

Virginia Board of Education Agenda Item



Agenda Item: F

Date: April 25, 2013

Title	First Review of Proposed <i>Regulations Governing the Operation of Private Schools for Students with Disabilities</i> (8VAC20-670-10 et seq.) (Final Stage)		
Presenter	Dr. Sandra E. Ruffin		
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Purpose of Presentation:

Action required by Board of Education regulation.

Previous Review or Action:

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

NOIRA: July 22, 2010

Proposed Stage: January 13, 2011

Public hearing – November 29, 2012

Action Requested:

Action will be requested at a future meeting. Specify anticipated date below:

May 23, 2013

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

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners
	Goal 5: Highly Qualified and Effective Educators
	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
X	Other Priority or Initiative. Specify: Proposed regulations for the management and conduct of private schools for students with disabilities

Background Information and Statutory Authority:

There are 123 private schools for students with disabilities that are licensed by the Board of Education. These schools are serving 2,819 public pay students, 1,121 private pay students, and 317 students placed by other states.

The revised proposed regulations provide standards for quality specialized education and services for students enrolled in private schools. The new regulations provide clarity to provisions for the management and conduct of schools and standards for programs offered by the schools to include

policies and procedures to ensure safe learning environments and the protection of children in their care. The regulations require a standard school day and school year consistent with that of the public school and an instructional program offering the core subjects -- English, mathematics, science, and history/social science.

With repeal of the *Standards for Interdepartmental Regulation of Children's Residential Facilities*, 22 VAC 42-11-10 et seq., and outdated information in the Board's *Regulations Governing the Operation of Private Day Schools*, one set of regulations for both private day and residential schools would be beneficial for the private school providers, public schools, licensing agencies, and families of students served in the schools.

Authority – *Code of Virginia, Chapter 16. Schools for Students with Disabilities.*

Title 22.1. Education, Chapter 16 of the Code of Virginia outlines the provisions for schools for students with disabilities. The Board of Education shall make regulations not inconsistent with law for the management and conduct of schools. The regulations may include standards for programs offered by the schools. The Board may authorize the Superintendent to issue licenses to operate schools.

Section 22.1-323. Licenses generally. No person shall open, operate or conduct any school for students with disabilities in this Commonwealth without a license to operate such school issued by the Board of Education. A License shall be issued for a school if it is in compliance with the regulations of the Board.

Section 22.1-323.2. Licensure of services delivered in group homes and residential facilities for children
A. The Department of Education shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities regarding educational programs offered in group homes and residential facilities in the Commonwealth. The Board shall promulgate regulations allowing the Department of Education to assist and cooperate with other state departments.

B. The Board's regulations shall address the educational services required to be provided in such group homes and residential facilities as it may deem appropriate to ensure the education and safety of the students.

Summary of Important Issues:

The Virginia Department of Education (VDOE) staff held a meeting with stakeholders on February 6, 2013, and on March 27, 2013. The February 6 meeting provided the VDOE's response to each of the 111 comments received during the public comment period. The meeting provided collaborative exchange of views that helped to clarify and reconstruct sections of the proposed regulations for improved consistency with the requirements of public schools and other state licensing agencies – the Departments of Social Services (DSS) and Behavioral Health and Developmental Services (DBHDS).

The stakeholders represented the Virginia Council of Private Education (VCPE), Virginia Association of Independent Special Education Facilities (VAISEF), an association of Virginia private providers of specialized educational services for children and youth with special needs and their families, and program administrators from private day and residential schools. Of the 123 private schools for students with disabilities licensed by the Board, 105 schools (85 percent) were represented at one or both meetings. Eighty-two (82) schools are members of the VAISEF.

The meeting on March 27, 2013, provided a review of the changes made to the proposed regulations following the stakeholder meeting held on February 6, 2013. The meeting resulted with some technical changes and minor revision to the section concerning maintenance of student records.

The VDOE has received a letter from the VAISEF and several private school providers in support of the revised proposed regulations. Letters from stakeholders are included in this agenda packet.

Substantive Provisions to the Proposed Regulations

There were nine substantive provisions to the revised proposed regulations. Several other revisions were made with assistance from stakeholders to provide clarification and consistency with language used by the DSS and DBHDS. A copy of the revised proposed *Regulations for the Operation of Private Schools for Students with Disabilities*, 8 VAC20-670-10 et seq., is included in this agenda packet.

The chart provides a summary of the substantive provisions and the Department’s actions.

Number of Comments	Recommendations/Concerns	VDOE’s Actions
VAISEF organization and 80 individuals who posted comments supporting the VAISEF’s recommendations	Recommended adding to Section 671-30 that the Department be allowed to grant exceptions for good cause.	Agree. Added to Section 671-30 C. The licensing agency may make exception to the requirements of this chapter for good cause.
VAISEF organization and 78 individuals who posted comments supporting the VAISEF’s recommendations	Section 671-330 B. Requiring two years of coursework or two years of full-time successful work with children may make it challenging for some programs to find qualified support staff. Recommended consistency with other licensing agency’s requirement for residential child care staff.	Agree. Changed Section 671-330 B. to: Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), at a minimum hold a high school diploma or General Educational Development (GED) certificate, have experience working with children or completed coursework in a related field and work under the supervision of qualified staff.
VAISEF plus 78 individuals who posted comments supporting the VAISEF’s recommendations	Section 671-350 H. Requirement for 15 additional hours of annual training is vague and creates time demands that may interfere with other necessary task. Teachers are required to engage in professional development to maintain their license.	Agree. Changed 671-350 H. to: Each full-time staff shall annually receive professional development applicable to their job duties.
VAISEF organization plus 79 individuals who posted comments supporting the VAISEF’s recommendations	The construction of Section 671-370. A. 1-4. seems to imply items 1. through 4. are from the Virginia Uniform Statewide Building Code which they are not. Request to make enumerated items new sections.	Agree. Changed 671-370. A. 1-4 to 370 A.-- E. Each provision to stand as an individual requirement.

VAISEF organization plus 78 individuals who posted comments supporting the VAISEF's recommendations and 32 additional stakeholders	671-370 A. 2. The 50 square feet per occupant requirement would adversely affect current schools. They would have to reduce their census to comply thereby losing revenue and having to reduce staff. Ask that current programs be grandfathered and that the requirement, if necessary, be set at 50 net per student not per occupant.	Agree. Changed Section 671-370 C. to 50 square feet per student and added clarification. Schools established after the effective date of these regulations and new classrooms added to existing buildings shall provide 50 square feet of classroom or instructional area per student excluding classroom fixtures.
VAISEF organization plus 78 individuals who posted comments supporting the VAISEF's recommendations	671-380 C. Recommend the number of required tornado drills be the same as required for public schools.	Agree. Changed Section 671-380. C. to require at least one tornado drill consistent with public schools. Also added is requirement for at least one earthquake drill annually.
VAISEF organization plus 78 individuals who posted comments supporting the VAISEF's recommendations	671-760 B. If fireproof file cabinets which are best practice are required, a grace period to allow programs to budget for expensive cabinets is recommended.	Agree. Changed Section 671-760 B. to require fire resistant file cabinets as required by other licensing agencies.

Changes from the proposed stage to the final stage are indicated by brackets in the attachment.

Impact on Fiscal and Human Resources:

There is no additional projected cost to the state or localities to implement and enforce the proposed regulations. Promulgation of these regulations would be an advantage for public schools that cannot serve students because of their disabilities. Parents who seek alternative education have the option of private school placement in schools licensed by the Board. The VDOE's licensing specialists and the private education providers will benefit from a single regulation for both day and residential schools. There will be minimum impact on the existing private schools for students with disabilities.

