [seventh grade eighth-grade] year. Students who transfer from other than a Virginia public school into the eighth grade shall have

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the ACP developed as soon as practicable following enrollment. Students who transfer into a Virginia public school after their eighth-grade year shall have an ACP developed upon enrollment. The components of the ACP shall include the student's program of study for high school graduation and a postsecondary career pathway based on the student's academic and career interests. In high school, a career-related learning experience shall be chosen by the student and documented in the ACP.

3. The ACP shall be developed in accordance with guidelines established by the board and signed by the student, student's parent or guardian, and school official or officials designated by the principal. The ACP shall be included in the student's record and shall be reviewed and updated annually.

4. Beginning in the middle school years, students shall be counseled on opportunities for beginning postsecondary education and opportunities for obtaining industry certifications, occupational competency credentials, or professional licenses in a career and technical education field prior to high school graduation. Such opportunities shall include access to at least three Advanced Placement (AP), International Baccalaureate (IB), or Cambridge courses or three college-level courses for degree credit pursuant to 8VAC20-131-100. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit (dual enrollment), under the following conditions:

- a. Written approval of the high school principal prior to participation in dual enrollment must be obtained;
- b. The college must accept the student for admission to the course or courses; and
- c. The course or courses must be given by the college for degree credits (no remedial courses will be accepted).

8VAC20-131-150. Standard school year and school day.

A. The standard school year shall be 180 instructional days or 990 instructional hours. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 instructional hours, including passing time for class changes and excluding breaks for meals and recess, and a minimum of three hours for kindergarten.

B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5-1/2 hours), unless a waiver is granted in accordance with policies defined by the local school board.

8VAC20-131-170. Family Life Education.

Each school may implement the Standards of Learning for the Family Life Education program promulgated by the Board of Education or a Family Life Education program

consistent with the guidelines developed by the board, which shall have the goals of reducing the incidence of pregnancy and sexually-transmitted diseases and substance abuse among teenagers.

8VAC20-131-180. Off-site instruction.

A. Homebound instruction shall be made available 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 licensed clinical psychologist. For students eligible for special education or related services, the Individualized Education Program (IEP) committee must revise the IEP, as appropriate. Credit for the work shall be awarded when it is done under the supervision of a licensed teacher [~~, a person eligible to hold a Virginia license, or other appropriately licensed professional qualified in the relevant subject areas and~~] employed by the local school board, and there is evidence that the instructional time requirements or alternative means of awarding credit adopted by the local school board in accordance with the provisions of 8VAC20-131-110 have been met.

B. Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through virtual courses, emerging technologies, and other similar means. Students may enroll in and receive a standard and verified unit of credit for supervised correspondence courses virtual courses with prior approval of the principal. Standard units of credit shall be awarded for the successful completion of such courses when the course is equivalent to that offered in the regular school program and the work is done under the supervision of a licensed teacher, or a person eligible to hold a Virginia license, approved by the local school board. Verified units of credit may be earned when the student has passed the SOL test associated with the correspondence course completed. The local school board shall develop policies governing this method of delivery of instruction in accordance with that shall include the provisions of 8VAC 20-131-110 8VAC20-131-110 and the administration of required SOL tests prescribed by 8VAC20-131-30.

C. Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through emerging technologies and other similar means. Standard For courses offered for possible high school credit, standard units of credit shall be awarded for successful completion of such courses when the course is equivalent to that offered in the regular school program and the work is done under the supervision of a licensed teacher [~~, or a person eligible to hold a Virginia teaching license and approved by the local school board qualified in the relevant subject areas~~]. Verified units A verified unit of credit may be earned when the student has successfully completed the requirements and passed the SOL test associated with the course. The local school board shall develop policies governing this method of delivery of instruction that shall include the provisions of 8VAC20-131-

110 and the administration of required SOL tests prescribed by 8VAC20-131-30 specified in 8VAC20-131-110.

8VAC20-131-190. Library media, materials, and equipment.

A. Each school shall maintain an organized library media center as the resource center of the school and provide a unified program of media services and activities for students and teachers before, during, and after school. The library media center shall contain hard copy, electronic technological resources, materials, and equipment that are sufficient to meet research, inquiry, and reading requirements of the instructional program and general student interest.

B. Each school shall provide a variety of materials, resources, and equipment to support the instructional program.

8VAC20-131-200. Extracurricular and other school activities; recess.

A. School sponsored extracurricular activities shall be under the direct supervision of the staff and shall contribute to the educational objectives of the school. Extracurricular activities must be organized to avoid interrupting the instructional program. Extracurricular activities shall not be permitted to interfere with the student's required instructional activities. Extracurricular activities and eligibility requirements shall be established and approved by the superintendent and the school board.

B. Competitive sports of a varsity nature (scheduled league games) shall be prohibited as a part of the elementary school program.

C. Each elementary school shall provide students with a daily recess during the regular school year as determined appropriate by the school.

D. [A program of physical fitness shall be available to all students with a goal of at least 150 minutes per week on average during the regular school year. Effective beginning with the 2018 2019 school year, local Local] school boards shall provide a program of physical activity for all students in grades kindergarten through 5 consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades 6 through 12 with a goal of at least 150 minutes per week on average during the regular school year.

Part V

School and Instructional Leadership

8VAC20-131-210. Role of the principal.

A. The principal is recognized as the instructional leader and manager of the school and is responsible for effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources:

1. Fostering the success of all students by facilitating the development, communication, implementation, and

evaluation of a shared vision of teaching and learning that leads to student academic progress and school improvement;

2. Fostering the success of all students by developing, advocating, and sustaining an academically rigorous, positive, and safe school climate for all stakeholders;

3. Fostering effective human resources management by appropriately assigning, selecting, inducting, supporting, evaluating, and retaining quality instructional and support personnel;

4. Fostering the success of all students by communicating and collaborating effectively with stakeholders;

5. Fostering the success of all students by demonstrating professional standards and ethics, engaging in continuous professional development, and contributing to the profession; [and]

6. Providing leadership that results in acceptable, measurable student academic progress based on established standards.

As a matter of policy, the board, through these standards, recognizes the critically important role of principals to the success of public schools and the students who attend those schools and recommends that local school boards provide principals with the maximum authority available under law in all matters affecting the school, including, but not limited to, instruction and personnel instructional leadership, school climate, human resources management, organizational management, communication and community relations, and student academic progress, in a manner that allows the principal to be held accountable in a fair and consistent manner for matters under his the principal's direct control.

B. As the instructional leader, the principal is responsible for ensuring that students are provided an opportunity to learn and shall:

1. Protect the academic instructional time from unnecessary interruptions and disruptions and enable the professional teaching staff to spend the maximum time possible in the teaching/learning process by keeping to a minimum clerical responsibility and the time students are out of class Lead the collaborative development and sustainment of a student-centered shared vision for educational improvement and work collaboratively with staff, students, parents, and other stakeholders to develop a mission and programs for effective teaching and learning, consistent with the division's strategic plan and school's goals;

2. Ensure that the school division's student code of conduct is enforced and seek to maintain a safe and secure school environment Collaboratively plan, implement, support, monitor, and evaluate instructional programs that enhance teaching and student academic progress, and lead to school improvement;

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3. Analyze the school's test scores annually current academic achievement data and instructional strategies and monitor and evaluate the use of diagnostic, formative, and summative assessment, by grade and by discipline, to:

a. Direct Make appropriate educational decisions to improve classroom instruction, increase student achievement, and improve overall school effectiveness; provide timely and accurate feedback to students and parents and to inform instructional practices; and direct and require appropriate prevention, intervention, and/or remediation to those students performing below grade level or not meeting expectations, including passing the SOL tests;

b. Involve the staff of the school in identifying the types of staff and evaluating professional development needed to improve student achievement and provide professional development opportunities and ensure that the staff participate in those activities; and

c. Analyze Evaluate and improve classroom practices and methods for improvement of instruction; and

d. Seek to ensure students' successful attainment of knowledge and skills set forth in the Standards of Learning;

4. Ensure that students' 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;

5. Monitor and evaluate the quality of instruction, provide staff development, provide support that is designed to improve instruction, and seek to ensure the successful attainment of the knowledge and skills required for students by the SOL tests; Protect the academic instructional time from unnecessary interruptions and disruptions and provide collaborative leadership for the design and implementation of effective and efficient schedules that protect and maximize instructional time;

6. Involve students, staff, parents, and the community to create and sustain a positive, safe, and healthy learning environment that enforces state, division, and local rules, policies, and procedures and consistently model and collaboratively promote high expectations, mutual respect, care, and concern for students, staff, parents, and the community [;]

7. Create a culture of shared accountability and continuous school improvement;

8. Involve students, families, staff, and other stakeholders to promote community engagement;

6. 9. Maintain records of students who drop out of school, including their reasons for dropping out and actions taken to prevent these students from dropping out;

7. 10. Notify 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; and

8. 11. Notify the parent or guardian of students removed from class for disciplinary reasons for two or more consecutive days in whole or in part. The school shall have met its obligation if it makes a good faith effort to notify the parent or guardian.

C. As the school manager, the principal shall:

1. Support, manage, and oversee the school's organization, operation, and use of resources;

2. Demonstrate and communicate a knowledge and understanding of Virginia public education rules, regulations, laws, and school division policies and procedures;

3. Work with staff to create an atmosphere of mutual respect and courtesy and to facilitate constructive communication by establishing and maintaining a current handbook of personnel policies and procedures;

2. Work 4. Ensure the use of data systems and technology to support goals;

5. Disseminate information to staff, parents, and other stakeholders in a timely manner through multiple channels and sources;

6. Work with the community to involve parents and citizens in the educational program and facilitate;

7. Facilitate communication with parents by maintaining and disseminating a current student handbook of policies and procedures that includes the school division's standards of student conduct and procedures for enforcement, along with other matters of interest to parents and students;

8. Manage the supervision and research-based evaluation of staff in accordance with local and state requirements;

3. 9. Maintain a current record of licensure, endorsement, staff's licenses and endorsements to ensure compliance and in-service training professional development completed by staff; and

10. Follow local and state laws and policies with regard to finances, school accountability, and reporting;

4. 11. Maintain records of receipts and disbursements of all funds handled. These records, which shall be audited annually by a professional accountant approved by the local school board.; and

12. Ensure the security of all tests administered to students, including those required by the board and the local school division. This includes:

a. The requirement that all schools adhere to a policy that prohibits students' [access to] cell phones and other electronic devices with texting or camera capabilities [to

- ~~be in the room where a SOL test is being administered during the administration of the SOL tests];~~
- b. The requirement that, to the extent possible, the teacher should not administer the SOL test associated with the grade level content or class taught;
 - c. Notification to teachers of the penalties for breaching security on SOL tests, including actions against the teacher's license and civil penalties; and
 - d. Establishment of penalties for students who breach security on SOL tests.

8VAC20-131-220. Role of professional teaching staff.

The professional teaching staff shall be responsible for providing instruction that is educationally sound in an atmosphere of mutual respect and courtesy, which is conducive to learning, and in which all students are expected to achieve the objectives of the Standards of Learning for the appropriate grade level or course. The staff shall:

1. Serve as role models for effective oral and written communication with special attention to ~~the correct use of language and spelling the use of standard English~~;
2. Strive to strengthen the basic skills of students in all subjects ~~and to close any achievement gaps among groups of students in the school~~;
3. Establish teaching objectives to achieve the following:
 - a. Identify what students are expected to learn; and
 - b. Inform students of the achievement expected and keep them engaged in learning tasks;
4. Provide for individual differences of students through the use of differentiated instruction, varied materials, and activities suitable to their interests and abilities; and
5. Assess the progress of students and report promptly and constructively to them and their parents.

8VAC20-131-240. Administrative and support staff; staffing requirements.

A. Each school shall have at a minimum the staff as specified in the Standards of Quality with proper licenses and endorsements for the positions they hold.

B. The principal of each middle and secondary school shall be employed on a 12-month basis.

C. Each elementary, middle, and secondary school ~~with 350 or more students and each middle school with 400 or more students~~ shall employ ~~at least one member of the guidance staff for 11 months~~ school counseling staff as prescribed by the Standards of Quality. Guidance School counseling shall be provided for students to ensure that a program of studies contributing to the student's academic achievement and meeting the graduation requirements specified in ~~8VAC20-131-50 is this chapter~~ being followed.

D. The counseling program for elementary, middle, and secondary schools shall provide a minimum of 60% of the

time for each member of the ~~guidance~~ school counseling staff devoted to counseling of students.

E. The middle school classroom teacher's standard load shall be based on teaching no more than ~~5/6 of the instructional day with no more than 150 student periods per day or 30 class periods per week~~. A middle school classroom teacher's standard load shall be based on teaching no more than ~~5/6 of the instructional day minus one planning period per day or the equivalent~~ with no more than ~~150 student periods per day students~~ or 25 class periods per week. If a middle school classroom teacher teaches more than 150 students or 25 class periods per week, an appropriate contractual arrangement and compensation shall be provided.

F. The secondary classroom teacher's standard load shall be based on teaching no more than ~~5/6 of the instructional day minus one planning period per day or the equivalent~~ with no more than ~~150 student periods per day students~~ or 25 class periods per week. Teachers of block programs that encompass more than one class period with no more than 120 student periods per day may teach 30 class periods per week. Teachers who teach very small classes may teach 30 class periods per week, provided the teaching load does not exceed 75 student periods per day. If a secondary school classroom teacher teaches 30 class periods per week with more than 75 student periods per day ~~more than 150 students or 25 class periods per week~~, an appropriate contractual arrangement and compensation shall be provided.

G. Middle or secondary school teachers shall teach no more than ~~750 student periods 150 students~~ per week; however, physical education and music teachers may teach 1,000 student periods ~~200 students~~ per week. If a middle or secondary school physical education or music teacher teaches more than 200 students per week, an appropriate contractual arrangement and compensation shall be provided.

H. Notwithstanding the provisions of subsections E, F, and G, ~~each~~ Each elementary classroom teacher shall be provided at least an average of 30 minutes per day during the students' school week as planning time. Each full-time middle and secondary classroom teacher shall be provided one planning period per day or the equivalent, as defined in 8VAC20-131-5, unencumbered of any teaching or supervisory duties.

I. Staff-student ratios in special education and career and technical education classrooms shall comply with regulations of the ~~Board of Education~~ board.

J. Student services personnel support positions as defined in the Standards of Quality shall be available as necessary to promote academic achievement and to provide support services to the students in the school.

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Part VI

School Facilities and Safety

8VAC20-131-260. School facilities and safety.

A. Each school shall be maintained in a manner ensuring compliance with the Virginia Statewide Building Code (13VAC5-63). In addition, the school administration shall:

1. Maintain a physical plant that is accessible, barrier free, safe, and clean;
2. Provide for the proper outdoor display of flags of the United States and of the Commonwealth of Virginia;
3. Provide suitable space for classrooms, administrative staff, pupil personnel services, library and media services, and for the needs and safety of physical education;
4. Provide adequate, safe, and properly-equipped laboratories to meet the needs of instruction in the sciences, technology, fine arts, and career and technical programs;
5. Provide facilities for the adequate and safe administration and storage of student medications; and
6. Carry out the duties of the threat assessment team established by the division superintendent and implement policies established by the local school board related to threat assessment, pursuant to § 22.1-79.4 of the Code of Virginia.

B. Each school shall maintain records of regular safety, health, and fire inspections that have been conducted and certified by local health and fire departments. The frequency of such inspections shall be determined by the local school board in consultation with the local health and fire departments. In addition, the school administration shall:

1. Equip all exit doors with panic hardware as required by the Virginia Statewide Building Code (13VAC5-63);
2. Conduct a fire drills drill at least once a week during the first month twice during the first 20 days of school and conduct at least once each month for two additional fire drills during the remainder of the school term. Evacuation routes for students shall be posted in each room; and
3. Conduct at least two simulated lock-down drills and crisis emergency evacuation activities each school year, one in September and one in January a lock-down drill at least twice during the first 20 days of school and conduct at least two additional lock-down drills during the remainder of the school term.

C. Each school shall have contingency plans for emergencies that include staff certified in cardiopulmonary resuscitation (CPR), the Heimlich maneuver, and emergency first aid.

Each school building with instructional or administrative staff of 10 or more shall have at least three employees with current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator. If one or more students diagnosed as

having diabetes attend such school, at least two employees shall have been trained in the administration of insulin and glucagon.

Each school building with instructional or administrative staff fewer than 10 shall have at least two employees with current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator. If one or more students diagnosed as having diabetes attend such school, at least one employee shall have been trained in the administration of insulin and glucagon.

D. In addition, the school administration shall ensure that the school has:

1. Written procedures to follow in emergencies such as fire, injury, illness, allergic reactions, and violent or threatening behavior. This shall include school board policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. The plan shall be outlined in the student handbook and discussed with staff and students during the first week of each school year;
2. Space for the proper care of students who become ill;
3. A written procedure, in accordance with guidelines established by the local school board, for responding to violent, disruptive, or illegal activities by students on school property or during a school sponsored activity; and
4. Written procedures to follow for the safe evacuation of persons with special physical, medical, or language needs who may need assistance to exit a facility.

Part VII

School and Community Communications

8VAC20-131-270. School and community communications.