Timetable for Further Review/Action:

After Board's action on May 23, 2013, regulatory action will be governed by the *Administrative Process Act* (APA), including executive review and public comments.

Upon approval of the proposed *Regulations Governing the Operation of Private Schools for Students with Disabilities*, the VDOE will post the revised regulations on the agency's Web site and inform constituents through written communications, meetings with private and public stakeholders, and the VAISEF membership.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education approve for first review the revisions to the final stage for the proposed *Regulations Governing the Operation of Private Schools for Students with Disabilities*.



Final Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-670-10 et seq.
Regulation title	<i>Regulations Governing the Operation of Private Schools for Students with Disabilities in the Commonwealth</i>
Action title	First Review of Proposed Regulations Governing the Operation of Private Schools for Students with Disabilities (Final Stage)
Date this document prepared	April 16, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The proposed regulation will govern the operation of both private day schools and schools in private residential facilities, including group homes. The new regulation provides clarity to provisions for obtaining a license to operate. It provides clarity to provisions for the management and conduct of schools and standards for programs offered by schools. It requires programs of instruction that promote individual student academic achievement. The proposed regulation requires schools to develop policies and procedures to ensure safe learning environments and the protection of children in their care.

The Board of Education's existing regulation, *Regulations Governing the Operation of Private Day Schools*, 8 VAC 20-670-10 et seq., will be repealed simultaneously with the promulgation of the new regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

The Virginia Board of Education heard comments on the proposed regulation from 16 stakeholders at its meeting on November 29, 2012. A total of 95 written comments were received during the public comment period that ended on December 21, 2012.

The Virginia Department of Education (VDOE) staff held meetings with stakeholders on February 6, 2013, and on March 27, 2013. The February 6 meeting provided the VDOE's response to each of the 111 comments received during the public comment period. The meeting provided collaborative exchange of views that helped to clarify and reconstruct sections of the proposed regulations for improved consistency with the requirements of public schools and other state licensing agencies, specifically, the Departments of Social Services and Behavioral Health and Developmental Services. The stakeholders represented the Virginia Council of Private Education (VCPE), Virginia Association of Independent Special Education Facilities (VAISEF), and program administrators from private day and residential schools. Of the 123 private schools for students with disabilities licensed by the Board of Education, 105 schools (85 percent) were represented at one or both meetings. Eighty-two (82) licensed schools are members of VAISEF, an association of Virginia private providers of specialized educational services for children and youth with special needs and their families.

The VDOE's stakeholders meeting on March 27, 2013, provided a review of changes made to the proposed regulation following the meeting on February 6, 2013. The meeting resulted with some technical changes and minor revision to the section concerning maintenance of student records.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Code of Virginia

Title 22.1. Education, Chapter 16 of the Code of Virginia outlines the provisions for schools for students with disabilities. The Board of Education shall make regulations not inconsistent with law for the management and conduct of schools. The regulations may include standards for programs offered by the schools. The Board may authorize the Superintendent to issue licenses to operate schools

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Section 22.1-323.2. Licensure of services delivered in group homes and residential facilities for children –
A. The Department of Education shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities regarding educational programs offered in group homes and

residential facilities in the Commonwealth. The Board shall promulgate regulations allowing the Department of Education to so assist and cooperate with other state departments.

B. The Board’s regulations shall address the educational services required to be provided in such group homes and residential facilities as it may deem appropriate to ensure the education and safety of the students.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

With repeal of the *Standards for Interdepartmental Regulation of Children’s Residential Facilities*, 22 VAC 42-11-10 et seq., there is no specific regulation over the operation of schools in private children’s residential facilities. Additionally, the existing board regulation, *Regulations Governing the Operation of Private Day Schools for Students with Disabilities* (8 VAC 20-670-10 et seq.), dated September 2004, contains outdated information. A single regulation governing both private children’s residential facilities and private day schools for students with disabilities would be beneficial to placing agencies, licensing agencies, and parents seeking private placements.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

Substantive provisions

8VAC20-671-30. Licenses generally – Added provision that the licensing agency may make exception to the requirements of this chapter for good cause. The new provision will allow the licensing agency to grant temporary or permanent waiver of compliance with a regulation or portion of a regulation, or permission to meet the intent of the regulation by a method other than that specified in the regulation, when the department, in its sole discretion, determines enforcement will create an undue hardship and the delivery of services to students or safety will not be adversely affected.
8VAC20-671-330. Support staff. Revised the requirements for paraprofessionals and other ancillary staff. Changed for consistency with the other licensing agencies.
8VAC20-671-350. Staff development. Deleted the requirement for 15 additional hours of annual training. Teachers are required to engage in professional development to maintain their license.
8VAC20-671-370. School facilities and safety – Revised the requirement that schools provide 50 net square feet per occupant to “50 square feet per student” for schools and classrooms added to existing buildings established after the effective date of these regulations.
8VAC20-671-510. Instructional program for middle school grades – Added requirement that each school shall provide students with opportunities for career and technical exploration. The provision does not require a course offering. Schools could meet the requirement through existing course offerings.
8VAC20-671-520. Instructional program for secondary school grades – Added provision for a course of study that provides instruction in economics and personal finance and occupational readiness. The provision was added for consistency with public schools.
8VAC20-671-750 – Maintenance of student records -- Changed requirement for fire proof cabinets to fire resistant cabinets for storing student records. The provision was changed for reduced burden on private providers. Fire resistant cabinets are less expensive than fire proof cabinets.

Issues

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

- 1) The primary advantage to the public is that the proposed regulation requires schools to provide an instructional program that promotes individual student academic achievement in the essential academic disciplines, English, mathematics, science, and history/social science and requires an instructional school day comparable to the school day of public schools. There is no disadvantage to the public.
- 2) The primary advantage to the agency is public schools will have placement options for students with disabilities whose needs cannot be met in a public school setting.
- 3) Parents who seek private school education for their child are provided with safe schools with education programs approved by the Board of Education. There is no disadvantage to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
8VAC20-671-10. Definitions	<p>"Board" means the State Board of Education, which has general supervision of the public school system.</p> <p>"Corrective action plan" means the school's plan of action to correct a finding of noncompliance. The plan must identify specific timelines and the person(s) responsible for implementation.</p> <p>"Illegal drug" means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 USC § 812(c), or under any other provision of federal law.</p> <p>"Individualized Instruction Plan" or "IIP" means a written statement (plan) for a child who is privately placed or for a child who has not been determined eligible for special education services that is</p>	<p>Deleted unnecessary or incorrect wording</p> <p>Added words to end of statement, [applicable to this chapter or other applicable regulation.]</p> <p>Inserted [or a prescription drug not prescribed for the person or]</p> <p>Added words at the end of statement [and student when appropriate.]</p>	<p>Wordy</p> <p>Clarification.</p> <p>Clarification.</p> <p>Clarification</p>

	<p>developed, reviewed, and revised at least annually in a team meeting that includes the parent. The IIP specifies the student's academic level, course of study, individual educational needs, and the educational services the child will receive.</p> <p>"License to Operate" or "license" means a document issued by the State Superintendent of Public Instruction that authorizes approval to operate a school for students with disabilities and that indicates the status of the school regarding compliance with applicable regulations.</p> <p>"Publicly placed student" means a student placed in a private school for students with disabilities by a local school division or Comprehensive Services Act team or by court order.</p> <p>"Qualified personnel" or "qualified staff" means personnel who have met Virginia Department of Education approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individual is providing special education or related services. In addition, the professional must meet other state agency requirements for such professional service and Virginia licensure requirements as designated by Virginia law or regulations.</p> <p>"Special education" means specially designed instruction to meet the unique needs of a child with a disability. There is no cost to the parent(s) for special education for a child who is placed in a school for students with disabilities by a school division, the Department of Social Services, or court order. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.39)</p>	<p>Changed the word verifies to [authorizes] and deleted words at end of statement.</p> <p>Deleted two words</p> <p>Deleted unnecessary wording</p> <p>Deleted unnecessary word</p> <p>Added "substantial compliance" to definition section</p>	<p>Consistency with wording on license</p> <p>Punctuation</p> <p>Wordy</p> <p>Simplification</p>
<p>8 VAC20-671-20 Exemptions</p>	<p>This chapter shall not apply to any of the following at § 22.1-320 of the Code of Virginia:</p> <ol style="list-style-type: none"> 1. Any school that is licensed or approved pursuant to other statutes of the Commonwealth; 2. Any public or private high school accredited or recognized by the Board of Education that has offered or may offer programs for students with disabilities covered in this chapter, if any tuition, fees, and charges made by the school are collected in accordance with the regulations prescribed by the governing body of such school; 3. Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in any public or private school or in preparation of an individual for an examination for professional practice or higher education; 	<p>Deleted requirement</p>	<p>Requires change in the Code of Virginia</p>

	<p>4. A program through which persons with disabilities are provided employment and training primarily in simple skills in a sheltered or protective environment;</p> <p>5. Any privately owned or operated preschool, or elementary, middle, or secondary school that operates primarily to provide educational services to students without disabilities, although the school may serve children with disabilities in a regular academic setting; or</p> <p>6. Any private school for students with disabilities that operates in or on the premises of an elementary, middle, or secondary public school in a regular school setting during a typical school day.</p>		
<p>**8VAC20-671-30. Licenses generally.</p>	<p>A. The Board of Education has established general requirements for a license to operate a private school for students with disabilities and has authorized the Superintendent of Public Instruction to issue licenses. The following applies in accordance with § 22.1-323 of the Code of Virginia:</p> <ol style="list-style-type: none"> 1. No person shall open, operate, or conduct any school for students with disabilities in this Commonwealth without a license to operate. 2. A license to operate shall be restricted to the disability categories specifically indicated on the license, which may include one or more of the disability categories in the definition of a school for students with disabilities in this chapter. 3. A license to operate may be issued for a period of up to three successive years. 4. The term of a school's license may be reduced at any time during the licensure period based on a change in the school's compliance with these requirements. 5. A license to operate shall be prominently displayed on the premises of the school in a place open for inspection by any interested person during the hours of operation. 6. A license to operate shall be restricted to the approved conditions as printed on the license. Such conditions include, but are not limited to, the maximum number of students that can be enrolled, the disability category or categories of students that can be served, and the age range and gender. <p>B. An individual seeking to operate a school for students with disabilities shall file an application with the licensing agency.</p>	<p>*D. Added new requirement to allow the licensing agency to make exception to the requirements for licensure purpose</p>	<p>Flexibility Request of stakeholders</p>
<p>8VAC20-671-40. Advertising.</p>	<p>The following provisions consistent with § 22.1-323 of the Code of Virginia regarding advertisement of a school shall apply:</p> <ol style="list-style-type: none"> 1. No school may use the seal of the Commonwealth in any advertisement, publication, or document, including diplomas, certificates, and other awards. 2. The advertisement of a school shall be in a form and manner that is free from misrepresentation, 	<p>e. Added words. [using its official title,]</p>	<p>Added words for clarification.</p>

	<p>deception, or fraud and shall conform to the following:</p> <ol style="list-style-type: none"> a. The complete school name as listed on the license to operate shall be used in all publicity, publications, or promotions or for marketing purposes. b. Advertisement shall not expressly or by implication indicate by any means that the license to operate represents an endorsement by the Virginia Department of Education or the Board of Education. c. No fraudulent or misleading statement shall be in print or nonprint about the school's admission policy, tuition and fees; programs and services; size and location; or any other information concerning the school. d. Endorsements, commendations, or recommendations by students, individuals, manufacturers, business establishments, or organizations are prohibited except with their written consent and without any offer of financial compensation. e. The accrediting agency shall be named, if accreditation is used, as part of a school's promotional materials. <p>3. Prospective applicants may advertise projected services and staff positions while in the application process but shall not misrepresent licensure status and shall not enroll students prior to receiving a license to operate from the Superintendent of Public Instruction.</p>		
<p>8VAC20-671-50 Types of Licenses.</p>	<p>The following shall apply consistent with § 22.1-323.1 of the Code of Virginia:</p> <ol style="list-style-type: none"> 1. A conditional license shall be issued to a new school that demonstrates compliance with administrative and policy requirements but has not demonstrated compliance with all requirements of this chapter. <ol style="list-style-type: none"> a. A conditional license may be renewed. b. The issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months. 2. A provisional license may be issued to a school that has demonstrated an inability to maintain compliance with this chapter or other applicable regulations. <ol style="list-style-type: none"> a. A provisional license may be issued at any time. b. A provisional license may be renewed. c. The issuance of a provisional license and any renewal thereof shall be for no longer a period than six successive months. 3. An annual license may be issued under the following conditions and may be extended for a period not to exceed six successive months: <ol style="list-style-type: none"> a. A school applies for renewal while holding a conditional or provisional license substantially meets the requirements of this chapter; 	<p>Revisions</p> <ol style="list-style-type: none"> 1. [upon approval of an application to operate a school for students with disabilities not to exceed a period of one year.] deleted text a. [for a period of one year when a new school demonstrates compliance with administrative and policy requirements but has not demonstrated substantial compliance with requirements of this chapter.] 2. repositioned to end of section moved to 4. 3. changed to [2.] <p>[not to exceed 36 successive months.] deleted text</p> <p>b. deleted</p>	<p>Clarification and consistency with other licensing agencies</p>

	<p>b. The licensing agency determines that a major violation has occurred that impacts the overall operation of the school; or c. The school makes significant changes in its operation.</p> <p>4. A triennial license shall be issued when a school: a. Applies for renewal while holding an annual or triennial license; and b. Substantially meets or exceeds the requirements of this chapter and other applicable regulations.</p> <p>5. The term of a school's license may be modified at any time during the licensure period based on a change in the school's compliance with this chapter and other applicable regulations.</p>	<p>4. [A triennial license shall be issued when a school holds an annual or triennial license and substantially meets the requirements of this chapter.]</p>	
<p>8VAC20-671-60. Change in condition.</p>	<p>A. A condition of a license may be modified during the term of the license with respect to: capacity of the school or classrooms; disability category or categories of students served; age range of students; change in location; change in services; change in ownership; merger of schools; and enrollment of day student(s) in a residential setting. B. A change in a condition shall not be implemented prior to approval by the licensing agency. The licensing agency shall respond to the request and provide approval or denial in 10 calendar days following the date the request was received. C. A change in a condition may not be approved during a provisional or conditional licensure period.</p>	<p>No change</p>	
<p>8VAC20-671-70. License to operate is nontransferable.</p>	<p>A change of ownership occurs when control of a school changes from one owner to another. If there is a change in ownership, the following shall apply: 1. The licensee shall notify the licensing agency at least 30 calendar days prior to the proposed change. 2. The new owner shall submit an initial application for a license to operate to the licensing agency within 30 calendar days following the effective date of the change in ownership. 3. The school may operate under the existing license for 60 calendar days from the effective date of the change in ownership at which time a conditional license may be issued.</p>	<p>No change</p>	
<p>8VAC20-671-80. Penalty for non compliance in obtaining a license to operate.</p>	<p>Failure to obtain a license to operate a school for students with disabilities shall result in the following penalties allowed in § 22.1-331 of the Code of Virginia: 1. Any person who opens, operates, or conducts a school without first obtaining a license to operate may be found guilty of a Class 2 misdemeanor. 2. Each day the school remains open without a license to operate, the owner or board of directors shall incur a separate offense. 3. The licensing agency shall refer to the Office of the</p>	<p>No change</p>	