A. Each school shall promote communication and foster mutual understanding with parents and the community. Each school shall:

1. Involve parents, citizens, community agencies, and representatives from business and industry in developing, disseminating, and explaining the biennial school plan; on advisory committees; in curriculum studies; and in evaluating the educational program.
2. Provide annually to the parents and the community the School Performance Report Card Quality Profile in a manner prescribed by the board. The information contained therein will be School Quality Profile shall include designated information for the most recent three-year period. Such information shall be designated by the board to include but not be limited to indicators of the following: accountability, assessments, enrollment and demographics,

college and career readiness, finance, learning environment, and teacher quality. Specific indicators shall include:

- a. Virginia assessment program Assessment Program results by percentage of participation and proficiency and disaggregated by student subgroups reporting groups.
- b. The accreditation rating earned by the school Accreditation status.
- c. Attendance rates and absenteeism for students.
- d. Information related to school safety to include, but not limited to, incidents of crime and violence.
- e. Information related to qualifications and educational attainment of the teaching staff.
- f. In addition, secondary schools' School Performance Report Cards Quality Profiles shall include the following:
 - (1) Advanced Placement (AP) information to include percentage of students who take AP courses and percentage of students who take AP tests;
 - (2) International Baccalaureate (IB) and Cambridge course information to include percentage of students who are enrolled in IB or Cambridge programs and percentage of students who receive IB or Cambridge Diplomas;
 - (3) College-level course information to include percentage of students who take college-level courses including dual enrollment courses;
 - (4) Number and percentage of (i) graduates by diploma type as prescribed by the Board of Education board, (ii) certificates awarded to the senior class including high school equivalency preparation program credentials approved by the board, and (iii) students who do not complete high school;
 - (5) As a separate category on the school report card School Quality Profile, the number of students obtaining board-approved industry certifications [;] and passing state licensure examinations, national occupational competency assessments and Virginia workplace readiness skills assessments while still in high school and the number of career and technical education completers who graduated; and
 - (6) Number and percentage of drop outs dropouts.
3. Cooperate with business and industry in formulating career and technical educational programs and conducting joint enterprises involving personnel, facilities, training programs, and other resources.
4. Encourage and support the establishment and/or or continuation of a parent-teacher association or other organization and work cooperatively with it.
- B. At the beginning of each school year, each school shall provide to its students' parents or guardians information on the availability of and source for receiving:

1. The learning objectives developed in accordance with the provisions of 8VAC20-131-70 to be achieved at their child's grade level or, in high school, a copy of the syllabus for each of their child's courses, and a copy of the school division promotion, retention, and a copy of the school division promotion, retention, and remediation policies;
2. The Standards of Learning applicable to the child's grade or course requirements and the approximate date and potential impact of the child's next SOL testing; and
3. An annual notice to students in all grade levels of all requirements for Standard Diploma and Advanced Studies Diploma, and the board's policies on promotion and retention as outlined in 8VAC20-131-30.

The division superintendent shall report to the department compliance with this subsection through the preaccreditation eligibility procedures in 8VAC20-131-290 as required by 8VAC20-131-390 A.

Part VIII School Accreditation

8VAC20-131-280. Expectations for school accountability. (Repealed.)

- A. Schools will be accredited annually based on compliance with preaccreditation eligibility requirements and achievement of the school accountability requirements of 8VAC20-131-300 C.
- B. Each school shall be accredited based, primarily, on achievement of the criteria established in 8VAC20-131-30 and in 8VAC20-131-50 as specified below:
1. The percentage of students passing the Virginia assessment program tests in the four core academic areas administered in the school with the accreditation rating calculated on a trailing three year average that includes the current year scores and the scores from the two most recent years in each applicable academic area, or on the current year's scores, whichever is higher.
 2. The percentage of students graduating from or completing high school based on a graduation and completion index prescribed by the Board of Education. The accreditation rating of any school with a twelfth grade shall be determined based on achievement of required SOL pass rates and percentage points on the board's graduation and completion index. School accreditation 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 Board of Education's graduation and completion index shall include weighted points for diploma graduates (100 points), recipients of high school equivalency credentials approved by the board (75 points), students not graduating but still in school (70 points), and students earning certificates of program completion (25 points).

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The graduation and completion index calculation for a school shall be increased by three points for each student who obtains both a diploma and an industry certification, industry pathway certification, a state licensure, or an occupational competency credential in a career and technical education program, when such certification, licensure, or credential is approved by the Board of Education as student selected verified credit; however, the additional three points shall not be used to obtain a higher accreditation rating.

The Board of Education's 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, deceased students, and students who fail to graduate because they are in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. Those students who are not included in one of the preceding categories will also be included in the index.

For the purposes of the Standards of Accreditation, the Board of Education shall use a graduation rate formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement.

3. The number of students who successfully complete a remediation/recovery program.

4. Schools, with grade configurations that do not house a grade or offer courses for which SOL tests or additional tests approved by the Board of Education as outlined in 8VAC20 131-110 are administered, will be paired with another school in the division housing one or more of the grades in which SOL tests are administered. The pairing of such schools will be made upon the recommendation of the local superintendent. The schools should have a "feeder" relationship and the grades should be contiguous.

C. Subject to the provisions of 8VAC20 131-350, the governing school board of special purpose schools such as those provided for in § 22.1-26 of the Code of Virginia, Governor's schools, special education schools, alternative schools, or career and technical schools that serve as the student's school of principal enrollment may seek approval of an alternative accreditation plan from the Board of Education. Schools offering alternative education programs and schools with a graduation cohort of 50 or fewer students as defined by the graduation rate formula adopted by the board may request that the board approve an alternative accreditation plan to meet the graduation and completion index benchmark. Special purpose schools with alternative accreditation plans shall be evaluated on standards appropriate to the programs offered in the school and approved by the board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a

Standard Diploma or an Advanced Studies Diploma must meet the requirements prescribed in 8VAC20 131-50.

In addition, pursuant to § 22.1-253.13:3 of the Code of Virginia, any school board, on behalf of one or more of its schools, may request the Board of Education for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for special purpose schools.

D. When calculating the passing rates on Virginia assessment program tests for the purpose of school accreditation, the following tolerances for limited English proficient (LEP) and transfer students will apply:

1. The scores of LEP students enrolled in Virginia public schools fewer than 11 semesters may be removed from the calculation used for the purpose of school accreditation required by subsection B of this section and 8VAC20 131-300 C. Completion of a semester shall be based on school membership days. Membership days are defined as the days the student is officially enrolled in a Virginia public school, regardless of days absent or present. For a semester to count as a completed semester, a student must have been in membership for a majority of the membership days of the semester. These semesters need not be consecutive.
2. In accordance with the provisions of 8VAC20 131-30, all students who transfer into Virginia public schools are expected to take and pass all applicable SOL tests in the content areas in which they receive instruction.
3. All students who transfer within a school division shall have their scores counted in the calculation of the school's accreditation rating. Students who transfer into a Virginia school from home instruction, or from another Virginia school division, another state, or another country, in grades kindergarten through 8 shall be expected to take all applicable SOL tests or additional tests approved by the board as outlined in 8VAC20 131-110. If the transfer takes place after the 20th instructional day following the opening of school, the scores on these tests may be used in calculating school accreditation ratings.
4. Students who transfer into a Virginia middle or high school from home instruction, or from another state or country, and enroll in a course for which there is an end of course SOL test, shall be expected to take the test or additional tests for that course approved by the board as outlined in 8VAC20 131-110. If the transfer takes place after 20 instructional hours per course have elapsed following the opening of school or beginning of the semester, if applicable, the scores on those tests may be used in calculating school accreditation ratings in the year the transfer occurs.
5. Students who enroll on the first day of school and subsequently transfer to a school outside of the division for a total amount of instructional time equal to or exceeding 50% of a current school year or semester, whether the transfer was a singular or multiple occurrence, and return

during the same school year shall be expected to take any applicable SOL test. The scores of those tests may be used in calculating the school accreditation rating in the year in which the transfers occur.

E. The Board of Education may adopt special provisions related to the administration and use of any Virginia assessment program test in a content area. The Board of Education may adopt special provisions related to the administration and use of the graduation and completion index, as prescribed by the board. The Board of Education may also alter the inclusions and exclusions from the accreditation calculations by providing adequate notice to local school boards. The board may add new tests or discontinue the use of existing tests in the Virginia Assessment Program by providing adequate notice to local school boards.

F. As a prerequisite to the awarding of an accreditation rating as defined in 8VAC20 131-300, each new or existing school shall document, in a manner prescribed by the board, the following: (i) the division's promotion/retention policies developed in accordance with the requirements of 8VAC20 131-30, (ii) compliance with the requirements to offer courses that will allow students to complete the graduation requirements in 8VAC20 131-50, (iii) the ability to offer the instructional program prescribed in 8VAC20 131-70 through 8VAC20 131-100, (iv) the leadership and staffing requirements of 8VAC20 131-210 through 8VAC20 131-240, and (v) the facilities and safety provisions of 8VAC20 131-260. The division superintendent shall report to the department compliance with this subsection through the preaccreditation eligibility procedures in 8VAC20 131-290.

8VAC20-131-290. Procedures for certifying accreditation eligibility. (Repealed.)

A. Schools will be accredited under these standards annually based, in part, on compliance with the preaccreditation eligibility requirements described in 8VAC20 131-280 F.

B. To be eligible for accreditation, the principal of each school and the division superintendent shall report to the Department of Education:

1. The extent to which each school continues to meet standards reported as met in the previous year described in 8VAC20 131-280 F.
2. That the SOL have been fully incorporated into the school division's curriculum in all accreditation eligible schools and the SOL material is being taught to all students eligible to take the SOL tests. This shall be certified by each school division superintendent as part of the preaccreditation eligibility determination process.
3. Actions taken to correct any noncompliance issues cited in the previous year.
4. Compliance with 8VAC20 131-270 B.

The principal of each school and the division superintendent shall submit preaccreditation eligibility reports in a manner

prescribed by the board to the Department of Education. Failure to submit the reports on time will constitute grounds for denying accreditation to the school.

C. In keeping with provisions of the Standards of Quality, and in conjunction with the long range comprehensive plan of the division, each school shall prepare and implement a biennial school plan which shall be available to students, parents, staff, and the public. Each biennial school plan shall be evaluated as part of the development of the next biennial plan. Schools may use other plans to satisfy the requirement for the biennial plan with prior written approval from the Department of Education.

D. With the approval of the local school board, local schools seeking to implement experimental or innovative programs, or both, that are not consistent with these standards shall submit a waiver request, on forms provided, to the board for evaluation and approval prior to implementation. The request must include the following:

1. Purpose and objectives of the experimental/innovative programs;
2. Description and duration of the programs;
3. Anticipated outcomes;
4. Number of students affected;
5. Evaluation procedures; and
6. Mechanisms for measuring goals, objectives, and student academic achievement.

Except as specified below, the board may grant, for a period up to five years, a waiver of these regulations that are not mandated by state or federal law or designed to promote health or safety. The board may grant all or a portion of the request. Waivers of requirements in 8VAC20 131-30, 8VAC20 131-50, 8VAC20 131-70, and 8VAC20 131-280 through 8VAC20 131-340 shall not be granted, and no waiver may be approved for a program which would violate the provisions of the Standards of Quality.

8VAC20-131-300. Application of the standards. (Repealed.)

A. Effective no later than the academic year 2016-2017, schools that meet the preaccreditation eligibility requirements prescribed in 8VAC20 131-280 F shall be assigned one of the following ratings as described in this section:

1. Fully Accredited
2. Conditionally Accredited: New School
3. Partially Accredited according to criteria in one or more of the following categories:
 - a. Approaching Benchmark within specified margins
 - (1) Graduation and Completion Index
 - (2) Pass Rate
 - b. Improving School meets criteria for improvement over previous year or for student growth
 - (1) Graduation and Completion Index

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(2) Pass Rate

c. Warned School

(1) Graduation and Completion Index

(2) Pass Rate

d. Reconstituted School

4. Accreditation Denied

B. Compliance with the student academic achievement expectations shall be documented to the board directly through the reporting of the results of student performance on SOL tests and other alternative means of assessing student academic achievement as outlined in 8VAC20 131-110. To facilitate accurate reporting of the graduation and completion index, the State Testing Identifier (STI) for students who transfer into a Virginia public school from another Virginia public school shall be retained by the receiving school. Compliance with other provisions of these regulations will be documented in accordance with procedures prescribed by the Board of Education.

C. Accreditation ratings defined. Accreditation ratings awarded in an academic year are based upon Virginia assessment program scores from the academic year immediately prior to the year to which the accreditation rating applies and on graduation and completion indexes (for schools with twelfth grade) established for the current year. Effective no later than the academic year 2016-2017, accreditation ratings are defined as follows:

1. Fully Accredited.

a. A school will be rated Fully Accredited when its eligible students meet the pass rate of 75% in English and the pass rate of 70% in mathematics, science, and history and social science. Additionally, each school with a graduating class shall achieve a minimum of 85 percentage points on the Board of Education's graduation and completion index, as described in 8VAC20 131-280 B 2, to be rated Fully Accredited.

b. For accreditation purposes, the pass rate will be calculated as single rates for each of the four core academic areas by combining all scores of all tests administered in each subject area.

2. Conditionally Accredited: New School. New schools that are comprised of students from one or more existing schools in the division will be awarded a Conditionally Accredited: New School status for one year pending an evaluation of the school's eligible students' performance on SOL tests or additional tests approved by the Board of Education to be rated Fully Accredited.

3. Partially Accredited: A school which meets criteria as prescribed by the Board of Education will be designated as Partially Accredited according to the specific categories shown below.

a. Approaching Benchmark (within specified margins):

(1) Graduation and Completion Index. Based on components of the graduation and completion index as described in 8VAC20 131-280 B 2, a school will be rated as Partially Accredited: Approaching Benchmark Graduation and Completion Index when its eligible students meet pass rates required for full accreditation and its graduation and completion index is within a narrow margin of the minimum threshold as prescribed by the board. A school may remain in the Partially Accredited: Approaching Benchmark Graduation and Completion Index status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

(2) Pass Rate. Based on tests administered in the previous academic year, a school will be rated as Partially Accredited: Approaching Benchmark Pass Rate if the school does not meet the requirements for full accreditation in all of the four core academic subject areas but the pass rate in each subject area either (i) meets the pass rate required for full accreditation or (ii) is within a narrow margin of the pass rate required for full accreditation, as defined by the board. A school may remain in the Partially Accredited: Approaching Benchmark Pass Rate status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

b. Improving School (meets criteria for improvement or student growth, or both, over previous year):

(1) Graduation and Completion Index. Based on components of the graduation and completion index as described in 8VAC20 131-280 B 2, a school will be rated as Partially Accredited: Improving School Graduation and Completion Index when its eligible students meet pass rates required for full accreditation, but its graduation and completion index is not within the established narrow margin of the minimum threshold prescribed by the board; however it has achieved sufficient improvement in its graduation and completion index from the previous year, as prescribed by the board. A school may remain in the Partially Accredited: Improving School Graduation and Completion Index status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

(2) Pass Rate. Based on tests administered in the previous academic year, a school will be rated as Partially Accredited: Improving School Pass Rate if the school does not meet the requirements for full accreditation or for Partially Accredited: Approaching Benchmark Pass Rate, but in each of the four core academic subject areas, one of the following criteria is met: (i) the pass rate meets the benchmark required for full accreditation; (ii) the pass rate is within a narrow margin of the benchmark required for full accreditation, as defined by the board;

(iii) the school has demonstrated sufficient improvement in its pass rate from the previous year as defined by the board; or (iv) the school has demonstrated sufficient student growth, as defined by the board. A school may remain in the Partially Accredited: Improving School Pass Rate status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

e. Warned School:

(1) Graduation and Completion Index. A school will be designated as Partially Accredited: Warned School Graduation and Completion Index if it has failed to achieve Fully Accredited, Partially Accredited: Approaching Benchmark Graduation and Completion Index, or Partially Accredited: Improving School Graduation and Completion Index status. Such a school may remain in the Partially Accredited: Warned School Graduation and Completion Index status for no more than three consecutive years.

(2) Pass Rate. A school will be designated as Partially Accredited: Warned School Pass Rate if it has failed to achieve Fully Accredited, Partially Accredited: Approaching Benchmark Pass Rate, or Partially Accredited: Improving School Pass Rate status. Such a school may remain in the Partially Accredited: Warned School Pass Rate status for no more than three consecutive years.

d. Reconstituted School. A Partially Accredited: Reconstituted School rating may be awarded to a school that is being reconstituted in accordance with the provisions of 8VAC20-131-340 upon approval by the Board of Education. A school awarded this rating under those circumstances will revert to a status of Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited by the end of the agreed upon term or if it fails to have its annual application for such rating renewed.

4. Accreditation Denied. Based on a school's academic performance or performance for the graduation and completion index, or both, a school shall be rated Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited or Partially Accredited for the preceding three consecutive years or for three consecutive years anytime thereafter.

In any school division in which one third or more of the schools have been rated Accreditation Denied, the superintendent shall be evaluated by the local school board with a copy of such evaluation submitted to the Board of Education no later than December 1 of each year in which such condition exists. In addition, the Board of Education may take action against the local school board as permitted by the Standards of Quality due to the failure of the local board to maintain accredited schools.

8VAC20-131-310. Action requirements for schools that are designated Partially Accredited in the following categories: (i) Improving School Pass Rate; (ii) Improving School Graduation and Completion Index; and (iii) Warned School. (Repealed.)

A. With such funds as are appropriated by the General Assembly, the Department of Education shall develop a school academic review process and monitoring plan designed to assist schools rated Partially Accredited in the following categories: (i) Improving School Pass Rate; (ii) Improving School Graduation and Completion Index; and (iii) Warned School. All procedures and operations for the academic review process shall be approved and adopted by the board.

Schools rated Partially Accredited in the following categories: (i) Improving School Pass Rate; (ii) Improving School Graduation and Completion Index; and (iii) Warned School must undergo an academic review in accordance with guidelines adopted by the board and prepare a school improvement plan as required by subsection F of this section.

B. Any school that is rated Partially Accredited: Warned School Pass Rate because of pass rates in English or mathematics shall adopt a research based instructional intervention that has a proven track record of success at raising student achievement in those areas as appropriate.

C. The superintendent and principal shall certify in writing to the Board of Education that such an intervention has been adopted and implemented.

D. The board shall publish a list of recommended instructional interventions, which may be amended from time to time.

E. Adoption of instructional interventions referenced in subsections B and D of this section shall be funded by eligible local, state, and federal funds.

F. A three year School Improvement Plan must be developed and implemented, based on the results of an academic review of each school that is rated Partially Accredited in the following categories: (i) Improving School Pass Rate; (ii) Improving School Graduation and Completion Index; and (iii) Warned School, upon receipt of notification of the awarding of this rating and receipt of the results of the academic review. The plan:

1. Shall be developed with the assistance of parents and teachers and made available to the public;
2. Must include the components outlined in subsection G of this section; and
3. Must be approved by the division superintendent and the local school board and be designed to assist the school in meeting the student achievement standard to be Fully Accredited as outlined in 8VAC20-131-300.