	Attorney General any alleged or known violation of this chapter. The Office of the Attorney General shall refer the matter to the Commonwealth's attorney of proper jurisdiction.		
8VAC20-671-90. Directory of private schools for students with disabilities.	The licensing agency shall maintain a directory of schools holding valid licenses to operate that shall be available to the public (§ 22.1-332 of the Code of Virginia). The directory shall identify other applicable state licensing agencies over the school and may include additional information to inform the public about the school's operation.	No change	
8VAC20-671-100. Initial application.	<p>To obtain a license to operate a school for students with disabilities, an application shall be filed with the Department of Education. A completed initial application shall include the following:</p> <ol style="list-style-type: none"> 1. Complete name and physical address of the school; 2. Name and address of owners, controlling officials, and managing employees; 3. Evidence that the applicant has conducted a needs assessment; 4. Evidence of the applicant's compliance with the applicable regulations of the State Corporation Commission when the school is owned by a partnership or corporation; 5. Narrative description of building and scale drawing or copy of all floor plans including room use and dimensions; 6. Certificate of occupancy with educational use group or other report from the appropriate government agency or agencies indicating that the location meets applicable zoning, building code, use permit, business license, fire safety, and sanitation requirements; 7. Copy of the deed, lease, or other legal instrument authorizing the school to occupy such location; 8. Proposed working budget for the year showing projected revenue and expenses for the first year of operation and a balance sheet showing assets and liabilities; a three-year financial plan; and documentation of sufficient operating capital or line of credit to carry the school through the first year of operation; 9. Original signed surety bond, irrevocable letter of credit, or certificate of deposit to protect the contractual rights of parents and students; 10. Schedule of tuition and other fees and the procedure for collecting and refunding tuition; 11. Copies of all proposed advertisements; 12. Description of the education program to include disability category or categories to be served, enrollment capacity, age range, gender, and course offerings; 13. Listing of instructional resources and equipment; 14. Description of related services; 15. School's policy manual; 	<p>Inserted and deleted words</p> <p>To obtain a license to operate a school for students with disabilities, [an] application shall be filed with the [Virginia] Department of Education. A completed initial application shall include the following:</p> <ol style="list-style-type: none"> 1. Complete name and [with] physical [and mailing] address of the school; 12. Description of the education program to include disability category or categories to be served, enrollment capacity, [grade level(s),] age range, gender, and course offerings; 	Edits Clarification

	<p>16. Proposed staffing and organizational chart; 17. Job description for each position; 18. Parent/student handbook; 19. Statement of transportation services if the school provides transportation for students; 20. Statement regarding provision of student lunches; and 21. Any other information necessary to complete the application process.</p>		
<p>8VAC20-671-110. Applicant commitments.</p>	<p>Each application for a license to operate a school for students with disabilities shall contain the following commitments: 1. To conduct the school in accordance with all applicable regulations of the board; 2. To permit the board or department to inspect the school or classes being conducted therein at any time and to make available to the board or department, when requested to do so, all information pertaining to the activities of the school required for the administration of this chapter, including its financial condition; 3. To advertise the school at all times in a form and manner that is free from misrepresentation, deception, or fraud and to conform to provisions of the board governing such advertising; 4. To ensure that all representations made by an agent of the school are free from misrepresentation, deception, or fraud and to conform to provisions of the board governing such advertising; 5. To display the current license to operate prominently where it may be inspected by students, visitors, and the board or department; and 6. To maintain all premises, equipment, and facilities of the school in an adequate, safe, and sanitary condition.</p>	<p>No change</p>	
<p>8VAC20-671-120. Assessment of application.</p>	<p>A. The licensing agency shall evaluate each application within 60 calendar days from the date received and advise the applicant in writing of approval or deficiencies. B. The applicant shall correct all deficiencies within 30 calendar days from the date of the written assessment of the application. The licensing agency may grant an extension for a reasonable period of time. C. Any application that has not been approved within the allotted time period shall be denied and returned to the applicant. The applicant may reapply for a license 90 calendar days following the date of the returned application. D. The licensing agency may require the applicant to appear before a review committee for final approval of the application.</p>	<p>Deleted item C.</p>	<p>Consistency with other licensing agencies</p>

	<p>(2) An offer of technical assistance in resolving the complaint;</p> <p>(3) A statement that the school has the opportunity to propose a resolution of the complaint;</p> <p>(4) A request that the school submit within 10 business days of receipt of the letter of notification either:</p> <p>(a) Written documentation that the complaint has been resolved; or</p> <p>(b) If the complaint was not resolved, a written response including all requested documentation.</p> <p>2. The licensing agency shall review the complaint and the school's response and determine the need for any further investigation or corrections.</p> <p>3. The licensing agency shall notify appropriate agencies of serious violations.</p> <p>4. During the course of the investigation, the licensing agency shall:</p> <p>a. Conduct an investigation of the complaint that shall include a complete review of all relevant documentation and may include interviews with appropriate individuals and an independent on-site investigation, if necessary.</p> <p>b. Consider all facts and issues presented and the applicable requirements specified in this chapter or other applicable regulations.</p> <p>c. Make a determination of compliance or noncompliance on each issue in the complaint based upon the facts and applicable regulations and notify the parties in writing of the findings and the bases for such findings. The licensing agency has 60 calendar days after the written complaint is received to carry out the investigation and to resolve the complaint. An extension of the 60 calendar day time limit may occur if exceptional circumstances exist with respect to a particular complaint.</p> <p>d. Ensure that the final decision is effectively implemented, if needed, through technical assistance activities, negotiations, and corrective actions to achieve compliance.</p> <p>e. Notify the parties in writing of any needed corrective actions and the specific steps that shall be taken by the school to bring it into compliance with applicable timelines.</p> <p>E. Parties to the complaint procedures shall have the right to appeal the final decision to the licensing agency within 30 calendar days of the issuance of the decision.</p> <p>F. When the school develops a plan of action to correct the violations, such plan shall include timelines to correct violations not to exceed 30 business days unless circumstances warrant otherwise. The plan of action shall include a description of all changes contemplated and shall be subject to approval of the licensing agency.</p>		
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	G. If the school does not come into compliance within the period of time set forth in the notification, the licensing agency may reduce or revoke the school's license to operate.		
8VAC20-671-170. Denial, revocation, or suspension of license.	A. The superintendent may refuse to issue or renew a license to operate or may revoke or suspend a license issued to any school pursuant to this chapter for the following causes (§ 22.1-329 of the Code of Virginia): 1. Violating any provision of this chapter or regulation of the board; 2. Furnishing false, misleading, or incomplete information to the board or department or failure to furnish information requested by the board or department; 3. Violating any commitment made in an application for a license; 4. Presenting either by the school or by any agent of the school to prospective students information relating to the school which is false, misleading, or fraudulent; 5. Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by law; 6. Making any false promises through agents or by advertising or otherwise of a character likely to influence, persuade, or induce enrollments; 7. Paying a commission or valuable consideration to any person for any act of service performed in willful violation of this chapter; 8. Failing to maintain financial resources adequate for the satisfactory conduct of courses of instruction offered or to retain a sufficient or qualified instructional staff; 9. Demonstrating unworthiness or incompetency to conduct the school in a manner calculated to safeguard the interests of the public; 10. Failing within a reasonable time to provide information requested by the board or department as a result of a formal or informal complaint to or by the board or department that would indicate a violation of these requirements; 11. Attempting to use or employ any enrolled students in any commercial activity whereby the school receives any compensation whatsoever without reasonable remuneration to the student, except to the extent that employment of students in such activities is necessary or essential to their training and is permitted and authorized by the board; or 12. Engaging in or authorizing any other conduct, whether of the same or of a different character from that specified in this section, that constitutes fraudulent or dishonest dealings.	No change	
8VAC20-671-180. Summary or final order	The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall be applicable to	No change	

<p>of suspension</p>	<p>proceedings under this section. In compliance with § 22.1-329 of the Code of Virginia, the following shall apply:</p> <p>1. In addition to the authority for other disciplinary actions provided in this chapter, the Superintendent of Public Instruction may issue a summary order of suspension of a license of a residential or day school for students with disabilities in conjunction with any proceeding for revocation, denial, or other action when conditions or practices exist in the school that pose an immediate and substantial threat to the health, safety, and welfare of the students who are residing or attending the school and the Superintendent of Public Instruction believes the operation of the school should be suspended during the pendency of such proceeding.</p> <p>2. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Superintendent of Public Instruction or designee.</p> <p>3. After such hearing, the Superintendent of Public Instruction may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Superintendent of Public Instruction's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Superintendent of Public Instruction had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.</p> <p>4. The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Superintendent of Public Instruction may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of students who are residents of a home or facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to</p>		
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	students.		
8VAC20-671-190. Timeline for correction of unsatisfactory conditions.	In compliance with § 22.1-330 of the Code of Virginia, the board or department: 1. May, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts that, if proved, would constitute grounds for refusal, suspension, or revocation of a license, investigate the actions of any applicant for or any person or persons holding or claiming to hold a license to operate. 2. Before refusing to renew, revoking, or suspending any license, may grant such period of time as it deems reasonable to correct any unsatisfactory condition.	No Change	
8VAC20-671-200. Governing body.	A. Each school shall use its complete name as listed on the license to operate for all publicity, publications, promotions, or marketing purposes. B. Any governing board, body, entity, or person to whom it delegates the legal responsibilities and duties of the licensee shall be clearly identified.	No change	
8 VAC20-671-210. Responsibilities of the licensee.	The licensee shall: 1. Appoint an individual(s) to whom it delegates the authority and responsibility to assume the administrative direction of the school. The appointment shall be in writing. 2. Develop and implement a written decision-making plan that shall include provision for a staff person with the qualifications of the school administrator or education program director to be designated to assume the temporary responsibility for the operation of the school in the absence of the school administrator. The plan shall include a current organizational chart. 3. Ensure that staff positions and responsibilities meet the needs of the population served. 4. Develop a written statement of the objectives of the school including a description of the target population and the program offerings. 5. Develop and implement written policies and procedures to monitor and evaluate the effectiveness of the education program on a systematic and ongoing basis and implement improvements when the need is determined. 6. Ensure compliance with applicable child labor laws. 7. Develop a written policy prohibiting the consumption of tobacco products, drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored activities. 8. Require as a condition of employment that any applicant who accepts employment full-time or part-time, permanent or temporary, including interns and	7. Inserted words Develop a written policy prohibiting the consumption of tobacco products, [illegal] drugs, and alcohol or . . .school-sponsored [student] activities.	7. Clarification consistency with other licensing agencies 8. Consistency

	<p>volunteers, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through Virginia's Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. In addition, where the applicant has resided in another state within the last five years, the school shall as a condition of employment determine if there are any founded complaints of child abuse or neglect in such state(s) pursuant to §§ 22.1-296.3 and 22.1-296.4 of the Code of Virginia.</p> <p>9. Require as a condition of employment that any applicant who accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, including interns and volunteers, provide written consent and necessary personal information for the school to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515 of the Code of Virginia.</p> <p>10. Notify the licensing agency within five calendar days of any change in administration or newly appointed individual responsible for the day-to-day administration or operation of the school.</p> <p>11. Ensure that all staff members receive annual professional development related to their job responsibilities.</p> <p>12. Report to the licensing agency within 10 business days lawsuits, settlements, or criminal charges relating to the operation of the school.</p> <p>13. Develop and implement an accessible policy and procedures to handle grievances from students, parents, and employees.</p>	<p>8. Inserted words</p> <p>Require as a condition of employment that any applicant who accepts . . . ing interns and volunteers [who work alone with students],</p> <p>9. inserted words</p> <p>Require as a condition of employment that any applicant who accepts employment requiring . . . full-time or part-time, permanent or temporary, including interns and volunteers [who work alone with students], . .</p> <p>12. Revised</p> <p>Report to the licensing agency within 10 business days lawsuits, settlements, or criminal charges relating to the operation of the school [against or settlements with the licensee relating to the health and safety or human rights of students and any criminal charges against staff that may be related to the health and safety or human rights of students.]</p> <p>13. Added statement [Schools are required to provide written notification of the right to file a complaint with the Virginia Department of Education's private school licensure office.]</p>	<p>with other licensing agencies</p> <p>9. Clarification</p> <p>12. Clarification and consistent with other licensing agencies</p> <p>Clarification</p>
<p>8VAC20-671-220. Fiscal accountability.</p>	<p>A. The licensee shall prepare at the end of each fiscal year:</p> <p>1. An operating statement to include a month-to-month accounting of revenue and expenses for the fiscal year just ended;</p> <p>2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence of sufficient funds to operate; and</p>	<p>No change</p>	

	<p>3. A balance sheet showing assets and liabilities for the fiscal year just ended.</p> <p>B. There shall be a system of financial recordkeeping that shows a separation of the school's accounts from all other records.</p> <p>C. There shall be written policies and procedures that address the day-to-day handling of the school's funds.</p> <p>D. The licensing agency reserves the right to call for one of these two types of statements:</p> <p>1. An audited financial statement certified by an outside independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants; or</p> <p>2. A financial statement that has been reviewed by an outside independent certified public accountant in accordance with principles established for reviews by the American Institute of Certified Public Accountants.</p>		
<p>8VAC20-671-230. Protection of contractual rights.</p>	<p>In compliance with § 22.1-324 of the Code of Virginia, provisions for the protection of contractual rights shall include the following:</p> <p>1. With each application, the applicant shall submit and maintain a guaranty instrument payable to the Commonwealth of Virginia to protect the contractual rights of students and other contracting parties.</p> <p>2. The guaranty instrument shall be based on the school's approved capacity. A minimum guaranty of \$10,000 for up to 25 students and \$5,000 for each additional 25 students shall apply.</p> <p>3. In the event a guaranty instrument is terminated, the license to operate will terminate within 30 calendar days if a replacement bond or other instrument is not filed with the licensing agency.</p> <p>4. If a school collects no advance tuition other than equal monthly installments or receives payment after services have been rendered, the school may apply to the licensing agency for exemption from the guaranty requirements.</p>	<p>No change</p>	
<p>8 VAC20-671-240. Insurance.</p>	<p>A. The licensee shall maintain liability insurance covering the premises and the school's operation.</p> <p>B. The licensee shall maintain liability insurance on all vehicles used to transport students, including vehicles owned by staff.</p> <p>C. The members of the governing body and staff who are authorized to handle school or students' funds shall be bonded.</p>	<p>Added requirement to B Revisions, added requirement. The licensee shall maintain [ensure] liability insurance on all vehicles . . . [The school shall obtain written consent from the parent to transport a student in a staff member's personal vehicle.]</p> <p>C. Added language. The members of the governing body and staff who are . . . [or otherwise indemnified against employee dishonesty.]</p>	<p>B. Clarification Added safeguard for parent, student and school protection</p> <p>C. Added flexibility</p>