Regulations

G. The improvement plan shall include the following:

1. A description of how the school will meet the requirements to be Fully Accredited, for each of the years covered by the plan;
2. Specific measures for achieving and documenting student academic improvement;
3. A description of the amount of time in the school day devoted to instruction in the core academic areas;
4. Instructional practices designed to remediate students who have not been successful on SOL tests;
5. Intervention strategies designed to prevent further declines in student performance and graduation rates;
6. Staff development needed;
7. Strategies to involve and assist parents in raising their child's academic performance;
8. The need for flexibility or waivers to state or local regulations to meet the objectives of the plan; and
9. A description of the manner in which local, state, and federal funds are used to support the implementation of the components of this plan.

As part of its approval of the school improvement plan, the board may grant a local school board a waiver from the requirements of any regulations promulgated by the board when such a waiver is available.

H. The school improvement plan and related annual reports submitted to the board shall provide documentation of the continuous efforts of the school to achieve the requirements to become rated Fully Accredited. The board shall adopt and approve all policies and formats for the submission of annual reports under this section. The reports shall be due no later than October 1 of the school year.

8VAC20-131-315. Action requirements for schools that are denied accreditation. (Repealed.)

A. Any school rated Accreditation Denied in accordance with 8VAC20-131-300 shall be subject to actions prescribed by the Board of Education and shall provide parents of enrolled students and other interested parties with the following:

1. Written notice of the school's accreditation rating within 30 calendar days of the notification of the rating from the Department of Education;
2. A copy of the school division's proposed corrective action plan, including a timeline for implementation, to improve the school's accreditation rating; and
3. An opportunity to comment on the division's proposed corrective action plan. Such public comment shall be received and considered by the school division prior to finalizing the school's corrective action plan and a Board of Education memorandum of understanding with the local school board.

B. Any school rated Accreditation Denied in accordance with 8VAC20-131-300 shall be subject to actions prescribed by the Board of Education and affirmed through a memorandum of understanding between the Board of Education and the local school board. The local school board shall submit a corrective action plan to the Board of Education for its consideration in prescribing actions in the memorandum of understanding within 45 days of the notification of the rating. The memorandum of understanding shall be entered into no later than November 1 of the academic year in which the rating is awarded.

The local board shall submit status reports detailing implementation of actions prescribed by the memorandum of understanding to the Board of Education. The status reports shall be signed by the school principal, division superintendent, and the chair of the local school board. The school principal, division superintendent, and the chair of the local school board may be required to appear before the Board of Education to present status reports.

The memorandum of understanding may also include but not be limited to:

1. Undergoing an educational service delivery and management review. The Board of Education shall prescribe the content of such review and approve the reviewing authority retained by the school division.
2. Employing a turnaround specialist credentialed by the state to address those conditions at the school that may impede educational progress and effectiveness and academic success.

C. As an alternative to the memorandum of understanding outlined in subsection B of this section, a local school board may choose to reconstitute a school rated Accreditation Denied and apply to the Board of Education for a rating of Partially Accredited: Reconstituted School. The application shall outline specific responses that address all areas of deficiency that resulted in the Accreditation Denied rating and may include any of the provisions of subsection B of this section.

If a local school board chooses to reconstitute a school, it may annually apply for an accreditation rating of Partially Accredited: Reconstituted School as provided for in 8VAC20-131-300 C 3 d. The Partially Accredited: Reconstituted School rating may be granted for a period not to exceed three years if the school is making progress toward a rating of Fully Accredited in accordance with the terms of the Board of Education's approval of the reconstitution application. The school will revert to a status of Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited by the end of the three-year term or if it fails to have its annual application for such rating renewed.

D. The local school board may choose to close a school rated Accreditation Denied or to combine such school with a higher performing school in the division.

E. A local school board that has any school with the status of Accreditation Denied shall annually report each school's progress toward meeting the requirements to be rated Fully Accredited to the Board of Education. The local board shall submit such report in a manner prescribed by the Board of Education no later than October 1 of each year. Such reports on each school's progress shall be included in the Board of Education's annual report on the condition and needs of public education to the Governor and the General Assembly submitted on November 15 of each year.

8VAC20-131-325. Recognitions and rewards for school and division accountability performance. (Repealed.)

A. Schools and divisions may be recognized by the Board of Education in accordance with guidelines it shall establish for the Virginia Index of Performance (VIP) incentive program. In order to encourage school divisions to promote student achievement in science, technology, engineering, and mathematics (STEM), the board shall take into account in its guidelines a school division's increase in enrollments and elective course offerings in these STEM areas. Such recognition may include:

1. Public announcements recognizing individual schools and divisions;
2. Tangible rewards;
3. Waivers of certain board regulations;
4. Exemptions from certain reporting requirements; or
5. Other commendations deemed appropriate to recognize high achievement.

In addition to board recognition, local school boards shall adopt policies to recognize individual schools through public announcements, media releases, participation in community activities for input purposes when setting policy relating to schools and budget development, as well as other appropriate recognition.

B. A school that maintains a passing rate on Virginia assessment program tests or additional tests approved by the board as outlined in 8VAC20 131 110 of 95% or above in each of the four core academic areas for two consecutive years may, upon application to the Department of Education, receive a waiver from annual accreditation. A school receiving such a waiver shall be Fully Accredited for a three-year period. However, such school shall continue to annually submit documentation in compliance with the preaccreditation eligibility requirements described in 8VAC20 131 280 F.

C. Schools may be eligible to receive the Governor's Award for Outstanding Achievement. This award will be given to schools rated Fully Accredited that significantly increase the achievement of students within student subgroups in accordance with guidelines prescribed by the Board of Education.

8VAC20-131-340. Special provisions and sanctions. (Repealed.)

A. Any school in violation of these regulations shall be subject to appropriate action by the Board of Education including, but not limited to, the withholding or denial of a school's accreditation.

B. A school's accreditation rating may be withheld by action of the Board of Education for any school found to be in violation of test security procedures pursuant to § 22.1-19.1 of the Code of Virginia. Withholding of a school's accreditation rating shall not be considered an interruption of the three consecutive year period for purposes of receiving an Accreditation Denied status pursuant to 8VAC20 131 300.

C. The Board of Education may exercise its authority to seek school division compliance with school laws pursuant to relevant provisions of the Code of Virginia when any school within a division is rated Accreditation Denied.

8VAC20-131-350. Waivers. (Repealed.)

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 (8VAC20 131 30 et seq.) of these regulations except that the Board of Education may provide for the waiver of certain graduation requirements in 8VAC20 131 50 (i) upon the board's initiative or (ii) at the request of a local school board on a case by case basis. The board shall develop guidelines for implementing these requirements.

8VAC20-131-360. Effective date. (Repealed.)

A. 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.

B. Graduation requirements prescribed in 8VAC20 131 50 B and C for the Standard Diploma and the Advanced Studies Diploma shall become effective with the ninth grade class of 2013-2014.

C. Schools with a graduating class shall meet prescribed thresholds on a graduation and completion rate index as prescribed in 8VAC20 131 280 and 8VAC20 131 300 for accreditation ratings earned in 2010-2011 and awarded in 2011-2012.

D. Accreditation ratings prescribed in 8VAC20 131 300 C 1 a shall become effective with tests administered in 2012-2013 for ratings awarded in 2013-2014 and beyond.

E. The Academic and Career Plan prescribed in 8VAC20 131 140 shall become effective in 2013-2014.

F. Unless otherwise specified, the remainder of these regulations shall be effective beginning with the 2011-2012 academic year.

Regulations

G. The revision of the graduation rate formula, for purposes of the Standards of Accreditation, as described in 8VAC20-131-280 is effective as of July 1, 2016.

Part VIII School Accreditation

8VAC20-131-370. Expectations for school accountability and accreditation.

A. The system of school accountability and accreditation provides a means of determining the quality and effectiveness of schools for the purposes of:

1. Building on strengths in schools and addressing specific areas needing improvement;
2. Driving continuous improvement in school achievement for all schools;
3. [Informing Identifying] areas for technical assistance and the use of school improvement resources; and
4. Providing a comprehensive picture of school quality information to the public.

B. Components of the accountability system, which present expectations and standards for schools and school divisions, include:

1. The Code of Virginia's Standards of Quality, which provide the foundational education program to be offered by school divisions, including priorities for instructional programs supporting the Standards of Learning and encompassing requirements for assessments and school accreditation;
2. The School Quality Profile, as referenced in 8VAC20-131-270 A 2, which provides information to parents, citizens, the community, businesses and other agencies, and the general public about school characteristics and about a comprehensive range of school indicators;
3. The federal accountability provisions required under the Every Student Succeeds Act of 2015 (P.L. 114-95, as amended) and the Individuals with Disabilities Education Act (20 USC § 1400 et seq.); and
4. The state accreditation provisions for schools and school divisions as presented in this part.

C. Each school shall be accredited based on achievement of the conditions specified in 8VAC20-131-400 and on continuous improvement of performance levels on measures of selected school quality indicators as described in 8VAC20-131-380.

8VAC20-131-380. Measurement of school quality for accreditation.

A. School quality for the purposes of accreditation shall be measured for each school using multiple indicators as provided for in this part. School quality indicators include student academic outcomes and other factors that are associated with student learning.

Designation of school quality indicators for accreditation purposes by the board is based on the following criteria:

1. Research demonstrates that the indicator is related to academic performance;
2. Standardized procedures exist across schools and school divisions for collection of data used for the indicator;
3. The data about the indicator is reliable and valid;
4. Performance in the indicator can be positively impacted through division and school-level policies and procedures;
5. The measure meaningfully differentiates among schools based on progress of all students and student reporting groups;
6. The indicator does not unfairly impact one type or group of schools or students; and
7. The indicator is moderately to strongly correlated with school-level pass rates on state assessments.

B. Specific indicators designated by the board for accreditation purposes and defined in subsection F of this section include the following:

1. Academic achievement for all students in English (reading and writing), mathematics, and science as measured through board-approved assessments, including measures of student growth in English (reading [and writing]), mathematics, and English learner (EL) progress;
2. Academic achievement gaps in English (reading and writing) and mathematics for designated reporting groups, as determined through the performance of each reporting group against the state standard;
3. Graduation and school progress for schools with a graduating class as measured by the Graduation Completion Index;
4. Dropout rates in schools with a graduating class;
5. Student participation and engagement as measured by chronic absenteeism in schools; and
6. College, career, and civic readiness in schools with a graduating class.

C. When calculating passing rates and student growth on Virginia Assessment Program tests to measure academic achievement school quality indicators for the purpose of school accreditation, the following tolerances for EL and transfer students shall apply:

1. The scores of EL students enrolled in Virginia public schools fewer than 11 semesters may be removed from the calculation used to measure academic achievement school quality indicators applied to accreditation. Completion of a semester shall be based on school membership days. Membership days are defined as the days the student is officially enrolled in a Virginia public school, regardless of days absent or present. For a semester to count as a completed semester, a student must have been in

membership for a majority of the membership days of the semester. These semesters need not be consecutive.

2. In accordance with the provisions of 8VAC20-131-30, all students who transfer into Virginia public schools are expected to take and pass all applicable SOL tests in the content areas in which they receive instruction.

3. All students who transfer within a school division shall have their scores counted in the calculation of the school's academic achievement school quality indicators. Students who transfer into a Virginia school from home instruction or from another Virginia school division, another state, or another country in grades kindergarten through 8 shall be expected to take all applicable SOL tests or additional tests approved by the board as outlined in 8VAC20-131-110. If the transfer takes place after the 20th instructional day following the opening of school, the scores on these tests may be used in calculating academic achievement school quality indicators applied to school accreditation.

4. Students who transfer into a Virginia middle or high school from home instruction or from another Virginia school division, another state, or another country and enroll in a course for which there is an end-of-course SOL test shall be expected to take the test or additional tests for that course approved by the board as outlined in 8VAC20-131-30 and 8VAC20-131-110. If the transfer takes place after 20 instructional hours per course have elapsed following the opening of school or beginning of the semester, if applicable, the scores on those tests may be used in calculating academic achievement school quality indicators applied to school accreditation in the year the transfer occurs.

5. Students who enroll on the first day of school and subsequently transfer to a school outside of the division for a total amount of instructional time equal to or exceeding 50% of a current school year or semester, whether the transfer was a singular or multiple occurrence, and return during the same school year shall be expected to take any applicable SOL test. The scores of those tests may be used in measuring the school academic indicator in the year in which the transfers occur.

D. Performance benchmarks. Each school shall be held accountable for attainment on each of the school quality indicators adopted by the board for accreditation purposes, based on measurement against performance benchmarks. Benchmarks measure actual performance or improvement or decline in performance over time, or a combination of the two, for each school quality indicator used for accreditation.

In establishing performance benchmarks, the board shall use standard analytic protocols to assess the impact on schools. Consideration is to be given to whether a proposed benchmark reflects the board's values and expectations, or if the proposed benchmark results in consequences that were not anticipated.

The board may incorporate additional indicators of school quality used for accreditation into this chapter according to the criteria in subsection A of this section, provided that when the board incorporates additional indicators, the board shall also establish performance benchmarks to assign performance levels.

E. Performance levels. Performance levels on school quality indicators are determined through the definition and application of board-established benchmarks. Performance levels shall be designated for each indicator as one of the following: (i) Level One: At or Above Standard; (ii) Level Two: Near Standard; or (iii) Level Three: Below Standard.

The performance levels are described as follows:

1. Level One: At or Above Standard. A school's achievement on the specific indicator demonstrates acceptable performance or performance above the benchmark or adequate improvement on the indicator.

2. Level Two: Near Standard. A school's achievement on the specific indicator, although below Level One: At or Above Standard, is within specified ranges of performance that either represent: (i) achievement near Level One or (ii) improvement from Level Three: Below Standard, within a specified range.

A school quality indicator within the Level Two: Near Standard range that does not improve to the Level One: At or Above Standard at the end of four years, with progress evaluated by the end of the second year as specified in 8VAC20-131-400 C 5, shall be designated as Level Three: Below Standard, at the end of the four-year period.

3. Level Three: Below Standard. A school's achievement on the specific indicator is below the performance benchmarks for Level One and Level Two.

Performance levels illustrate a school's standing for each school quality indicator. Displaying accountability information in this manner provides a comprehensive picture of a school's areas of strength, as well as specific areas where improvement is needed. Areas needing improvement shall be addressed through a multi-year school improvement plan or corrective action plan as provided in 8VAC20-131-400 D, which shall include specific interventions and strategies.

F. School quality indicators for accreditation purposes. Effective with the 2018-2019 school year, the board shall measure performance levels on the school quality indicators and apply them to accreditation, [except as provided in 8VAC20-131-390 B 1 for the 2018-2019 school year. As described in 8VAC20-131-390 B, the year 2018-2019 shall be considered a transition year, with school accreditation designations evaluated using both the 2017-2018 criteria and the application of performance levels to school quality indicators according to board guidelines. For 2018-2019 only, a school may achieve accreditation by meeting the criteria of either the 2017-2018 year or the criteria effective 2018-2019, whichever benefits it the most.]

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1. The school quality indicators and performance levels for each are described in this subdivision:

School Quality Indicator	Performance Levels		
a. Academic achievement indicator for all students for English (reading and writing): the academic indicator shall be calculated based on the rate of (i) students who passed board-approved assessments, (ii) any additional students who showed growth using board-approved measures, and (iii) any additional students who are English learners who showed growth toward English proficiency using board-approved measures.	<p><u>Level One:</u> Schools with a current year or three-year average rate of at least 75%, or schools that were at Level Two the prior year and decrease the failure rate by 10% or more from the prior year.</p> <p><u>Level Two:</u> Schools not meeting Level One performance with a current year or three-year average rate of at least 66%, or schools with a prior year rate of at least 50% that decrease the failure rate by 10% or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.</p> <p><u>Level Three:</u> Schools not meeting Level One or Level Two performance.</p>	<u>academic indicator shall be calculated based on the rate of students who passed board-approved assessments.</u>	<u>the prior year and decrease the failure rate by 10% or more from the prior year.</u> <u>Level Two:</u> Schools not meeting Level One performance with a current year or three-year average rate of at least 66%, or schools with a prior year rate of at least 50% and decrease the failure rate by 10% or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years. <u>Level Three:</u> Schools not meeting Level One or Level Two performance.
b. Academic achievement indicator for all students for mathematics: the academic indicator shall be calculated based on the rate of (i) students who passed board-approved assessments and (ii) any additional students who showed growth using board-approved measures.	<p><u>Level One:</u> Schools with a current year or three-year average rate of at least 70%, or schools that were at Level Two the prior year and decrease the failure rate by 10% or more from the prior year.</p> <p><u>Level Two:</u> Schools not meeting Level One performance with a current year or three-year average rate of at least 66%, or schools with a prior year rate of at least 50% that decrease the failure rate by 10% or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.</p> <p><u>Level Three:</u> Schools not meeting Level One or Level Two performance.</p>	<u>Level One: Schools with no more than one reporting group demonstrating Level Two performance.</u> <u>Level Two: Schools with two or more reporting groups demonstrating Level Two performance and no more than one reporting group demonstrating Level Three performance.</u> <u>Level Three: Schools with two or more reporting groups demonstrating Level Three performance.</u>	
c. Academic achievement indicator for all students for [science]: the	<p><u>Level One:</u> Schools with a current year or three-year average rate of at least 70%, or schools that were at Level Two</p>	<u>e. Academic achievement gaps for mathematics. A single performance level is assigned for academic achievement gaps for mathematics, based upon the composite of performance levels calculated individually for each reporting group using the same methodology and benchmarks as provided for in the academic achievement indicators for all students, as provided in subdivision F 1 a of this subsection.</u>	<u>Level One: Schools with no more than one reporting group demonstrating Level Two performance.</u> <u>Level Two: Schools with two or more reporting groups demonstrating Level Two performance and no more than one reporting group demonstrating Level Three performance.</u> <u>Level Three: Schools with two or more reporting groups</u>