<p>8 VAC20-671-250. Fundraising.</p>	<p>A. Written consent of the parent(s) or legal guardian and of a child age 14 or older shall be obtained before participating in any school fundraising activity. [B. No student shall be forced to participate in any school fundraising activity.]</p>	<p>A. Deleted words Written consent of the parent(s) or legal guardian and of a child age 14 or older "B. Added statement: [No student shall be forced to participate in any school fundraising activity.]</p>	<p>Wordy Clarification</p>
<p>8VAC20-671-260. Relationship to the licensing agency.</p>	<p>The licensee shall make information available to the licensing agency upon the requested due date in order to make a timely determination of compliance with this chapter and other applicable regulations and statutes. The licensing agency may alter the term of a license if the school fails to comply in a reasonable time period.</p>	<p>No change</p>	
<p>8VAC20-671-270. Personnel policies and procedures.</p>	<p>A. The licensee shall have written personnel policies and procedures that include, but are not limited to, job qualifications, job descriptions, staff supervision, evaluation, grievance, and termination. 1. The licensee shall develop and implement written policies and procedures that persons appointed or designated to assume the responsibilities of each position possess the education, experience, knowledge, skills, and abilities specified in the job description. 2. The licensee shall make written personnel policies and procedures accessible to each employee. B. The licensee shall maintain a current organizational chart of all full-time and part-time positions.</p>	<p>Deleted word. 1. The licensee shall develop and implement written policies and procedures that persons appointed or designated to assume the responsibilities of each position possess the education, experience, knowledge, skills, and abilities specified in the job description.</p>	<p>Redundant</p>
<p>8VAC20-671-280. Job qualifications.</p>	<p>A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in this chapter shall meet the qualifications of the position, comply with all applicable regulations for each function, and demonstrate a working knowledge of the policies and procedures applicable to the position.</p>	<p>No change</p>	
<p>8VAC20-671-290. Job descriptions.</p>	<p>A. There shall be a written job description for each position that includes job title; duties and responsibilities; job title of the immediate supervisor; and minimum education, experience, knowledge, skills, and abilities required for entry-level performance of the job. B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.</p>	<p>No change</p>	
<p>8 VAC20-671-300. School administrators</p>	<p>A. The licensee shall designate one or more individuals responsible for the administrative operation of the school who serves as the instructional leader and is responsible for effective school management that promotes positive student achievement, and a safe and secure environment in which to teach and learn.</p>	<p>A. Deleted words, Added statement for clarification B. The licensee shall designate one or more [an] individual(s) [who is a graduate of an . . .operation of</p>	<p>Clarification</p>

	<p>B. As the instructional leader, the school administrator is responsible for ensuring that students are provided an opportunity to learn and shall:</p> <ol style="list-style-type: none"> 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; 2. Seek to maintain a safe and secure school environment; 3. Involve the staff of the school in identifying the types of staff development needed to improve student achievement and ensure that the staff participate in those activities; 4. Analyze classroom practices and methods for improvement of instruction; 5. Ensure that students' education 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; and 6. Monitor and evaluate the quality of instruction, provide staff development, and provide support that is designed to improve instruction. <p>C. The instructional leader shall hold a valid five-year renewable postgraduate professional license issued by the board with an endorsement in school administration and supervision or special education and have at least three years of experience working with students with disabilities.</p> <p>D. The instructional leader or designee shall at all times be on the premises of the school while the school is in operation.</p> <p>E. All staff on duty must know who is responsible for the administration of the school at any given time.</p>	<p>the school who serves as the instructional leader and is responsible for effective school management [This individual may also serve as the instructional leader.]</p>	
<p>8 VAC20-671-310. Teachers and staffing.</p>	<p>A. Each teacher shall meet the requirements of the Licensure Regulations for School Personnel (8VAC20-22).</p> <p>B. Staffing shall be in accordance with the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81) in the following settings:</p> <ol style="list-style-type: none"> 1. A student with an Individualized Education Program (IEP) may be instructed with students without disabilities, as appropriate, and in accordance with the IEP. 2. A student with an IEP may receive services with children with the same disability or with children with different disabilities. <p>C. Teacher personnel assignments shall be in accordance with Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).</p> <ol style="list-style-type: none"> 1. General education qualified personnel who are 	<p>A. Added language for clarification [1. Schools where students are instructed by content or grade level endorsed teachers shall have available appropriately endorsed special education teachers to case manage IEPs and to provide disability specific technical assistance and instruction.] [2. Schools offering only self-contained classroom instruction shall have teachers endorsed in either special education general curriculum or special education adapted curriculum depending on the functioning level of the students.]</p>	<p>Language added for clarification</p> <p>Provides flexibility</p>

	<p>knowledgeable about the students and their special education may implement special services in collaboration with special education personnel.</p> <p>2. Special education services include those services provided directly to the student and those provided indirectly.</p> <p>D. Teacher caseloads shall be assigned in accordance with the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).</p> <p>1. If children with disabilities in a single building receive academic content area instruction from multiple special education teachers, the teachers' caseloads shall be determined by using a building average.</p> <p>2. When special education personnel are assigned to provide services for students who do not have a disability under this chapter or are assigned to administrative duties, there shall be a reduction in the caseload specified in proportion to the percentage of school time on such assignment.</p> <p>3. Special education personnel may be assigned to serve children who are not eligible for special education and related services as long as they hold appropriate licenses and endorsements for such assignments.</p> <p>E. Staffing for early childhood special education shall be in accordance with the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).</p> <p>1. Children of preschool ages (two to five, inclusive) who are eligible for special education may receive early childhood special education.</p> <p>2. Students receiving early childhood special education may receive services together with other preschool-aged children with the same or with different disabilities.</p> <p>F. A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).</p>	<p>F. Inserted words. The department may grant approval for alternative staffing levels [and teaching assignments] upon request from private schools for students with disabilities seeking . . . Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).</p>	<p>Clarification and added Flexibility</p>
<p>8VAC20-671-320. Substitute teachers.</p>	<p>A. No substitute teacher shall be used to fill a vacant teaching position for more than 90 teaching days in such vacancy during one school year.</p> <p>B. Substitute teachers shall be at least 18 years of age, hold a high school diploma or a general educational diploma (GED), have two years of full-time postsecondary education or two years of successful work experience with children with</p>	<p>B. Substitute teachers shall be at least 18 years of age, hold a high school diploma or a [G]eneral [E]ducational diploma [Development] (GED) [certificate], have two years of full-time postsecondary education . . . and</p>	<p>Correction</p>

	disabilities or equivalent, and attend orientation to the school's policies and procedures.	attend [receive] orientation to the school's policies and procedures.	
8 VAC20-671-330. Support staff.	<p>A. School support personnel, including contractual service providers, shall meet the Board of Education's Licensure Regulations for School Personnel (8VAC20-22) or the requirements of another state or national accrediting agency.</p> <p>B. Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), hold a high school diploma or a general educational diploma (GED), have two years of full-time successful work experience with children or completed two years of coursework in a related field, complete orientation conducted by the school administrator or designee regarding school policies and procedures and characteristics of students served, and work under the supervision of qualified staff.</p> <p>C. No support staff shall be used as replacement for teachers or related service staff unless they meet the qualifications of the position.</p> <p>D. Support staff who do not meet licensure or certification requirements shall not be given misleading work titles or titles that infer that they meet required credentials.</p>	<p>Deleted words for consistency with other licensing agencies.</p> <p>B. Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), [at a minimum] hold a high school diploma or [GED] a general educational diploma (GED), have two years of full-time successful work experience with children or completed two years of coursework in a related field, complete orientation conducted by the school administrator or designee regarding school policies and procedures and characteristics of students served, and work under the supervision of qualified staff.</p> <p>Deleted word D. Support staff who does not meet licensure . . .that infer that they meet required credentials.</p>	Revised for consistency with other licensing agencies.
8VAC20-671-340. Staff supervision.	The licensee shall develop and implement written policies and procedures regarding the supervision of employees and all other individuals working with children, including volunteers and interns.	No change	
**8 VAC20-671-350. Staff development.	<p>A. Within seven calendar days following their begin date, each staff member responsible for working with students shall receive orientation of the school's philosophy, goals and objectives; duties and responsibilities of their position; and the school's policy and procedures for behavior intervention.</p> <p>B. Within 14 calendar days following their begin date, all staff shall receive emergency preparedness and response training that shall include: alerting emergency personnel and sounding alarms; implementing evacuation procedures with particular attention to students with special needs; using, maintaining, and operating emergency equipment; accessing emergency information for students including medical information; and utilizing community support services.</p> <p>C. Within 14 calendar days following their begin date, all staff shall receive professional development on confidentiality; the school's administrative decision-making plan; and policies and procedures that are applicable to their positions, duties, and responsibilities.</p> <p>D. Within 30 calendar days following their begin date,</p>	<p>Changed the word their to [staff's] through the section</p> <p>B. Inserted words [and before an individual is alone supervising students,]</p> <p>Inserted [including prohibited actions] that are applicable to their positions, duties, and responsibilities.</p> <p>D. inserted language [, and maintaining appropriate professional relationships and interactions among staff and</p>	Clarification

	<p>all staff shall receive training on the school's policy and procedures, including standard precautions, child abuse and neglect, and mandatory reporting. E. Within 30 calendar days following their begin date, all staff responsible for medication administration shall have successfully completed an approved medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications. Staff shall meet this requirement before administering any medication to students and shall receive annual retraining. F. All staff shall receive annual professional development and refresher in emergency preparedness and response to include alerting emergency personnel and sounding alarms; implementing evacuation procedures with particular attention to students with special needs; and using, maintaining, and operating emergency equipment. G. All staff shall receive annual professional development and refresher on behavior supports, child abuse and neglect, and mandatory reporting. **H. Each full-time staff person shall complete an additional 15 hours of annual training applicable to his job duties.</p>	<p>students, and suicide prevention.] E. Deleted from this section Changed F. to E. F E. Added language to requirement: [on the school's policies and procedures on standard precautions,] [; accessing emergency information for students and staff including medical information and utilizing community supports.] G F. deleted word and-Added language for clarification [, maintaining appropriate professional relationships and interactions among staff and students, and suicide prevention.] **H. Changed to G. Revised to [Each full-time staff shall annually receive professional development applicable to his job duties.</p>	<p>E. Deleted because the requirement is covered in another section. Clarification Clarification E. Allow flexibility</p>
<p>8 VAC20-671-360. Personnel records.</p>	<p>A. Separate up-to-date personnel records shall be maintained for each full-time and part-time employee, student intern, and volunteer for whom background investigations are required by Virginia statute. Content of personnel records of volunteers, student interns, and contractual service providers shall include, at a minimum, documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations. B. A record shall be maintained for each staff to include: 1. A completed employment application or other documentation providing the individual's name, address, and telephone number; 2. Documentation of qualifications; 3. Employment history; 4. Written references or notations of oral references; 5. Reports of required health examinations; 6. Annual performance evaluations; 7. Date of employment for each position held and date of separation;</p>	<p>B. Revisions, words added for clarification 2. [including educational background and professional licensure or certification.] 5. Changed health examinations to [tuberculosis certificate]</p>	<p>Clarification Clarification Comply with Dept. of Health</p>

	<p>8. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;</p> <p>9. Documentation of Department of Motor Vehicles checks and a current copy of the driver's license for all staff who transport students;</p> <p>10. Documentation of all training required by this chapter and any other training or professional development received by individual staff; and</p> <p>11. A current job description.</p> <p>C. All personnel records shall be maintained confidentially and retained in their entirety for a minimum of three years after staff's separation from the school.</p>	<p>9. Revised language to [Driving record verification from the Department of Motor Vehicles.]</p>	<p>9. Clarification and acceptance of documentation maintained via computer.</p>
<p>**8VAC20-671-370. School facilities and safety.</p>	<p>A. Each school shall be maintained in a manner ensuring compliance with the Virginia Uniform Statewide Building Code (13VAC5-63). Each school shall:</p> <ol style="list-style-type: none"> 1. Maintain a physical plant that is accessible, barrier free, safe, and clean; 2. Provide 50 net square feet per occupant space for classrooms and suitable space for administrative staff, pupil personnel services, library and media services, and physical education with consideration given to safety; 3. Provide adequate, safe, and properly equipped classrooms, laboratories, play areas, and dining areas that meet the needs of students and instruction; and 4. Provide space for safe storage of items such as first aid equipment, medication, household supplies, school supplies, and equipment. <p>B. After the initial application, the school shall document annually that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) and maintain records of regular safety, health, and fire inspections conducted and certified by local health and fire departments.</p> <p>C. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted in advance to the licensing agency for approval.</p> <p>D. Animals allowed on the premises shall be tested, inoculated, and licensed as required by law.</p> <p>E. Smoking shall be prohibited at all times and in all school buildings, on all school grounds, and during off campus school-sponsored activities.</p> <p>F. Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.</p> <p>G. There shall be a written policy concerning safeguards for aquatic-related activities to include supervision by a certified lifeguard.</p>	<p>A. Revised so that each requirement stands as a single requirement, separate from the Virginia Uniform Statewide Building Code.</p> <ol style="list-style-type: none"> 1. changed to B.[Each school should maintain...] 2. Changed to C. does not require 50 net square feet per occupant; changed to 50 square feet instructional area per student. Schools established after the effective date of these regulations and classrooms added to existing buildings shall provide 50 square feet of classroom or instructional areas per student, excluding classroom fixtures.] 3. Changed to D. Added [and instructional areas, and where appropriate laboratories, play areas....] <p>Renumbered each item</p> <p>E. Deleted</p> <p>Changed F. to I.</p> <p>Changed G. to J. revised language [There shall be a written policy concerning the provision of safeguards for water-</p>	<p>Revised duplicative; clarified statements required under the Virginia Uniform Statewide Building Code.</p> <p>C. Revised to accommodate existing facilities</p> <p>E. Duplicative</p> <p>D.</p>