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<p><u>provided for in the academic achievement indicators for all students, as provided in subdivision F 1 b of this subsection.</u></p>	<p><u>demonstrating Level Three performance.</u></p>		<p><u>h. Chronic absenteeism:</u> <u>Chronically absent students are defined as those who are enrolled in a given school who miss 10% or more of the school year, regardless of reason.</u> <u>Students receiving homebound instruction, as defined in 8VAC20-131-5, shall be excluded from the chronic absenteeism rate.</u></p>	<p><u>Level One: Schools with a current year or three-year average rate of no more than 15%, or schools that were at Level Two the prior year and decrease the rate by 10% or more from the prior year.</u> <u>Level Two: Schools not meeting Level One performance with a current year or three-year average rate of no more than 25%, or schools that were at Level Three the prior year and decrease the rate by 10% or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.</u> <u>Level Three: Schools not meeting Level One or Level Two performance.</u></p>
<p><u>f. Graduation and completion index (GCI) for schools with a graduating class: The GCI is [the%age the percentage] of students graduating from or completing high school based upon a graduation and completion index prescribed by the board. The board's GCI shall include weighted points for diploma graduates, recipients of high school equivalency credentials approved by the board, students not graduating but still in school, and students earning certificates of program completion.</u></p>	<p><u>Level One: Schools with a current year or three-year average index of at least 88, or schools that were at Level Two the prior year and increase the index by 2.5% or more from the prior year.</u> <u>Level Two: Schools not meeting Level One performance with a current year or three-year average index of at least 81, or schools that were at Level Three the prior year and increase the index by 2.5% or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.</u> <u>Level Three: Schools not meeting Level One or Level Two performance.</u></p>		<p><u>i. College, career, and civic readiness index for schools with a graduating class: The college, career, and civic readiness index measures the extent to which a school's students successfully complete advanced coursework, career and technical education (CTE) coursework and credentialing, and work-based and service-based learning.</u> <u>Application of the college, career, and civic readiness index indicator to performance levels for accreditation purposes shall occur no later than the 2021-2022 school year.</u></p>	<p><u>Level One: Schools with a current year index of at least 85.</u> <u>Level Two: Schools not meeting Level One performance with a current year index of at least 71. A school shall not receive a Level Two performance designation for more than four consecutive years.</u> <u>Level Three: Schools not meeting Level One or Level Two performance.</u></p>
<p><u>g. Dropout rate for schools with a graduating class.</u></p>	<p><u>Level One: Schools with a current year or three-year average rate of no more than 6.0%, or schools that were at Level Two the prior year and decrease the rate by 10% or more from the prior year.</u> <u>Level Two: Schools not meeting Level One performance with a current year or three-year average rate of no more than 9.0%, or schools that were at Level Three the prior year and decrease the rate by 10% or more from the prior year. A school shall not receive a Level Two performance designation for more than four consecutive years.</u> <u>Level Three: Schools not meeting Level One or Level Two performance.</u></p>		<p><u>2. To focus on continuous improvement for all schools, the benchmarks delineating the performance levels provided in subdivision 1 of this subsection may be adjusted as provided in subsection D of this section, through board-approved guidance. Adequate notice shall be provided to local school boards of any such adjustment.</u></p>	

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3. The board may adopt special provisions related to the measurement and use of a school quality indicator as prescribed by the board. The board may also alter the inclusions and exclusions from the performance level calculations by providing adequate notice to local school boards.

4. The board may add new assessments or discontinue the use of existing assessments in the Virginia Assessment Program by providing adequate notice to local school boards. As specified in the Standards of Quality, the board may adopt special provisions related to the administration and use of any SOL tests as applied to school quality indicators for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Notice shall be provided to local school boards regarding the special provisions prior to statewide administration of such tests.

5. The board may adopt valid and reliable measures of student growth to be used in calculating the Academic Achievement Indicators for English and mathematics and in determining the progress of English learners toward English proficiency.

6. The board shall provide a process for a local school board to appeal the performance level designation for a specific school quality indicator for any school in the division. The board shall grant such appeals only in limited circumstances that warrant special consideration in designating performance levels. In order to appeal such designation the local school board shall submit a request to the board, signed by the chairman of the school board and the school superintendent, explaining why the school board is appealing the designation and shall include documentation supporting the request to change the performance level designation.

7. The board may designate and approve additional school quality indicators, according to its criteria as specified in subsection A of this section, provided that when the board incorporates additional indicators, the board shall also establish performance benchmarks to assign performance levels.

G. To establish performance levels for any of the school quality indicators that are based on Virginia Assessment Program outcome data in schools with grade configurations that do not house a grade or offer courses for which SOL tests or additional tests approved by the board as outlined in 8VAC20-131-110 are administered, such schools shall be paired with another school in the division housing one or more of the grades in which SOL tests are administered. The pairing of such schools shall be made upon the recommendation of the division superintendent. The schools should have a "feeder" relationship and the grades should be contiguous.

8VAC20-131-390. Accreditation.

A. The board shall accredit schools based on achievement of the school accountability requirements of this chapter.

The principal of each new or existing school and the division superintendent shall annually document and report to the Department of Education, in a manner prescribed by the board, the following:

1. The division's promotion and retention policies have been developed in accordance with the requirements of 8VAC20-131-30;
 2. Compliance with the requirements to offer courses that shall allow students to complete the graduation requirements in 8VAC20-131-50 and 8VAC2021-131-51, as applicable;
 3. The school and school division's ability to offer the instructional program prescribed in 8VAC20-131-70 through 8VAC20-131-100;
 4. The school and school division's offering of history and social science and English, to include writing, as prescribed in 8VAC20-131-70 C;
 5. Compliance with the leadership and staffing requirements of 8VAC20-131-210 through 8VAC20-131-240;
 6. Compliance with the facilities and safety provisions of 8VAC20-131-260;
 7. Compliance with the parental notification provisions of 8VAC20-131-270 B;
 8. The Standards of Learning have been fully incorporated into the school division's curriculum in all accreditation-eligible schools, and the Standards of Learning material is being taught to all students eligible to take the SOL tests;
 9. A comprehensive school plan has been prepared and implemented as required by the Standards of Quality, in conjunction with the long-range comprehensive plan of the division. Such plan shall be available to students, parents, staff, and the public. Each school plan shall be evaluated as part of the development of the next plan. Schools may use other plans to satisfy this requirement with prior written approval from the Department of Education.
 10. Actions prescribed by 8VAC20-131-400 have been completed.
 11. Each school continues to meet the standards in this chapter that the school reported that it met in the previous year, and actions taken to correct any noncompliance issues that the school reported in the previous year.
- B. Accreditation ratings. Effective no later than the academic year 2018-2019, schools that meet the conditions described in subsection A of this section shall be assigned one of the following accreditation designations as described in this section.

1. Accredited: When a school has each of its school quality indicators at Level One or Level Two, it shall be

"Accredited." For the transition year of 2018-2019, when a school meets the accreditation standards for designation as accredited under either the 2017-2018 accreditation calculation rules or the 2018-2019 rules for multiple school quality indicators, it shall be designated "Accredited."

2. Accredited with Conditions: When a school has any school quality indicator at Level Three, it shall be "Accredited with Conditions."

3. Accreditation Denied: If a school is designated "Accredited with Conditions," and the school or school division fails to adopt and implement school division or school corrective action plans with fidelity as specified by 8VAC20-131-400 D, it may be designated by the board as "Accreditation Denied" as provided in 8VAC20-131-400 D 4.

C. Any school in violation of this chapter shall be subject to appropriate action by the board including withholding the school's accreditation rating.

D. A school's accreditation rating may be withheld by action of the board for any school found to be in violation of test security procedures pursuant to § 22.1-19.1 of the Code of Virginia.

E. Review cycles.

1. The board shall review annually the status of the performance levels for school quality indicators applied to accreditation for all schools in the Commonwealth.

2. If a school has been designated "Accredited" for three consecutive years, the board shall review the accreditation status of the school every three years. However, the board shall review the status of each school quality indicator used for accreditation each individual year within that triennial period. If the board finds that the school would have been accredited every year of the triennial review period, the board shall accredit the school for another three years. A multi-year accreditation status shall not relieve any school or division of annual reporting requirements, nor shall it relieve any school or division of annual review of school quality indicators used for school accreditation and subsequent actions as appropriate and provided for in 8VAC20-131-400, depending on performance level.

8VAC20-131-400. Application of the school quality indicator performance levels to actions.

A. In accordance with the Standards of Quality at § 22.1-253.13:6 [D C] of the Code of Virginia, all schools shall develop a comprehensive, unified, long-range plan. To develop such plans, schools shall conduct a comprehensive needs assessment, in collaboration with their school division staff, to identify needed actions to ensure continuous improvement for their students. Results of the comprehensive needs assessment shall be used to develop a multi-year improvement plan, which shall be a component of the school's comprehensive, unified, long-range plan. The multi-year improvement plan shall be reviewed and updated as

needed on an annual basis. Confirmation of completion of the actions required by this section shall be provided to meet requirements of 8VAC20-131-390 A 10.

In determining required actions for schools and school divisions, levels of performance shall be considered separately for each school quality indicator. Responses and actions to be taken by school divisions and schools, under the leadership of division superintendents and school principals, according to the performance level of each school quality indicator are as prescribed in subsections B, C, and D of this section.

B. Level One. If a school quality indicator is at Level One, the school and its school division shall continue to monitor the indicator and the multi-year school improvement plan for continuous improvement.

C. Level Two. If a school quality indicator is at Level Two, the school and its school division shall have primary responsibility to revise and implement its multi-year school improvement plan.

In developing such plan, the school and its school division shall determine the issues and conditions that are likely contributing to the school's performance on the indicator and plan and implement essential actions and research-based strategies designed to improve performance on the indicator to achieve the Level One standard.

School division and school staff shall:

1. Identify factors related to the school's performance on the indicator as part of the school's comprehensive needs assessment;

2. Use the results of the comprehensive needs assessment to develop [a and revise the] multi-year school improvement plan [that addresses to address] the factors identified in the needs assessment that are related to the performance on the indicator. The school's multi-year improvement plan shall be approved by the local school board. The department may implement an audit process to ensure compliance with this provision;

3. Implement the essential actions and research-based strategies with fidelity;

4. Regularly evaluate evidence of the school's progress in implementing the plan, monitor changes on the school quality indicator, and make adjustments as warranted; and

5. Evaluate the progress of the school quality indicators at Level Two at the end of each year [] and assess the results of the school improvement plan actions at the end of two years. If no progress is made within the two-year period on such school quality indicators, the plan shall be revised.

If any of the academic achievement indicators for all students, as provided in 8VAC20-131-380 F 1 a, 1 b, or 1 c is at Level Two, the school must undergo an academic review conducted by the department, or under its guidance, to further identify required actions to improve student achievement.

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Review of other indicators by the department, or under its guidance, may occur based on the school's multi-year school improvement plan. School improvement plans developed for academic achievement indicators for all students that are at Level Two shall be reviewed through a department-established process, which may include peer review by staff from other school divisions.

School divisions with indicators at Level Two may request technical assistance from the department.

D. Level Three.

1. Corrective action plans. If any school quality indicator is at Level Three, the school and school division shall work cooperatively and in consultation with the department to develop a corrective action plan, which shall be incorporated as a component of the school's comprehensive, unified, long-range plan.

In developing such plan, the school and school division, in consultation with the department, shall determine the issues and conditions that are likely contributing to the school's performance on the indicator and plan and implement essential actions and research-based strategies to achieve improvement to the Level One standard.

All schools with indicators at Level Three must undergo an academic or other review, as appropriate, conducted by the department, or under its guidance, to further identify required actions to improve student achievement and the school quality indicators that are at Level Three.

a. Considerations for the level of direction and intervention from the department include:

- (1) Specific characteristics of the school and school division;
- (2) The number of school quality indicators at Level Three for the school;
- (3) A school's trajectory on the indicators at Level Three;
- (4) The length of time the school indicator has been at Level Three; and
- (5) The number of schools in the division with multiple school quality indicators at Level Three.

b. In consultation with department staff, school division and school staff shall:

- (1) Identify factors related to the school's performance on the indicators at Level Three as part of the school's comprehensive needs assessment;
- (2) Use the results of the comprehensive needs assessment to develop a multi-year corrective action plan [which that] addresses the factors identified in the needs assessment that are related to the performance on the indicator through essential actions and research-based strategies;
- (3) Submit the completed corrective action plan to the department through the division superintendent for department approval;

(4) Amend the plan [] if the department disapproves any portion thereof, as needed to secure the department's approval;

(5) Implement the approved corrective action plan with fidelity; and

(6) Meet regularly with department staff to monitor evidence of the school's progress in implementing the plan, to track improvement on the indicator, and to identify next steps.

2. Superintendent agreement. The level of direction and intervention from the department may include requiring the local school division superintendent and the Superintendent of Public Instruction to enter into an agreement that shall delineate the responsibilities for the school division staff, school staff, and department staff and shall also include required essential actions to improve student achievement and to improve performance on school quality indicators.

3. Memorandum of understanding. School divisions that do not demonstrate evidence of progress in adopting or implementing corrective action plans for a school or schools with indicators at Level Three shall be required to enter into a memorandum of understanding between the local school board and the board. The memorandum of understanding shall delineate responsibilities for the local school board, the board, school division staff, school staff, and department staff and shall also include required essential actions to improve student achievement and to improve performance on school quality indicators.

Department staff shall meet regularly with school division staff to monitor the memorandum of understanding and corrective action plan, to track progress on the indicators, and to identify next steps.

School divisions that do not demonstrate evidence of progress under the memorandum of understanding and the associated corrective action plan shall be subject to additional actions, which may include more frequent meetings with department staff, required technical assistance, or appearance before the board.

4. Denial of accreditation. If a school is designated "Accredited with Conditions," and the school or school division fails to adopt and implement corrective action plans with fidelity as specified by this section, the Superintendent of Public Instruction shall review the school for potential designation by the board as "Accreditation Denied" and shall present the results of such review to the board with recommendations. If the board determines that any such school is at Level Three on any school quality indicator due to its failure to adopt and implement corrective action plans with fidelity as required by this section, the board shall designate such school as "Accreditation Denied." The local school board shall be given an opportunity to correct such failure, and if successful in a timely manner, the school's "Accreditation

"Denied" designation may be rescinded at the board's discretion.

5. At-risk add-on funds. As provided in the appropriation act, if the board has required a local school board to submit a corrective action plan pursuant to § 22.1-253.13:3 A of the Code of Virginia, either for the school division pursuant to a division level review or for any schools within its division that have been designated as not meeting the standards as approved by the board, the Superintendent of Public Instruction shall determine and report to the board whether each such local school board has met its obligation to develop and submit such corrective action plan and is making adequate and timely progress in implementing the plan. Additionally, if an academic review process undertaken pursuant to § 22.1-253.13:3 A of the Code of Virginia has identified actions for a local school board to implement, the Superintendent of Public Instruction shall determine and report to the board whether the local school board has implemented required actions. If the Superintendent of Public Instruction certifies that a local school board has failed or refused to meet any of those obligations, the board shall withhold payment of some or all at-risk add-on funds otherwise allocated to the affected division pursuant to this allocation for the pending fiscal year. In determining the amount of at-risk add-on funds to be withheld, the board shall take into consideration the extent to which such funds have already been expended or contractually obligated. The local school board shall be given an opportunity to correct its failure and, if successful in a timely manner, may have some or all of its at-risk add-on funds restored at the board's discretion.

6. Additional remedies. The board may exercise its authority to seek school division compliance with school laws pursuant to the relevant provisions of the Code of Virginia when any school within a division receives an accreditation designation other than "Accredited."

In accordance with the Standards of Quality at § 22.1-253.13:3 A of the Code of Virginia, if the board determines that a school division has failed or refused, and continues to fail or refuse, to comply with any of the Standards of Quality, including the requirement for local school boards to maintain schools designated as "Accredited" as provided in § 22.1-253.13:3 A of the Code of Virginia, the board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.

8VAC20-131-410. Recognitions and rewards for school and division accountability.

A. Schools and divisions may be recognized by the board in accordance with guidelines it shall establish for the Virginia

Index of Performance (VIP) incentive program. In order to encourage school divisions to promote student achievement in science, technology, engineering, and mathematics (STEM), the board shall take into account in its guidelines a school division's increase in enrollment and elective course offerings in these STEM areas. Such recognition may include:

1. Public announcements recognizing individual schools and divisions;
2. Tangible rewards;
3. Waivers of certain board regulations;
4. Exemptions from certain reporting requirements; or
5. Other commendations deemed appropriate to recognize high achievement.

In addition to board recognition, local school boards shall adopt policies to recognize individual schools through public announcements, media releases, and participation in community activities when setting policy relating to schools and budget development, as well as other appropriate recognition.

B. Schools and divisions may be designated and recognized by the board for exemplar performance in accordance with criteria and guidelines it shall establish for top achievement in one or more school quality indicators, and the board may include recognition for high performing schools in specific peer categories, such as schools with high levels of poverty.

8VAC20-131-420. Waivers and alternative accreditation plans.

A. Except as specified in this section, the board may grant, for a period of up to five years, a waiver of requirements of this chapter that are not mandated by state or federal law or designed to promote health or safety. The board may grant all or a portion of the request for a waiver and designate conditions as appropriate. Waivers of requirements in 8VAC20-131-30, 8VAC20-131-50, 8VAC20-131-51, 8VAC20-131-70, and 8VAC20-131-370 through 8VAC20-131-430 shall not be granted, and no waiver may be approved for a program that violates the Standards of Quality.

B. Waivers of some of the requirements of this chapter may be granted by the board based on submission of a request from the division superintendent and chairman of the local school board. The request shall include documentation of the justification and need for the waiver. In no event shall waivers be granted to the requirements of Part III (8VAC20-131-30 et seq.) of this chapter except that the board may provide for the waiver of certain graduation requirements in 8VAC20-131-50 and 8VAC20-131-51 upon (i) the board's initiative or (ii) the request of a local school board on a case-by-case basis. The board shall develop guidelines for implementing this chapter.

Any student with a disability whose Individualized Education Program (IEP) or 504 Plan documents that the student cannot successfully complete training in emergency

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first aid, cardiopulmonary resuscitation, or the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation, as required for graduation in 8VAC20-31-50 B 2 and C 2 and 8VAC20-131-51 B 2 and C 2 shall be granted a waiver from this graduation requirement.

C. Waivers for innovative or school experimental programs. With the approval of the local school board, schools seeking to implement experimental or innovative programs, or both, that are not consistent with this chapter shall submit a waiver request to the board for evaluation and approval prior to implementation. The request must include the following:

1. Purpose and objectives of the experimental or innovative programs;
2. Description and duration of the programs;
3. Anticipated outcomes;
4. Number of students affected;
5. Evaluation procedures; and
6. Mechanisms for measuring goals, objectives, and student academic achievement.

D. Alternative accreditation plans. Subject to the provisions of subsection B of this section, the governing school board of special purpose schools such as those provided for in § 22.1-26 of the Code of Virginia, Governor's schools, special education schools, alternative schools, or career and technical schools that serve as the student's school of principal enrollment may seek approval of an alternative accreditation plan from the board. Schools offering alternative education programs, schools with a graduation cohort of 50 or fewer students as defined by the graduation rate formula adopted by the board may request that the board approve an alternative accreditation plan to meet the graduation and completion index benchmark. Special purpose schools with alternative accreditation plans shall be evaluated on standards appropriate to the programs offered in the school and approved by the board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a Standard Diploma or an Advanced Studies Diploma must meet the requirements prescribed in 8VAC20-131-50 or 8VAC20-131-51.

As set forth in the Standards of Quality and according to department procedures, any school board may request the board for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for schools enumerated in this subsection, based on special circumstances.

8VAC20-131-430. Effective dates.

A. Graduation requirements.

1. The graduation requirements for students entering the ninth grade for the first time in the 2013-2014 school year

and prior to the 2018-2019 school year shall be those provided in 8VAC20-131-50.

2. The graduation requirements for students entering the ninth grade for the first time in the 2018-2019 school year and beyond shall be those provided in 8VAC20-131-51.

3. The graduation requirements applicable to students transferring into a Virginia high school for the first time shall be as determined by 8VAC20-131-60 G.

B. Locally awarded verified credits.

1. Locally awarded verified credits conferred for history and social science for students entering the ninth grade for the first time prior to the 2018-2019 school year shall be as provided in 8VAC20-131-110 B 3 a.

2. Locally awarded verified credits conferred for English, mathematics, laboratory science, and history and social science for students entering the ninth grade for the first time in 2018-2019 or thereafter shall be as provided in 8VAC20-131-110 B 3 b.

C. Academic and career planning.

1. The requirements for academic and career planning prescribed in 8VAC20-131-140 B shall be effective beginning with the 2013-2014 academic year and through the 2017-2018 academic year.

2. The requirements for Academic and Career Plans prescribed in 8VAC20-131-140 C shall be effective beginning with the 2018-2019 academic year.

D. The application of the college, career, and civic readiness index as a school quality indicator used for accreditation shall be made no later than the 2021-2022 school year.

E. Unless otherwise specified, the remainder of this chapter shall become effective beginning with the 2018-2019 academic year.

V.A.R. Doc. No. R13-3789; Filed November 21, 2017, 11:07 a.m.



TITLE 9. ENVIRONMENT

DEPARTMENT OF ENVIRONMENTAL QUALITY

Forms

REGISTRAR'S NOTICE: Forms used in administering the following regulation have been filed by the Department of Environmental Quality. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Title of Regulation: 9VAC15-30. Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, email melissa.porterfield@deq.virginia.gov.

FORMS (9VAC15-30)

~~Form DEQ 50-11, Recycling Machinery Equipment Certification (rev. 5/01).~~

[Form DEQ 50-11, Recycling Machinery and Equipment Certification for Local Tax Exemption \(rev. 11/2017\)](#)

[Form DEQ 50-11S, Recycling Machinery and Equipment Certification for State Income Tax Credit \(rev. 11/2017\)](#)

V.A.R. Doc. No. R18-5347; Filed November 8, 2017, 5:10 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Fast-Track Regulation

Title of Regulation: 12VAC5-90. Regulations for Disease Reporting and Control (repealing 12VAC5-90-230 through 12VAC5-90-270).

Statutory Authority: § 32.1-35 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: January 10, 2018.

Effective Date: January 26, 2018.

Agency Contact: Diane Woolard, PhD, Director, Disease Surveillance, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8124, or email diane.woolard@vdh.virginia.gov.

Basis: §§ 32.1-12 and 32.1-35 of the Code of Virginia authorize the State Board of Health to promulgate regulations and empowers the State Board of Health to adopt such regulations as are necessary to carry out provisions of laws of the Commonwealth administered by the Commissioner of the Department of Health.

Purpose: Section 32.1-45.3 of the Code of Virginia that authorized the regulations in this action has been repealed. Therefore, the sections of regulations contained in this regulatory action are no longer authorized, necessary, or applicable to protect public health.

Rationale for Using Fast-Track Rulemaking Process: As the section of the Code of Virginia has already been repealed, the repeal of the regulation is noncontroversial. This regulatory action aligns regulations with statute, and no agency discretion is involved.

Substance: Regulatory language is being repealed in compliance with the Code of Virginia.

Issues: The primary advantage to the public is the removal of potentially confusing regulatory language that no longer applies. This is also the primary advantage to the agency. No

disadvantages or other pertinent matters have been identified as this action simply removes these sections of the regulation because they are no longer authorized by the Code of Virginia.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 301 of the 2015 Acts of Assembly (Chapter 301),¹ the State Board of Health (Board) proposes to repeal regulatory text concerning HIV testing of gamete² donors.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. Prior to 2015, § 32.1-45.3 of the Code of Virginia required that the Board promulgate regulations establishing an HIV testing protocol for donors of gametes used to treat patients for infertility. Chapter 301 repealed this requirement. Regulations of the U.S. Food and Drug Administration³ require testing and other measures to prevent transmission of HIV and other infections when assisted reproductive technology, including donated gametes, are used to treat infertility and related problems. These federal regulations are more comprehensive than the existing state regulations. Thus the proposed repeal of text from the Virginia Regulations for Disease Reporting and Control would have no impact, beyond potentially reducing confusion, since the federal regulations already apply.

Businesses and Entities Affected. Beyond potentially reducing confusion among readers of the regulation, the proposed repeal of text does not affect any businesses or entities. The subject matter concerns practitioners who treat infertility, their medical practices, and potential donors of gametes.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "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."

Costs and Other Effects. The proposed amendments do not affect costs for small businesses.

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Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

¹ See <http://leg1.state.va.us/cgi-bin/legp504.exe?151+ful+CHAP0301>.

² Gametes are either sperm or ova.

³ CFR 21, Chapter 1, Part 1271-Human Cells, Tissues, and Cellular and Tissue-Based Products <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=1271>.

Agency's Response to Economic Impact Analysis: The Virginia Department of Health concurs with the findings and conclusions of the economic impact analysis.

Summary:

The amendments repeal Part XII of 12VAC5-90 to comply with Chapter 301 of the 2015 Acts of Assembly, which repealed § 32.1-45.3 of the Code of Virginia, the statute that authorized regulations to establish a testing protocol for gamete donors.

Part XII

Human Immunodeficiency Virus (HIV) Testing of Gamete Donors (Repealed)

12VAC5-90-230. Definitions. (Repealed.)

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

"Artificial insemination" means instrumental placement of semen into the vagina, cervical canal, or uterus of a recipient.

"Donor" means an individual who is unrelated by marriage to the recipient and who contributes sperm or ova used in the following procedures: treatment of infertility by artificial insemination; in vitro fertilization; gamete intrafallopian tube transfer; zygote intrafallopian tube transfer or any other gamete, zygote, or embryo transfer; or other intervening medical technology using sperm or ova.

"Embryo" means the product of a fertilized ovum prior to the eighth week of development inside a uterus.

"Gamete" means either sperm or ova.

"Gamete intrafallopian tube transfer" means placement of harvested ova and sperm into the fallopian tube or tubes of a recipient.

"HIV 1" means the retrovirus causing the human immunodeficiency virus infection, type 1.

"HIV 2" means the retrovirus causing the human immunodeficiency virus infection, type 2.

"In vitro fertilization" means placement of a zygote or embryo that has been fertilized outside the body into the uterus of a recipient.

"Zygote" means a fertilized ovum prior to cell cleavage.

"Zygote intrafallopian tube transfer" means placement of a zygote or zygotes into the fallopian tube or tubes of a recipient.

12VAC5-90-240. Excluding donors with high risk factors. (Repealed.)

A. Practitioners using gametes for the treatment of infertility by transfer of such gametes to a recipient shall interview all gamete donors at the time of donation in order to screen for high risk behavior indicating potential exposure to HIV 1 and HIV 2.

B. Any gamete donor reporting infection with HIV 1 or HIV 2 or any of the following risk factors shall be excluded from donating:

1. Men who have had sex with another man within the preceding five years.
2. Persons who have injected drugs for a nonmedical reason in the preceding five years, including intravenous, intramuscular, and subcutaneous injections of recreational or illegal drugs.
3. Persons with hemophilia or related clotting disorders who have received human derived clotting factor concentrates.
4. Persons who have had sex in exchange for money or drugs in the preceding five years.
5. Persons who have had sex in the preceding 12 months with any person described in subdivisions 1 through 4 of this subsection or with any person suspected of being infected with HIV 1 or HIV 2.
6. Persons who have been exposed within the last 12 months to known or suspected HIV 1 or HIV 2 infected blood through percutaneous inoculation (e.g., needle stick) or through contact with an open wound, nonintact skin, or mucous membrane.
7. Current inmates of correctional systems, including jails and prisons, and individuals who have been confined in jail or incarcerated in prison for more than 72 consecutive hours during the previous 12 months.
8. Persons who have had or have been treated for syphilis or gonorrhea during the preceding 12 months.
9. Persons who within 12 months of donation have undergone acupuncture, ear or body piercing or tattooing in which sterile procedures were not used or where it is unknown if sterile procedures were used.
10. Persons who choose to defer from donation whether or not they report any of the above potential exposures to HIV 1 or HIV 2.

12VAC5-90-250. Storage of semen pending negative HIV tests. (Repealed.)

~~Semen specimens from donors shall be stored and withheld from use for at least 180 days following donation and used only if the donor tests negative for serum antibodies for HIV 1 and HIV 2 on enzyme linked immunosorbent assay or blood HIV 1 and HIV 2 by polymerase chain reaction at least 180 days after donation.~~

12VAC5-90-260. Use of ova after negative HIV tests. (Repealed.)

~~Ova shall be used only if the donor tests negative for serum antibodies to HIV 1 and HIV 2 on enzyme linked immunosorbent assay or blood HIV 1 and HIV 2 by polymerase chain reaction at the initiation of the cycle during which the ova are harvested.~~

12VAC5-90-270. Notifying recipients of option to delay transfer. (Repealed.)

~~Practitioners using ova, embryos, or zygotes for the treatment of infertility or other medical technology involving the transfer of ova, embryos, or zygotes to a recipient shall notify these recipients of the option for having donor ova fertilized and the resultant zygotes frozen and then transferred to the recipient only if the ova donor is negative for serum antibodies for HIV 1 and HIV 2 on enzyme linked immunosorbent assay or blood HIV 1 and HIV 2 by polymerase chain reaction at least 180 days after donation.~~

V.A.R. Doc. No. R18-5211; Filed November 17, 2017, 4:15 p.m.

Final Regulation

Title of Regulation: 12VAC5-490. Virginia Radiation Protection Regulations: Fee Schedule (adding 12VAC5-490-50).

Statutory Authority: § 32.1-229.1 of the Code of Virginia.

Effective Date: January 11, 2018.

Agency Contact: Steve Harrison, Director, Division of Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8151, FAX (804) 864-8155, or email steve.harrison@vdh.virginia.gov.

Summary:

The amendments establish fees for the initial registration and subsequent annual renewal of registration for individuals who inspect x-ray devices in the Commonwealth.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

12VAC5-490-50. Private inspector registration fees.

A. Individuals included on the Commonwealth's list of qualified inspectors of x-ray machines pursuant to § 32.1-229.1 D 5 of the Code of Virginia as of November 1, 2016, shall pay annually a registration renewal fee of \$150 [to the Virginia Department of Health X Ray Program] to remain on

the list as a qualified inspector of x-ray machines pursuant to 12VAC5-481-340.

B. Individuals requesting to be placed on the Commonwealth's list of qualified inspectors of x-ray machines pursuant to § 32.1-229.1 D 5 of the Code of Virginia shall:

1. Request approval by the Office of Radiological Health to become a qualified inspector of x-ray machines pursuant to 12VAC5-481-340;
2. Pay an initial registration fee of \$150 [to the Virginia Department of Health X Ray Program], once approved; and
3. Pursuant to subsection A of this section, pay annually a registration renewal fee of \$150 to remain on the list as a qualified inspector of x-ray machines pursuant to 12VAC5-481-340.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form with a hyperlink to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (12VAC5-490)

[Application to be Listed as a Private Inspector of X-ray Machines, RH-F-27 \(eff. 9/2014\)](#)

V.A.R. Doc. No. R17-4856; Filed November 9, 2017, 3:28 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

Title of Regulation: 12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-220).

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Date: January 10, 2018.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Summary:

Item 306 OOOO of Chapter 780 of the 2016 Acts of Assembly, the 2016 Appropriation Act, directs the Department of Medical Assistance Services to cover low-dose computed tomography lung cancer screenings for high-risk adults. The amendment conforms the regulation to this requirement.

Regulations

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

12VAC30-50-220. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

A. Diagnostic services are provided but only when necessary to confirm a diagnosis.

B. Screening services.

1. Screening mammograms for the female recipient population aged 35 and over shall be covered, consistent with the guidelines published by the American Cancer Society.

2. Screening PSA (prostate specific antigen) and the related DRE (digital rectal examination) for males shall be covered, consistent with the guidelines published by the American Cancer Society.

3. Screening Pap smears shall be covered annually for females, consistent with the guidelines published by the American Cancer Society.

4. Screening services for colorectal cancer, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations.

5. Low-dose computed tomography lung cancer screening shall be covered annually for individuals between the ages of 55 years and 80 years who are current smokers, have quit smoking within the last 15 years, or have a history of smoking at least one pack of cigarettes per day for 30 or more years.

C. Maternity length of stay and early discharge.

1. If the mother and newborn, or the newborn alone, are discharged earlier than 48 hours after the day of delivery, DMAS will cover one early discharge follow-up visit as recommended by the physicians in accordance with and as indicated by the "Guidelines for Perinatal Care," 4th Edition, August 1997, as developed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The mother and newborn, or the newborn alone if the mother has not been discharged, must meet the criteria for early discharge to be eligible for the early discharge follow-up visit. This early discharge follow-up visit does not affect or apply to any usual postpartum or well-baby care or any other covered care to which the mother or newborn is entitled; it is tied directly to an early discharge.

2. The early discharge follow-up visit must be provided as directed by a physician. The physician may coordinate with the provider of his choice to provide the early

discharge follow-up visit, within the following limitations. Qualified providers are those hospitals, physicians, nurse midwives, nurse practitioners, federally qualified health clinics, rural health clinics, and health departments' clinics that are enrolled as Medicaid providers and are qualified by the appropriate state authority for delivery of the service. The staff providing the follow-up visit, at a minimum, must be a registered nurse having training and experience in maternal and child health. The visit must be provided within 48 hours of discharge.

V.A.R. Doc. No. R17-4949; Filed November 13, 2017, 11:09 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Final Regulation

REGISTRAR'S NOTICE: The Virginia Board for Asbestos, Lead, and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Virginia Board for Asbestos, Lead, and Home Inspectors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC15-20. Virginia Asbestos Licensing Regulations (amending 18VAC15-20-53).**

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Effective Date: February 1, 2018.

Agency Contact: Trisha Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Summary:

The amendments reduce the renewal and late renewal fees for individual asbestos licenses (i.e., worker, supervisor, inspector, management planner, project designer, and project monitor), asbestos analytical laboratory licenses, asbestos contractor licenses, and accredited asbestos training program approvals that expire for the 2018-2020 renewal cycle in compliance with § 54.1-113 of the Code of Virginia.

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18VAC15-20-53. Renewal and late renewal fees.

A. Renewal and late renewal fees are set out in this section.

Fee Type	Fee Amount	When Due
Renewal for worker, supervisor, inspector, management planner, project designer or project monitor license	\$45	With renewal application
Renewal for asbestos analytical laboratory license	\$75	With renewal application
Renewal for asbestos contractor's license	\$70	With renewal application
Renewal for accredited asbestos training program approval	\$125	With renewal application
Late renewal for worker, supervisor, inspector, management planner, project designer or project monitor license (includes a \$35 late renewal fee in addition to the regular \$45 renewal fee)	\$80	With renewal application
Late renewal for asbestos analytical laboratory license (includes a \$35 late renewal fee in addition to the regular \$75 renewal fee)	\$110	With renewal application
Late renewal for asbestos contractor's license (includes a \$35 late renewal fee in addition to the regular \$70 renewal fee)	\$105	With renewal application
Late renewal for accredited asbestos training program approval (includes a \$35 late renewal fee in addition to the regular \$125 renewal fee)	\$160	With renewal application

B. For licenses expiring after February 1, 2018, and before February 1, 2020, the renewal fees shall be as follows:

<u>Renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</u>	<u>\$25</u>
<u>Renewal for asbestos analytical laboratory license</u>	<u>\$40</u>
<u>Renewal for asbestos contractor's license</u>	<u>\$30</u>

<u>Renewal for accredited asbestos training program approval</u>	<u>\$40</u>
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For late renewals received after March 1, 2018, and on or before February 28, 2020, the late renewal fees shall be as follows:

<u>Late renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</u>	<u>\$60</u>
<u>Late renewal for asbestos analytical laboratory license</u>	<u>\$75</u>
<u>Late renewal for asbestos contractor's license</u>	<u>\$65</u>
<u>Late renewal for accredited asbestos training program approval</u>	<u>\$75</u>

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (18VAC15-20)

[Asbestos Worker License Application, A506-3301LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Supervisor License Application, A506-3302LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Inspector License Application, A506-3303LIC v5 \(rev. 8/2015\)](#)

[Asbestos Management Planner License Application, A506-3304LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Project Designer License Application, A506-3305LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Project Monitor License Application, A506-3309LIC-v5 \(rev. 8/2015\)](#)

[Individual - Asbestos License Renewal Form, A506-33AREN v3 \(rev. 8/2015\)](#)

[Asbestos Analytical Laboratory License Renewal Form, A506-3333REN v3 \(rev. 8/2015\)](#)

[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN v3 \(rev. 8/2015\)](#)

[Individual - Asbestos License Renewal Form, A506-33AREN-v4 \(rev. 2/2018\)](#)

[Asbestos Analytical Laboratory License Renewal Form, A506-3333REN-v4 \(rev. 2/2018\)](#)

[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN-v4 \(rev. 2/2018\)](#)

[Asbestos - Experience Verification Application, A506-33AEXP-v4 \(rev. 8/2015\)](#)

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Asbestos - Education Verification Application, A506-33AED-v3 (rev. 8/2015)

Virginia Asbestos Licensing Consumer Information Sheet, A506-33ACIS-v2 (rev. 8/2013)

Inspector/Project Designer/Contractor Disclosure Form, A506-33DIS-v2 (rev. 8/2013)

Asbestos Contractor License Application, A506-3306LIC-v4 (rev. 8/2015)

Asbestos Analytical Laboratory License Application, A506-3333LIC-v6 (rev. 8/2015)

Asbestos Training Program Review and Audit Application, A506-3331ACRS-v4 (rev. 8/2015)

Asbestos Project Monitor - Work Experience Log, A506-3309EXP-v3 (rev. 8/2015)

V.A.R. Doc. No. R18-5313; Filed November 17, 2017, 2:59 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Board for Asbestos, Lead, and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Virginia Board for Asbestos, Lead, and Home Inspectors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC15-30. Virginia Lead-Based Paint Activities Regulations (amending 18VAC15-30-163).

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Effective Date: February 1, 2018.

Agency Contact: Trisha Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Summary:

The amendments reduce the renewal and late renewal fees for individual lead licenses (i.e., worker, supervisor, inspector, risk assessor, and project designer), lead contractor licenses, and accredited lead training program approvals that expire after February 1, 2018, and before February 1, 2020, to comply with § 54.1-113 of the Code of Virginia.

18VAC15-30-163. Renewal and late renewal fees.

A. Renewal and late renewal fees are as follows:

Fee Type	Fee Amount	When Due
Renewal for worker, supervisor, inspector, risk assessor or project designer license	\$45	With renewal application
Renewal for lead contractor license	\$70	With renewal application
Renewal for accredited lead training program approval	\$125	With renewal application
Late renewal for worker, supervisor, inspector, risk assessor or project designer license (includes a \$35 late renewal fee in addition to the regular \$45 renewal fee)	\$80	With renewal application
Late renewal for lead contractor license (includes a \$35 late renewal fee in addition to the regular \$70 renewal fee)	\$105	With renewal application
Late renewal for accredited lead training program approval (includes a \$35 late renewal fee in addition to the regular \$125 renewal fee)	\$160	With renewal application

B. For licenses expiring after February 1, 2018, and before February 1, 2020, the renewal fees shall be as follows:

<u>Renewal for worker, supervisor, inspector, risk assessor, or project designer license</u>	<u>\$25</u>
<u>Renewal for lead contractor license</u>	<u>\$30</u>
<u>Renewal for accredited lead training program approval</u>	<u>\$40</u>

For late renewals received after March 1, 2018, and on or before February 28, 2020, the late renewal fees shall be as follows:

Late renewal for worker, supervisor, inspector, risk assessor, or project designer license	<u>\$60</u>
Late renewal for lead contractor license	<u>\$65</u>
Late renewal for accredited lead training program approval	<u>\$75</u>

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FORMS (18VAC15-30)

[Lead Abatement Worker License Application, A506-3351LIC-v3 \(eff. 8/2015\)](#)

[Lead Abatement Supervisor License Application, A506-3353LIC-v4 \(eff. 8/2015\)](#)

[Lead Abatement Inspector License Application, A506-3355LIC-v3 \(eff. 8/2015\)](#)

[Lead Abatement Risk Assessor License Application, A506-3356LIC-v5 \(eff. 8/2015\)](#)

[Lead Abatement Project Designer License Application, A506-3357LIC-v3 \(eff. 8/2015\)](#)

[Lead Abatement Contractor License Application, A506-3358LIC-v3 \(eff. 8/2015\)](#)

[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN-v3 \(eff. 8/2015\)](#)

[Individual - Lead License Renewal Form, A506-33LREN-v2 \(eff. 8/2015\)](#)

[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN-v4 \(rev. 2/2018\)](#)

[Individual - Lead License Renewal Form, A506-33LREN-v3 \(rev. 2/2018\)](#)

[Lead - Education Verification Application, A506-33LED-v3 \(rev. 8/2015\)](#)

[Lead - Experience Verification Application, A506-33LEXP-v3 \(rev. 8/2015\)](#)

[Lead Training Course Application, 3331LCRS-v4 \(eff. 8/2015\)](#)

[Inspector/Risk Assessor/Project Designer/Contractor Disclosure Form, A506-33LDIS-v2 \(eff. 8/2013\)](#)

[Virginia Lead Licensing Consumer Information Sheet, A506-33LCIS-v2 \(eff. 8/2013\)](#)

V.A.R. Doc. No. R18-5315; Filed November 17, 2017, 3:01 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Board for Asbestos, Lead, and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Virginia Board for Asbestos, Lead, and Home Inspectors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC15-40. Home Inspector Licensing Regulations (amending 18VAC15-40-50).**

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Effective Date: February 1, 2018.

Agency Contact: Trisha L. Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Summary:

The amendments reduce the fees for certain license renewals and reinstatement applications for home inspectors and home inspectors with new residential structure specialty designations to comply with § 54.1-113 of the Code of Virginia.

18VAC15-40-50. Fees.

Fee type	Fee amount	When due
Initial home inspector application	\$80	With application for home inspector
Initial NRS specialty application	\$80	With application for NRS specialty designation
Home inspector renewal	\$45	With renewal application
Home inspector with NRS specialty renewal	\$90	With renewal application
Home inspector reinstatement	\$125	With reinstatement application
Home inspector with NRS specialty reinstatement	\$170	With reinstatement application
Prelicense education course approval	\$250	With prelicense education course approval application

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NRS training module approval	\$150	With NRS training module approval application
NRS CPE course approval	\$150	With NRS CPE course approval application

For licenses expiring after February 1, 2018, and before February 1, 2020, the renewal fees shall be as follows:

<u>Home inspector renewal</u>	<u>\$25</u>
<u>Home inspector with NRS specialty renewal</u>	<u>\$50</u>

For reinstatement applications received after March 1, 2018, and on or before February 28, 2020, the reinstatement fees shall be as follows:

<u>Home inspector reinstatement</u>	<u>\$105</u>
<u>Home inspector with NRS specialty reinstatement</u>	<u>\$130</u>

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form with a hyperlink to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (18VAC15-40)

[Home Inspector License Application, A506-3380LIC-v3 \(eff. 9/2017\)](#)

[Home Inspector NRS Specialty Designation Application, A506-3380NRS-v1 \(eff. 7/2017\)](#)

[Home Inspector Experience Verification Form, A506-3380EXP-v7 \(eff. 9/2017\)](#)

[Home Inspectors – Inspection Log, A506-3380ILOG-v1 \(eff. 9/2017\)](#)

[Home Inspector Reinstatement Application, A506-3380REI-v1 \(eff. 7/2017\)](#)

[Home Inspector Reinstatement Application, A506-3380REI-v2 \(eff. 2/2018\)](#)

[Home Inspector - Course Approval Application, Prelicense Education Course/NRS Training Module/NRS CPE, A506-3331HICRS-v1 \(eff. 4/2017\)](#)

V.A.R. Doc. No. R18-5317; Filed November 16, 2017, 3:32 p.m.

BOARD OF VETERINARY MEDICINE

Proposed Regulation

Title of Regulation: 18VAC150-20. Regulations Governing the Practice of Veterinary Medicine (adding 18VAC150-20-174).

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Hearing Information:

February 8, 2018 - 9:05 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor Conference Center, Henrico, VA

Public Comment Deadline: February 09, 2018.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4468, FAX (804) 527-4471, or email leslie.knachel@dhp.virginia.gov.

Basis: Regulations are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which provides the Board of Veterinary Medicine the authority to promulgate regulations to administer the regulatory system. Pursuant to § 54.1-3408.4 of the Code of Virginia (Chapters 794 and 812 of the 2017 Acts of Assembly), the board is required to adopt regulations for veterinarians to be able to prescribe buprenorphine.

Purpose: The purpose of the regulatory action is to establish requirements for prescribing of controlled substances containing opioids to address the overdose and addiction crisis in the Commonwealth. The goal is to provide veterinarians with definitive rules to follow so that they may feel more assured of their ability to treat pain in an appropriate manner to avoid under-prescribing or over-prescribing and to discourage pet owners from using their animals to obtain drugs.

Substance: Regulations specify that nonpharmacologic and non-opioid treatment for pain should be considered, but if an opioid is necessary, it should be prescribed in the lowest effective dose for the shortest period of time, not to exceed 14 days. Regulations for management of chronic pain, terminal illness, or chronic conditions beyond 14 days include requirements for evaluation and treatment, including a treatment plan, consultation with an owner about storage and security, and recordkeeping. Regulations for prescribing of buprenorphine include a limitation of a seven-day supply with reexamination required to prescribe beyond that period.

Issues: The primary advantage to the public is a reduction in the amount of opioid medication that is available in Virginia communities. Although veterinarians prescribe opioids for animals, there is sufficient evidence to indicate that a small percentage of opioids are being diverted for human use. Therefore, a limitation on the quantity of opioids that may be prescribed should result in fewer people becoming addicted to pain medication, which sometimes leads them to turn to heroin and other illicit drugs. The primary disadvantage to the

public may be that more explicit rules for prescribing may result in some owners having to bring their animals for more frequent visits in order to continue receiving opioid medication.

The primary advantage to the Commonwealth is the potential reduction in the number of persons addicted to opioids and the number of deaths from overdoses. There are no disadvantages.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Veterinary Medicine (Board) proposes to amend its regulations to set rules for the prescribing of opioids other than buprenorphine for animals in need of acute or chronic pain treatment. Separately, the Board proposes to set rules for the prescription of buprenorphine for animals. This proposed regulation will replace an emergency regulation that became effective June 26, 2017 and will expire December 25, 2018.

Result of Analysis. There is insufficient information to ascertain whether benefits will outweigh costs for these regulatory changes.

Estimated Economic Impact.

Board's Purpose: The agency background document (ABD) states that the Board's purpose for promulgating these regulatory changes is to establish the "requirements for prescribing of controlled substances containing opioids to address the overdose and addiction crisis in the Commonwealth." The ABD also notes that the proposed regulation's "primary benefit is a reduction in the amount of opioid medication that is available in our communities."

Proposed Regulatory Requirements: Prior to the promulgation of the expiring emergency regulation, there were no specific laws or regulations that set requirements for veterinarians' prescribing of opioids. In this proposed regulation, and the emergency regulation it will replace, the Board now proposes to require that veterinarians consider nonpharmacologic¹ and non-opioid² treatments for pain before considering an opioid. Veterinarians will also be required to perform a history and physical exam, as well as assess the patient animal's history as part of an initial evaluation. If an opioid medication is prescribed for the treatment of acute pain, the Board proposes to require that it be prescribed in the lowest effective dose appropriate to the size and species of the animal patient and for the least amount of time possible. For acute pain, the Board proposes to limit any prescriptions for opioids to a 14-day supply.

The Board proposes to specify that treatment with opioids past an initial 14-day supply may only occur if that prescribing is within the accepted standard of care and is for the treatment of chronic pain, end-of-life pain, or for certain chronic conditions.³ The Board proposes to require that animal patients being treated for chronic or end-of-life conditions be seen and evaluated for the continued need for

opioid treatment after the initial 14-day prescription. For any opioid treatment that will last longer than 14 days, veterinarians will be required to develop a treatment plan that includes "measures to be used to determine progress, further diagnostic evaluations or modalities that might be necessary, and the extent to which the pain or condition is associated with physical impairment." Thereafter, the Board proposes to require re-evaluation of the patient animal every six months and that justification for continued prescribing of opioid medication be documented in the patient animal's records.

The Board also proposes to limit the prescribing of buprenorphine (for out-patient administration) to (1) a dosage, quantity and formulation appropriate for the patient animal, (2) an initial prescription of seven days, with any extension requiring a re-examination of the patient animal. The veterinarian will be required to document in the patient animal's records the re-examination, and that continued treatment with buprenorphine is consistent with an appropriate standard of care.

Prior to prescribing any opioid medications, the Board proposes to require veterinarians discuss with pet owners the known risks and benefits of opioid therapy, the owners' responsibility to secure opioid medications while in use, and how to properly dispose of any unused medication. Veterinarians will be required to document these discussions. The Board also proposes to specify that "continuation of treatment with controlled substances shall be supported by documentation of continued benefit from the prescribing." If a patient animal's progress is unsatisfactory, the Board proposes to require that veterinarians assess the appropriateness of continued opioid therapy and consider the use of other treatments. Additionally, the Board proposes to require that any medical record for prescribing controlled substances include "signs or presentation of pain or condition, a presumptive diagnosis of the origin of the pain or condition, an examination appropriate to the complaint, a treatment plan, and the medication prescribed to include the date, type, dosage and quantity prescribed."

Benefits and Costs for Proposed Regulatory Requirements: As noted above, the primary benefit identified by the Board is a reduction in the amount of opioid medication available in Virginia communities. Other benefits identified in the ABD include:

- the "potential reduction in the number of persons addicted to opioids and deaths from overdoses;"
- providing "veterinarians with definitive rules to follow so they may feel more assured of their ability to treat pain in an appropriate manner to avoid underprescribing or over-prescribing;" and
- to "discourage pet owners from using their animals to obtain drugs."

The magnitude of the opioid crisis in Virginia is described in the ABD, which notes that by the end of 2016 the numbers of fatal opioid overdose deaths were expected to increase by 77

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percent, compared to five years ago. (This includes heroin and fentanyl.) Moreover, in the first half of 2016 the total number of fatal drug overdoses in Virginia increased 35 percent, when compared to the same time period in 2015. The ABD also notes that many individuals who become addicted to heroin started with an addiction to prescription drugs, and the federal Drug Enforcement Administration observes that "fentanyl can serve as substitute for heroin in opioid dependent individuals."⁴ Therefore, in order to stem the tide of addiction, the Board states that practitioners need enforceable rules for proper prescribing of opioids.

Analysis of Regulatory Effects Is Hindered by Lack of Key Information. The ABD appears to suggest that the opioid crisis substantially results from prescription opioids. The harm the regulation is intended to address occurs either directly, from misuse of prescription opioids, or indirectly, wherein misuse of prescription opioids leads to misuse of other substances. No data appear to exist, however, that could be used to analyze the magnitude to which this may occur in Virginia. As noted below, available data indicate that prescription opioids are a leading cause or contributing factor in overdoses in Virginia. On the other hand, data indicate that the driver of fatal drug overdoses in Virginia is illicit fentanyl, not prescription opioids. Moreover, no data appear to exist that indicate the number of Virginians who misuse a prescription opioid and then become addicted to, or fatally overdose on, a non-prescription opioid. To the extent that the regulation reduces the amount of opioids in Virginia communities, and the number of persons addicted to opioids or deaths from overdoses, a benefit would be conferred. However, given the lack of data available to measure these outcomes, DPB staff were not able to calculate the extent to which this benefit may result.

Most of the drug-related deaths in Virginia since 2015 have resulted from sources other than prescription opioids. The Office of the Chief Medical Examiner (OCME) reports that "there has not been a significant increase or decrease in fatal prescription opioid overdoses" in the nine-year period from 2007 to 2016.⁵ Instead, the OCME notes that fentanyl "has caused the significant rise in all fatal opioid overdoses in the Commonwealth since 2012." More specifically, OCME data indicate that prescription opioids (excluding fentanyl) caused or contributed to, on average, 443 deaths each year during this time period. In contrast, during 2015 to 2016 alone the OCME reports that "fatal fentanyl overdoses increased by 176.4 percent," accounting for 622 deaths in 2016, an increase from 225 in 2015.⁶

These drug-related deaths, however, are often caused by more than one drug. Accordingly, the data reported by OCME on the number of deaths from a given drug frequently include deaths where more than one drug was "on board." As noted by the OCME, a single cocaine, heroin, and alprazolam overdose death will be counted

three times: once under each class of drug. Because of the frequency of these "polypharmacy" results, no specific data exist on the number of deaths in Virginia that result from just one drug, such as prescription opioids.

DPB staff were not able to identify any data indicating the number of persons in Virginia who have become addicted to or died from opioids as a result of diversion or misuse of opioids, including prescriptions to animals. In part this results from the presence of the polypharmacy results noted above, which hinder an assessment of the actual number of people who die from prescription opioids. And though national survey data⁷ and other studies indicate that 65 to 75 percent of heroin abusers began with prescription opioids,⁸ no discrete data appear to exist on the number of Virginians who become addicted or the deaths that may occur.

Regulatory Requirements Affecting the Commonwealth. According to the ABD, there is sufficient evidence to indicate that a small percentage of opioids prescribed by veterinarians for animals are being diverted for human use. Although not specifically stated in the ABD, it appears that the kind of diversion the regulation is intended to address would occur outside of the veterinarian's office, by either the pet's owner or other persons who gain access to the prescribed opioid. DPB staff were able to identify an instance of "veterinarian shopping" that occurred in Fairfax County in 2016. According to a brochure published by the Franconia District, Drug Diversion Information for Veterinarians,⁹ a dog owner brought his pet to six different veterinarians and received multiple prescriptions for Xanax and Tramadol (an opioid).

Regulatory Requirements Affecting Veterinarians. The ABD also indicates that veterinarians will benefit from the presence of definitive rules for prescribing opioids. Any benefit that might be realized from this proposed regulation would have to be weighed against costs that may be incurred by veterinarians. To the extent that veterinarians' current record keeping and drug consultation practices differ from the requirements proposed by the Board, they will likely incur time and record keeping costs on account of the proposed regulation. Some veterinarians may also incur costs defending against Board disciplinary actions regarding their decisions to prescribe opioids, their record keeping, or other practices.

Regulatory Requirements Affecting Pet Owners. The benefits accruing to pet owners appear to be mixed, depending upon the species, the nature of their health concerns, and the efficacy of non-opioid treatments. The ABD notes that because of a bill passed during the 2017 Session,¹⁰ "without these regulations, Virginia law would prohibit all prescribing of buprenorphine mono-product for animals." Accordingly, the regulation would confer a

benefit by allowing prescriptions for buprenorphine mono-product. Board staff report, in the Board's answer to a commenter at the emergency stage of this regulation, that the most common use of buprenorphine in veterinary medicine is to treat pain in cats.¹¹ Board staff further reports that the dosages typically prescribed for felines are small and are unlikely to be abused by humans.

As noted by the Board in the ABD, some other pet owners, whose animals are prescribed opioids other than buprenorphine, may incur additional fees for additional office visits.¹² These fees are most likely for owners of pets with chronic or end-of-life conditions, or whose otherwise need a prescription that exceeds 14 days. DPB staff obtained one estimate of approximately \$50 for a simple office visit¹³ with no tests ordered or vaccines given. Costs incurred at any individual veterinarian's office may vary from that estimate.

In addition, to the extent that this proposed regulation leads veterinarians to order more nonpharmacologic treatments rather than, or in addition to, prescribing opioids, pet owners will likely incur increased costs for those treatments. The potential exists for any reduction in medication to result in unrelieved pain in animal patients, but the extent to which this may occur could not be determined. DPB staff obtained several estimates for the cost of animal acupuncture¹⁴ that ranged from \$146 to \$160 for initial consultation and approximately \$85 for each treatment thereafter.¹⁵ Again, costs incurred at any individual veterinarian's office may vary from these estimates.¹⁶

Businesses and Entities Affected. These changes will affect all veterinarians in Virginia as well as all pet owners who use their services. Board staff reports that there are 4,342 veterinarians licensed by the Board, and that almost all veterinarians work for veterinary practices that would be considered small businesses.

Localities Particularly Affected. No localities will be particularly affected by this proposed change.

Projected Impact on Employment. This regulatory action is unlikely to have any effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This proposed regulatory change is unlikely to affect the use or value of private property in the Commonwealth.

Real Estate Development Costs. These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "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."

Costs and Other Effects. Small businesses veterinarians will likely incur additional time and record keeping costs on account of this proposed regulation.

Alternative Method that Minimizes Adverse Impact. There are likely no alternative methods that would both further minimize costs for affected small businesses and meet the Board's aims in promulgating this regulation.

Adverse Impacts:

Businesses. Veterinary practices will likely incur additional time and record keeping costs on account of this proposed regulation.

Localities. No locality is likely to suffer adverse impacts on account of this proposed regulatory change.

Other Entities. Some affected pet owners are likely to incur additional office visit costs for their pets on account of the proposed regulation's requirement that (1) pets being treated for chronic pain with opioids other than buprenorphine be seen by their veterinarian after 14 days and every six months thereafter, and (2) that animals being treated with buprenorphine be re-examined after seven days. Pet owners may also incur additional costs for nonpharmacologic treatments for their pets if this proposed regulation causes veterinarians to order those treatments more frequently. Cat owners may be disproportionately affected by the limitations on prescription of buprenorphine.

¹Board staff reports that nonpharmacologic treatments can include such treatments as acupuncture, physical therapy, hydrotherapy and heat therapy.

²Board staff and other sources reports that non-opioid treatments include ibuprofen, acetaminophen and aspirin.

³The proposed regulation lists chronic heart failure, chronic bronchitis, collapsing trachea "or other related conditions" as chronic conditions that would allow a veterinarian to prescribe opioids.

⁴https://departments.arlingtonva.us/wp-content/uploads/sites/6/2017/06/heroin_fentanyl_brochure.pdf

⁵http://www.vdh.virginia.gov/content/uploads/sites/18/2016/04/Fatal-Drug-Overdoses-Quarterly-Report-Q1-%202017_Updated.pdf

⁶OCME data indicate that more than 90 percent of fentanyl-related deaths result from illicit fentanyl.

⁷<https://www.drugabuse.gov/publications/research-reports/relationship-between-prescription-drug-heroin-abuse/prescription-opioid-use-risk-factor-heroin-use>

⁸Fentanyl in the US heroin supply: A rapidly changing risk environment, International Journal of Drug Policy 46 (2017) 107–111.

⁹https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2017/08/30/Health-Environment-Science/Graphics/Drug-Diversion-Brochure.pdf?tid=a_inl

¹⁰<https://lis.virginia.gov/cgi-bin/leg604.exe?171+ful+CHAP0794>

¹¹According to the agency background document, small doses of a transmucosal (liquid) formulation of buprenorphine are prescribed for cats.

¹²DPB called several veterinarians' offices and found that re-examination policies varied from office to office with some offices already having policies similar to those in the Board's proposed regulation and some only requiring annual re-examination if an animal is doing well on their opioid prescription.

¹³Most re-examinations would likely be simple office visits with no additional charges.

¹⁴DPB also obtained cost estimates for laser treatments from one veterinarian's office. Those treatments at that office are \$52 per treatment or a bundle of six treatments for \$277. Another veterinarian's office that offers

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underwater treadmill treatments reported that the initial consultation for those treatments is \$160 with additional charges for each treatment thereafter.

¹⁵One source also reported that frequency of required visits would vary. Treatment for acute conditions would usually require a series of treatments over several weeks and treatment for chronic conditions would usually require less frequent treatments which could be once a month or once every several months.

¹⁶These costs would likely be incurred either in addition to, or instead of, the costs for opioid medications. DPB obtained an estimate of \$20 for the cost of filling a prescription for 100 tablets of tramadol of a dosage appropriate for an 85-pound dog. This cost would likely vary for different medications, dosages and number of pills dispensed and may vary by veterinarian's office or pharmacy.

Agency's Response to Economic Impact Analysis: The Board of Veterinary Medicine does not concur with the result of the analysis of the Department of Planning and Budget for the proposed amendments to 18VAC150-20, Regulations Governing the Practice of Veterinary Medicine. Regulations developed by veterinarians on a regulatory advisor panel and board members are consistent with the current standard of care. It is the professional judgment of veterinarians that prescribing consistent with provisions of the emergency regulations will benefit patients and the public at large.

Summary:

The proposed amendment establishes requirements for prescribing controlled substances containing opioids by veterinarians. The regulation provides for the management of (i) acute pain to include requirements for the evaluation of the patient, limitations on quantity and dosage, and recordkeeping and (ii) chronic pain (i.e., prescribing an opioid beyond 14 days for certain chronic conditions or terminal illnesses) to include requirements that allow for prescribing of buprenorphine in a dosage, quantity, and formulation appropriate for an animal according to species and size. Finally, requirements are included for continuation of treatment and for the content of the medical record.

18VAC150-20-174. Prescribing of controlled substances for pain or chronic conditions.

A. Evaluation of the patient and need for prescribing a controlled substance for pain.

1. For the purposes of this section, a controlled substance shall be a Schedules II through V drug, as set forth in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), which contains an opioid.

2. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. Prior to initiating treatment with a controlled substance, as defined, the prescriber shall perform a history and physical examination appropriate to the complaint and conduct an assessment of the patient's history as part of the initial evaluation.

3. If a controlled substance is necessary for treatment of acute pain, the veterinarian shall prescribe it in the lowest effective dose appropriate to the size and species of the

animal for the least amount of time. The dose shall not exceed a 14-day supply.

B. If the prescribing is within the accepted standard of care, a veterinarian may prescribe a controlled substance containing an opioid for management of chronic pain, terminal illnesses, or certain chronic conditions, such as chronic heart failure, chronic bronchitis, osteoarthritis, collapsing trachea, or related conditions.

1. For prescribing a controlled substance for management of pain after the initial 14-day prescription referenced in subsection A of this section, the patient shall be seen and evaluated for the continued need for an opioid.

2. For any prescribing of a controlled substance beyond 14 days, the veterinarian shall develop a treatment plan for the patient, which shall include measures to be used to determine progress in treatment, further diagnostic evaluations or modalities that might be necessary, and the extent to which the pain or condition is associated with physical impairment.

3. For continued prescribing of a controlled substance, the patient shall be seen and reevaluated at least every six months, and the justification for such prescribing documented in the patient record.

C. Prior to prescribing or dispensing a controlled substance, the veterinarian shall document a discussion with the owner about the known risks and benefits of opioid therapy, the responsibility for the security of the drug, and proper disposal of any unused drug.

D. Continuation of treatment with controlled substances shall be supported by documentation of continued benefit from the prescribing. If the patient's progress is unsatisfactory, the veterinarian shall assess the appropriateness of continued use of the current treatment plan and consider the use of other therapeutic modalities.

E. Prescribing of buprenorphine for outpatient administration shall only occur in accordance with the following:

1. The dosage, quantity, and formulation shall be appropriate for the patient; and
2. The prescription shall not exceed a seven-day supply. Any prescribing beyond seven days shall be consistent with an appropriate standard of care and only after a reexamination of the patient as documented in the patient record.

F. The medical record for prescribing controlled substances shall include signs or presentation of the pain or condition, a presumptive diagnosis for the origin of the pain or condition, an examination appropriate to the complaint, a treatment plan, and the medication prescribed to include the date, type, dosage, and quantity prescribed.

V.A.R. Doc. No. R17-5103; Filed November 20, 2017, 8:28 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 20VAC5-318. Rules Governing the Evaluation, Measurement, and Verification of the Effects of Utility-Sponsored Demand-Side Management Programs (adding 20VAC5-318-10 through 20VAC5-318-60).

Statutory Authority: §§ 12.1-13 and 56-585.1 of the Code of Virginia.

Effective Date: January 1, 2018.

Agency Contact: David Dalton, Utilities Analyst, Public Utility Regulation Division, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9634, FAX (804) 371-9350, or email david.dalton@scc.virginia.gov.

Summary:

The new chapter governs the evaluation, measurement, and verification (EM&V) of the effects of utility-sponsored demand-side management programs that are of general applicability to electric and natural gas utilities. Changes made since publication of the proposed chapter include adding definitions for the terms "average rate schedule usage," "eligible customer," and "free rider" and eliminating references to EM&V planning documents and certain provisions regarding those documents to clarify the scope of the preliminary EM&V plan filings. Various technical and other clarifying amendments are also set forth in the final regulations.

AT RICHMOND, NOVEMBER 9, 2017

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2017-00047

Ex Parte: In the matter of Adopting
New Rules Governing the Evaluation,
Measurement, and Verification of the
Effects of Utility-Sponsored Demand-Side
Management Programs

ORDER ADOPTING RULES AND REGULATIONS

During the 2016 Session of the Virginia General Assembly, two identical bills, House Bill 1053 and Senate Bill 395, were passed by the General Assembly. These bills required the

State Corporation Commission ("Commission") to evaluate the establishment of uniform protocols for measuring, verifying, validating, and reporting the impacts of energy efficiency measures implemented by investor-owned electric utilities providing retail electric utility service in the Commonwealth; a methodology for estimating annual kilowatt savings; and a formula to calculate the levelized cost of saved energy for such energy efficiency measures. The Commission also was required to submit to the Governor and the General Assembly a report of its findings and recommendations by December 1, 2016.

On March 30, 2016, the Commission issued a Scheduling Order in Case No. PUE-2016-00022 that established a proceeding to conduct an evaluation ("Evaluation") to consider the establishment of: (i) uniform protocols for measuring, verifying, validating, and reporting the impacts of energy efficiency measures; (ii) a methodology for estimating annual kilowatt savings for such energy efficiency measures; and (iii) a formula to calculate the levelized cost of saved energy for such energy efficiency measures (collectively, "Objectives").¹ The Commission conducted the Evaluation and considered the Objectives as they concern energy efficiency measures implemented by both investor-owned electric utilities and investor-owned natural gas utilities,² as both types of utilities conduct energy efficiency programs. The Commission determined that since evaluation and verification of energy savings of energy efficiency programs typically are measured against the projected savings included in cost/benefit analyses, the Commission also would consider the methodologies by which utilities calculate the components of the cost/benefit tests³ in proceedings requesting approval to implement energy efficiency programs.⁴

Among other things, the March 30, 2016 Scheduling Order invited interested persons and entities to comment on the Objectives and the Cost/Benefit Questions under consideration in this matter through the submission of written comments and/or through the presentation of oral comments at a public session. Over forty written and oral comments were received and considered by the Commission.

On November 30, 2016, the Commission issued an Order on Evaluation in Case No. PUE-2016-00022 wherein it, among other things, directed the Commission Staff ("Staff") to draft proposed rules governing the evaluation, measurement, and verification ("EM&V") of the effects of utility-sponsored demand-side management ("DSM") programs of general applicability to both electric and natural gas utilities.⁵ On December 1, 2016, the Commission submitted its report to the Governor and the Virginia General Assembly regarding the Evaluation.⁶

On May 16, 2017, the Commission issued an Order for Notice and Hearing ("Procedural Order") that docketed this proceeding. A draft of the proposed Rules Governing the Evaluation, Measurement, and Verification of the Effects of

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Utility-Sponsored Demand-Side Management Programs ("Proposed Rules") prepared by Staff were appended to the Procedural Order. The Procedural Order and Proposed Rules were published in the Virginia Register of Regulations on June 12, 2017, posted on the Commission's website, and sent to various interested parties. The Procedural Order also invited interested persons and entities to provide input through written and/or oral comments on the Proposed Rules and scheduled a public hearing to convene on September 8, 2017, for the receipt of oral comments on the Proposed Rules.

The following persons and entities submitted written comments: the Virginia Department of Mines, Minerals and Energy; Kentucky Utilities Company d/b/a Old Dominion Power Company; the Virginia, Maryland & Delaware Association of Electric Cooperatives ("Cooperatives"); Northern Virginia Electric Cooperative; Ameresco, Inc., Cree, Inc., the Dow Chemical Company, Schneider Electric, United Technologies Corporation, the National Association of Energy Service Companies, and the Polyisocyanurate Insulation Manufacturers Association; the Virginia Energy Efficiency Council ("VEEC"); Columbia Gas of Virginia, Inc. ("Columbia"); the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"); Appalachian Power Company ("APCo"); Virginia Natural Gas, Inc. ("VNG"); the American Council for an Energy-Efficient Economy and the Southeast Energy Efficiency Alliance; Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion"); Advanced Energy Economy; EnergySavvy; the Southern Environmental Law Center ("SELC"); the Virginia Chapter of the Sierra Club; Viridian; the Virginia Poverty Law Center ("VPLC"); the Virginia Housing Alliance; the Natural Resources Defense Council; and additional comments by individuals.

On August 11, 2017, Staff filed a report ("Staff Report") addressing comments submitted to the Commission concerning the Proposed Rules. In response to comments received, Staff prepared revisions to the Proposed Rules, which were appended to the Staff Report. During the public hearing convened on September 8, 2017, the Commission received oral comments from the following persons and entities: APCo; Columbia; EnergySavvy; SELC; Dominion; VEEC; the Cooperatives; VPLC; Consumer Counsel; and the Staff.⁷

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Commission should adopt the rules appended hereto as Attachment A, effective January 1, 2018.

The Commission expresses appreciation to those who have submitted written and oral comments for our consideration. The Commission has considered all written and oral comments submitted in this proceeding.

The regulations we adopt herein contain modifications to those that were first proposed by Staff and published in the Virginia Register on June 12, 2017. These modifications

follow our consideration of the comments filed in this proceeding, the additional proposed revisions contained in the Staff Report, other changes suggested by commenters at the hearing, and our analysis of the entire record in this proceeding. We will not comment on each rule in detail, but we highlight several of them below.

First, we agree with Staff's revisions to the Proposed Rules contained in the Staff Report and incorporate them into the rules that we adopt. Staff's proposed revisions respond to comments filed in this proceeding. As Staff noted, the revised Proposed Rules strengthen, and are generally consistent with and derivative of, current practice among Virginia utilities in reporting on the impacts of DSM Programs; therefore, the revised Proposed Rules should not impose significant additional burdens.⁸ These revisions, among other things, clarify that the Proposed Rules apply prospectively, i.e., to the implementation of new or renewing DSM programs. In addition, the revisions eliminate references to EM&V planning documents and clarify that preliminary EM&V plans should be filed at the time the utility seeks Commission approval of a program and that such EM&V plans should include an outline of how a utility intends to comply with 20 VAC 5-318-40 ("Rule 40"). Rule 40 is also retitled "Minimum Requirements for Collection of Evaluation, Measurement & Verification Data."⁹

Second, in its filed comments as well as at the hearing, Dominion recommended that Rule 40 D, as set forth in the revised Proposed Rules appended to the Staff Report, reference the United States Department of Energy's Uniform Methods Project ("UMP") rather than the International Performance Measurement and Verification Protocol ("IPMVP").¹⁰ While the Commission declines to adopt this recommendation at this time, Rule 40 D specifically provides that "alternative methodologies may be considered with sufficient supporting documentation and explanation of appropriateness." Thus, the Proposed Rules have sufficient flexibility for utilities to utilize the UMP, which the Commission notes was developed using the IPMVP,¹¹ with appropriate justification.

Third, Columbia and Dominion raised concerns during the hearing regarding the operation of 20 VAC 5-318-50 F ("Rule 50 F"), as revised in the Staff Report, and specifically questioned inclusion of the references to "the annual usage of the average rate schedule usage and eligible customer."¹² Columbia expressed concern about compliance with Rule 50 F because all customers within a rate schedule might not be capable of participating in a particular program in light of program requirements, and Columbia asserted that such information often would be impracticable to collect.¹³ Similarly, Dominion indicated that currently it does not track customer data such as building and equipment types by rate schedule and does not design programs based on rate schedules.¹⁴ The Commission appreciates these concerns and recognizes that unique programs may be dependent on individual customer makeup and that eligible customers may

span more than one rate schedule. The Commission believes, however, that the rules as adopted contain sufficient flexibility to accommodate such a situation. In particular, Rule 50 F requires "a calculation of the expected savings as a percentage of the annual usage of the average rate schedule usage and eligible customer as appropriate and practicable."¹⁵ Thus, if appropriate and practicable, such a calculation should be included in the EM&V report and, if not, the utility should explain why such a calculation is not appropriate and practicable.¹⁶

Finally, Columbia raised the question of the relationship between the Proposed Rules and the ratemaking and energy efficiency report required by § 56-602 E of the Code of Virginia.¹⁷ To the extent the new rules create any duplication of reporting requirements, Staff is directed to work with the gas companies to synchronize the timing of reports to alleviate any associated additional regulatory burden.

Accordingly, IT IS ORDERED THAT:

(1) The Rules Governing the Evaluation, Measurement, and Verification of the Effects of Utility-Sponsored Demand-Side Management Programs, set out at 20 VAC 5-318-10 through 20 VAC 5-318-60, and which are attached hereto and made a part hereof, are hereby ADOPTED to be effective on January 1, 2018.

(2) The Commission's Division of Information Resources shall forward this Order Adopting Rules and Regulations and the rules and regulations adopted herein to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) This Order and the attached adopted Rules shall be posted on the Commission's website: <http://www.scc.virginia.gov/case>.

(4) This matter is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219. A copy also shall be sent to the Commission's Office of General Counsel and Division of Public Utility Regulation.

¹ Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of receiving input for evaluating the establishment of protocols, a methodology, and a formula to measure the impact of energy efficiency measures, Case No. PUE-2016-00022, Doc. Con. Cen. No. 160340071, Scheduling Order (Mar. 30, 2016).

² Though natural gas utilities were not specifically referred to by House Bill 1053 and Senate Bill 395, the Commission, in its discretion, included consideration of natural gas utilities' energy efficiency measures to provide for a more thorough Evaluation.

³ The cost/benefit tests include, at a minimum, the Participants Test, the Utility Cost Test, the Ratepayer Impact Measure Test, and the Total Resource Cost Test. See the Commission's Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs, 20 VAC 5-304-10 et seq.

⁴ In particular, the Commission determined the Evaluation would consider: (i) whether the application of costs and benefits is consistent across utilities; (ii) whether consistent application of costs and benefits across utilities is necessary or reasonable; and (iii) whether the application of the cost/benefit tests can be improved by enhanced evaluation and verification protocols for estimating savings actually realized (collectively, "Cost/Benefit Questions").

⁵ Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of receiving input for evaluating the establishment of protocols, a methodology, and a formula to measure the impact of energy efficiency measures, Case No. PUE-2016-00022, Doc. Con. Cen. No. 161140091, Order on Evaluation (Nov. 30, 2016).

⁶ Commonwealth of Virginia, State Corporation Commission, Report to the Governor of the Commonwealth of Virginia and the Virginia General Assembly, "Report: Evaluation of the Establishment of Uniform Protocols for Measuring, Verifying, Validating, and Reporting the Impacts of Energy Efficiency Measures; a Methodology for Estimating Annual Kilowatt Savings; and a Formula to Calculate the Levelized Cost of Saved Energy for Energy Efficiency Measures Implemented by Investor-Owned Electric Utilities in the Commonwealth pursuant to Chapters 255 and 517 of the 2016 Acts of the Virginia General Assembly" (Dec. 1, 2016), available at: [leg2.state.va.us/dls/h&sdocs.nsf/By+Year/HD122016/\\$file/HD12.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/HD122016/$file/HD12.pdf).

⁷ VNG was present at the public hearing and stated it had no further comments at this time. Tr. 52.

⁸ Staff Report at 4.

⁹ Staff's revisions also added additional appropriate definitions.

¹⁰ Dominion Comments at 9; Tr. 35-38. In the Proposed Rules, the IPMVP was referenced in Rule 40 G. However, due to revisions Staff made in its Staff Report to the Proposed Rules, the IPMVP is now referenced in Rule 40 D.

¹¹ See Staff Report at 7.

¹² Tr. 24-27; 40-45.

¹³ Tr. 26.

¹⁴ Tr. 45.

¹⁵ Emphasis added.

¹⁶ The Commission also notes that Rule 60 provides for an opportunity for a utility to request a waiver of a rule for good cause shown.

¹⁷ Tr. 23.

CHAPTER 318 RULES GOVERNING THE EVALUATION, MEASUREMENT, AND VERIFICATION OF THE EFFECTS OF UTILITY-SPONSORED DEMAND-SIDE MANAGEMENT PROGRAMS

20VAC5-318-10. Purpose and applicability.

A. This chapter sets forth minimum requirements for Virginia's [electric and natural gas] utilities related to evaluating, measuring, and verifying the effects of utility-sponsored demand-side management (DSM) programs consisting of demand response and energy efficiency measures. This chapter should not be construed as limiting the ability of the commission or its staff to evaluate information in addition to or beyond that identified in this chapter or to use evaluation processes and procedures beyond those contained in this chapter.

B. [This Effective January 1, 2018, this] chapter shall apply to all [electric and natural gas] public utilities seeking commission approval [of to implement or renew] a DSM program [and to all public utilities with DSM programs that have received prior commission approval or measure].

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20VAC5-318-20. Definitions.

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

["Average rate schedule usage" means an average calculated using all customers taking service under a rate schedule that are eligible to participate in a program or measure.]

"Commission" means the Virginia State Corporation Commission.

"DSM" means demand-side management.

["Eligible customer" means a representative customer of the utility that is eligible by rate schedule or rate class to participate in a given program or measure and is capable of participating in that program or measure.]

"EM&V" means evaluation, measurement, and verification.

"Emerging technologies" means technologies including automated measurement and verification software, advanced metering, building management systems, data analytics, and load monitoring systems.

["Free-ridership" means a program participant that would have implemented the program measure or practice in the absence of the program.]

20VAC5-318-30. Administrative procedures for evaluation, measurement, and verification planning and reporting.

A. A utility filing for [implementation of approval to implement] new [or continue existing] DSM measures or programs shall file a [preliminary] plan for the EM&V of the proposed measures or programs as part of its application [. Such plan shall comply with the standard requirements for planning filings contained in that outlines how a utility intends to comply with the requirements of] 20VAC5-318-40.

B. A utility reporting the results [of EM&V] of DSM measures or programs [subject to subsection A of this section] shall comply with the standard requirements for EM&V reporting contained in 20VAC5-318-50.

20VAC5-318-40. [Standard Minimum] requirements for [collection of] evaluation, measurement, and verification [planning filings data].

A. In all filings required by 20VAC5-318-30, the [source sources] of all data or estimates used as inputs for proposed DSM measures or programs, in descending order of preference, shall be:

1. Utility-specific data [if available and practical];
2. Virginia-specific data if utility-specific data is unavailable or [impractical impracticable]. When Virginia-specific data is used, the utility shall provide an explanation as to why utility-specific data is unavailable or [impractical impracticable];

3. Data from non-Virginia jurisdictions or sources, if neither utility-specific data nor Virginia-specific data is available or [practical practicable];

a. When data from non-Virginia jurisdictions or sources is used, the utility shall provide an explanation as to why utility-specific data is unavailable or [impractical impracticable].

b. When data from non-Virginia jurisdictions or sources is used, the utility shall provide an explanation as to why Virginia-specific data is unavailable or [impractical impracticable] as well as the sources of all data, to include:

(1) Titles, version numbers, publication dates, and page numbers of all source documents, as appropriate; and

(2) An explanation as to why, in the utility's assessment, use of this data is appropriate.

B. EM&V [planning documents reports] shall include [all relevant] workpapers, support documents, assumptions, and equations used in developing the [proposed measurement and verification methodologies of] measures or programs [reported].

C. EM&V [planning documents reports] shall include measure-level estimates of kilowatt, kilowatt-hour, [and] dekatherm [, and pipeline capacity] savings as appropriate. An estimate that has been adjusted for free-ridership as well as an estimate that has not been adjusted for free-ridership should be included as appropriate.

[D. EM&V planning documents for proposed DSM measures or programs shall include an explanation of eligibility requirements for each rate schedule to which the measures or programs are being offered and estimates of participation by customers taking service under each eligible rate schedule as appropriate.

E. EM&V planning documents for proposed DSM measures or programs shall include a comparison of the estimated annual measure or program savings to the annual usage of an average customer in each rate schedule to which the measures or programs are being offered. This will include calculation of the expected savings as a percentage of the annual usage of the eligible average customer.

F. EM&V planning documents for DSM measures or programs shall include a description of the controls to be used by the utility to verify proper installation of the proposed measures and programs, as appropriate. Additionally, plans shall require the contractors and subcontractors that will be implementing the measures or programs to record details of serviced or replaced equipment, to include at a minimum:

1. Nameplate efficiency ratings; and
2. Serial numbers.

G. D.] Generally, EM&V [planning proposals of DSM programs or measures] should comply [, as appropriate,] with Options A, B, C, or D from the International

Performance Measurement and Verification Protocol [(March 2002) (January 2012)]. However, the commission recognizes that each utility has unique characteristics, and new or modified DSM measures are constantly being developed. As such, alternative methodologies may be considered with sufficient supporting documentation and explanation of appropriateness.

[H. E.] Utilities are encouraged to consider use of emerging technologies, including "advanced measurement and verification" or "evaluation, measurement and verification 2.0" when appropriate and cost effective.

20VAC5-318-50. Standard requirements for evaluation, measurement, and verification reporting.

A. [Utility reporting of the results of its EM&V of] approved DSM measures or programs should be consistent with and contrasted to the [preliminary] EM&V plan set forth in the filings for approval of such measures or programs or as otherwise specified in a commission order approving such measures or programs. The commission recognizes that each utility has unique characteristics, and new or modified energy efficiency measures are constantly being developed. As such, alternative methodologies may be included in reporting provided that sufficient supporting documentation and explanation of appropriateness of alternative methodologies is provided.

B. EM&V reports [concerning of] existing measures or programs shall utilize utility-specific data [or other data in conformance with 20VAC5-318-40 A] when updating the analysis of the cost effectiveness of each measure, program, or portfolio [to the most accurate extent possible as appropriate and practicable. EM&V reports of existing measures or programs shall include the information required by 20VAC5-318-40 B and C].

C. Any changes to or variances from originally [filed approved measure-level] inputs and assumptions shall be documented and explained [, and the impact of such changes on original cost/benefit estimates for DSM programs or measures shall be quantified].

D. EM&V reports shall describe the methodologies by which the measured data was collected, including at a minimum:

1. The sampling plan; and
2. Statistical calculations upon which the reported data is based [when applicable].

E. EM&V reports for ongoing DSM measures or programs shall include an explanation of eligibility requirements for each rate schedule to which the measures or programs are being offered.

F. EM&V reports for ongoing DSM measures or programs shall include a comparison of the measured annual measure or program savings estimates to the annual usage of [an the] average [rate schedule usage and eligible] customer in each rate schedule to which the measures or programs is being

offered. A comparison to originally [submitted approved] estimated savings for the measures or programs [that were approved by the commission] shall also be provided. This will include a calculation of the expected savings as a percentage of the annual usage of the [average rate schedule usage and] eligible [average] customer [as appropriate and practicable].

G. EM&V reports for ongoing DSM measures or programs shall include a description of the controls undertaken by the utility to verify proper installation of the measures or programs, as appropriate. Additionally, [reports utilities] shall [include details provided by require the] contractors [or and] subcontractors [that will be implementing the measures or programs, if applicable and practicable, to record details] of serviced or replaced equipment, to include at a minimum:

1. Nameplate efficiency ratings; [and]
2. Serial numbers [; and]
3. Model numbers.

This information will be made available to commission staff upon request.

H. EM&V reports should include actual costs incurred by the utility and each EM&V contractor for (i) the development of the most recent EM&V plan and (ii) the administration of EM&V activities for the reporting period.]

20VAC5-318-60. Waiver.

The commission may waive any or all parts of this chapter for good cause shown.

V.A.R. Doc. No. R17-5123; Filed November 14, 2017, 11:42 a.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Cypress Creek - Bumblebee Solar LLC Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - Campbell County

Bumblebee Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Campbell County, Virginia, pursuant to 9VAC15-60. The proposed Bumblebee Solar project will be a 15-megawatt alternating current photovoltaic solar facility on one parcel, totaling approximately 260 acres, roughly positioned north of Lynbrook Road and west of Wards Road, near Lynchburg in Campbell County, Virginia. The project will be comprised of polycrystalline photovoltaic collectors and associated equipment.

Contact Information: Mary E. Major, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email mary.major@deq.virginia.gov.

Spring Grove Solar I LLC Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - Surry County

Spring Grove Solar I LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar). The proposed project will be located to the northeast of the intersection of Colonial Trail (Route 10) and Swanns Point Road (Route 610) in Surry County. This project will have a maximum generating capacity of 150 megawatts alternating current across approximately 1338 acres on multiple parcels. The project will interconnect into the transmission line that bisects the site by way of a substation built on an adjacent parcel.

Contact Information: Mary E. Major, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email mary.major@deq.virginia.gov.

Spring Grove Solar LLC Withdrawal of Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - Surry County

Spring Grove Solar LLC has withdrawn its notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) to be located to the northeast of the intersection of Colonial Trail (Route 10) and Swanns Point Road (Route 610). The notice of intent was published in the Virginia Register of Regulations on April 17, 2017 ([33:17 V.A.R. 2005 April 17, 2007](#)).

Contact Information: Mary E. Major, Department of Environmental Quality, P.O. Box 1105, Richmond, VA

23218, telephone (804) 698-4423, FAX (804) 698-4510, or email mary.major@deq.virginia.gov.

STATE BOARD OF HEALTH

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Health is conducting a periodic review and small business impact review of **12VAC5-67, Advance Health Care Directive Registry**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins December 11, 2017, and ends January 3, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Debbie Condrey, Chief Information Officer, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7118, email debbie.condrey@vdh.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Council of Higher Education for Virginia is conducting a periodic review and small business impact review of **8VAC40-11, Public Participation Guidelines**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins December 11, 2017, and ends December 31, 2017.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Beverly Rebar Covington, Senior Associate for Academic and Legislative Affairs, 101 North 14th Street, 9th Floor, Richmond, VA 23219, telephone (804) 371-0571, FAX (804) 225-2604, or email beverlycovington@schev.edu.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

STATE WATER CONTROL BOARD

Proposed Consent Special Order for Kiptopeke Villas LLC

An enforcement action has been proposed for Kiptopeke Villas LLC for violations at the site located at 3540 Kiptopeke Drive in Northampton County, Virginia. The State Water Control Board proposes to issue a special order by consent to Kiptopeke Villas LLC to address noncompliance with the State Water Control Law and regulations. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Kristen Sadtler will accept comments by email at kristen.sadtler@deq.virginia.gov, FAX at (804) 698-4277, or postal mail at Department of Environmental Quality, Central Office, P.O. Box 1105, Richmond, VA 23218, from December 11, 2017, to January 10, 2018.

Proposed Enforcement Action for Whittaker's Mill Associates LLC

An enforcement action has been proposed for Whittaker's Mill Associates LLC for violations of the State Water Control Law in York County, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at

www.deq.virginia.gov. Russell Deppe will accept comments by email at russell.deppe@deq.virginia.gov, FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from December 11, 2017, to January 10, 2018.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

STATE BOARD OF HEALTH

Title of Regulation: 12VAC5-90. **Regulations for Disease Reporting and Control.**

Publication: 34:7 V.A.R. 732-737 November 27, 2017

Correction to Final Regulation:

Page 737, 12VAC5-90-80 G, second sentence, before "online" insert "Department of Health's" and after "portal" replace "available on the Department of Health's website at http://vdh.virginia.gov/morbidity-report" with "(http://www.vdh.virginia.gov/clinicians)"

V.A.R. Doc. No. R18-5250; Filed November 21, 2017, 2:00 p.m.

General Notices/Errata

Title of Regulation: 12VAC5-481. Virginia Radiation Protection Regulations.

Publication: 24:18 VA.R. 2565-2715 May 12, 2008

Correction to Final Regulation:

Page 2671, 12VAC5-481-3210, after "185 Bq" replace "0.0005" with "0.005"

V.A.R. Doc. No. R08-980; Filed November 20, 2017, 10:49 a.m.

BOARD OF MEDICINE

Titles of Regulations: 18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic.

18VAC85-40. Regulations Governing the Practice of Respiratory Therapists.

18VAC85-50. Regulations Governing the Practice of Physician Assistants.

18VAC85-80. Regulations Governing the Licensure of Occupational Therapists.

18VAC85-101. Regulations Governing the Practice of Radiologic Technology.

18VAC85-110. Regulations Governing the Practice of Licensed Acupuncturists.

18VAC85-120. Regulations Governing the Licensure of Athletic Trainers.

18VAC85-130. Regulations Governing the Practice of Licensed Midwives.

18VAC85-140. Regulations Governing the Practice of Polysomnographic Technologists.

18VAC85-150. Regulations Governing the Practice of Behavior Analysis.

18VAC85-160. Regulations Governing the Registration of Surgical Assistants and Surgical Technologists.

18VAC85-170. Regulations Governing the Practice of Genetic Counselors.

Publication: 34:7 VA.R. 739-743 November 27, 2017

Correction to Effective Date:

Page 739, after "December" change "17" to "27"

V.A.R. Doc. No. R18-5319; Filed December 4, 2017

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22VAC40-73. Standards for Licensed Assisted Living Facilities.

Publication: 34:6 VA.R. 645-705 November 13, 2017

Correction to Final Regulation:

Page 648, 22VAC40-73-10, in the definition of the term "dietary supplement," line 5, replace "acid" with "acids"

Page 651, 22VAC40-73-10, in the definition of the term "qualified mental health professional," line 5 of clause (iii), before "college" insert "[a]"

Page 662, 22VAC40-73-200 C 8, line 4 after "living" insert "care"

Page 675, 22VAC40-73-450 C 1, clause (iv), replace "assessment" with "[assessment rating]"

V.A.R. Doc. No. R12-3227; Filed November 21, 2017, 11:47 a.m.