	<p>H. There shall be a written policy regarding safeguards for school-sponsored activities including adventure and wilderness activities.</p> <p>I. There shall be an electronic two-way communication system available to staff at all times in the classroom and during school-sponsored activities.</p>	<p>related activities and a provision that a certified life guard supervises all swimming activities.]</p> <p>Changed H. to K. Changed I to L. and revised to delete “electronic two-way communication”</p>	<p>Clarification Consistent with other licensing agencies</p> <p>Numbering/ Lettering</p>
<p>8VAC20-671-380. Contingency plans.</p>	<p>A. A school shall have contingency plans for emergencies that include staff certification in cardiopulmonary resuscitation (CPR), abdominal thrust (Heimlich maneuver), and emergency first aid.</p> <p>B. The school administration shall ensure that the school has:</p> <ol style="list-style-type: none"> 1. Written procedures to follow in emergencies such as fire, injury, illness, and violent or threatening behavior. Contingency plans should be developed with the assistance of state or local public safety authorities. Such plans 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; and 3. A written procedure for responding to violent, disruptive, or illegal activities by students on school property or during a school-sponsored activity. <p>C. Each school shall have at least three tornado drills every school year in order that students may be practiced in such drills.</p> <p>D. The school shall have a written emergency preparedness and response plan for all locations that addresses:</p> <ol style="list-style-type: none"> 1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks, (ii) communitywide plans to address different disasters and emergency situations, and (iii) assistance, if any, that the local emergency management office will provide to the school in an emergency. 2. Analysis of the school's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, workplace violence or terrorism, missing persons, riot, severe injuries, or other emergencies that would disrupt the normal course of service delivery. 3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities; coordination of logistics during the emergency; communications; life safety of students, employees, contractors, student interns, volunteers, and visitors; property protection; community outreach; and recovery and restoration. 4. Written emergency response procedures for 	<p>A. Deleted words (CPR), abdominal thrust (Heimlich maneuver), and emergency first aid.</p> <p>B.</p> <ol style="list-style-type: none"> 1. Changed word “discussed” to [reviewed] <p>C. Changed from three tornado drills every school year to [one tornado drill and at least one earthquake drill every school year.</p> <p>D. 2. Inserted [intruder, hostile situation,]</p>	<p>A. Redundant</p> <p>C. Consistency with public schools.</p> <p>D. Clarification</p>

	<p>assessing the situation; protecting students, employees, contractors, student interns, volunteers, and visitors; equipment and education records; and restoring services.</p> <p>5. Emergency procedures, which shall address:</p> <ol style="list-style-type: none"> a. Communicating with employees, contractors, and community responders; b. Warning and notification of students; c. Providing emergency access to secure areas and opening locked doors; d. Conducting evacuations to emergency shelters or alternative sites and accounting for all students; e. Relocating students and staff, if necessary; f. Notifying family members and legal guardians; g. Alerting emergency personnel and sounding alarms; and h. Locating and shutting off utilities when necessary. <p>6. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters.</p> <p>7. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.</p> <p>8. Children who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.</p> <p>E. The school shall have emergency preparedness and response training for all employees, contractors, student interns, and volunteers that shall include responsibilities for:</p> <ol style="list-style-type: none"> 1. Alerting emergency personnel and sounding alarms; 2. Implementing evacuation procedures including evacuation of students with special needs (i.e., deaf, blind, nonambulatory); 3. Using, maintaining, and operating emergency equipment; 4. Accessing emergency information for students including medical information; and 5. Utilizing community support services. <p>F. There shall be documented review of the emergency preparedness plan annually and revisions made if necessary.</p> <p>G. Employees, contractors, student interns, and volunteers shall be prepared to implement the emergency preparedness plan in the event of an emergency.</p> <p>H. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and students.</p> <p>I. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all students within seven days following admission or a</p>		
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	<p>substantive change in the procedures.</p> <p>J. At least one evacuation drill (the simulation of the school's emergency procedures) shall be conducted each week during the first month of school and one each month thereafter in each building occupied by students.</p> <p>K. Evacuation drills shall include, at a minimum:</p> <ol style="list-style-type: none"> 1. Sounding of emergency alarms; 2. Practice in evacuating buildings and buses or vans; 3. Practice in alerting emergency authorities; 4. Simulated use of emergency equipment; and 5. Practice in securing student emergency information. <p>L. A record shall be maintained for each evacuation drill and shall include the following:</p> <ol style="list-style-type: none"> 1. Buildings and buses or vans in which the drill was conducted; 2. Date and time of drill; 3. Amount of time to evacuate the buildings; 4. Specific problems encountered; 5. Staff tasks completed including head count and practice in notifying emergency authorities; and 6. The name of the staff members responsible for conducting and documenting the drill and preparing the record. <p>M. The record for each evacuation drill shall be retained for three years after the drill.</p> <p>N. At least one staff member shall be assigned the responsibility for ensuring that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.</p> <p>O. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety, and welfare of students, the school shall notify the parent(s), the student's public school, placing agency, and licensing agency as soon as possible, but no later than 24 hours after the incident occurs.</p>	<p>J. Revised to require [at least once per week for the first twenty school days and then once a month for the rest of the school year and more often if necessary.]</p>	<p>J. Revised for consistency with public schools.</p>
<p>8VAC20-671-390. Weapons.</p>	<p>The licensee shall develop written policies and procedures governing prohibition of the possession and use of firearms, pellet guns, air guns, and other weapons on the school's premises and during school-related activities unless the weapons are in the possession of licensed security personnel or law-enforcement officers.</p>	<p>Changed [law enforcement] two words</p>	<p>Correction</p>
<p>8VAC20-671-400. Strip searches.</p>	<p>A. Strip searches and body cavity searches are prohibited.</p> <p>B. A school that does not conduct pat downs shall have a written policy prohibiting them.</p> <p>C. A school that conducts pat downs shall develop and implement written policies and procedures that shall provide the following:</p> <ol style="list-style-type: none"> 1. Pat downs shall be limited to instances where they 	<p>Added new language: [...except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.]</p>	<p>Consistency with other licensing agencies</p>

	<p>are necessary to prohibit contraband; 2. Pat downs shall be conducted by personnel of the same gender as the student being searched; 3. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the school's written policies and procedures; and 4. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses.</p>		
<p>8VAC20-671-410. Student application and admission.</p>	<p>A. The school's written admission policy shall include: 1. A description of the population to be served; 2. A description of the types of services offered; 3. Admission procedures; 4. Exclusion criteria that identify behaviors or conditions the school will not accept; and 5. A description of how educational services will be delivered. B. A summary of each school's admissions policy, course offerings at each grade level, and behavioral management program shall be made available to students, parents, and placing and licensing agencies. C. Each school's admissions process shall be designed to determine the suitability of enrolling a student. The school shall accept and serve only those students whose needs are compatible with the services provided by the school. D. The school shall provide written notification for a student's education records within five business days of the student's enrollment. Notification shall be made to the superintendent of the school division where the student last attended. The school shall request current information pertinent to the student's educational growth to include, but not limited to, the IEP, 504 Plan, or career development plan; plan of study; assessments; grades or transcript; discipline records; and health records. E. An application for admission is not to be construed as a binding instrument on the part of the student or the school. F. A school may require the payment of a reasonable nonrefundable initial application fee to cover expenses in connection with processing a student's application provided it retains a signed statement in which the parties acknowledge their understanding that the fee is nonrefundable. No other nonrefundable fees shall be allowed prior to enrollment. G. Any contract or enrollment agreement used by the school shall be in writing and clearly specify the following: 1. Complete name and physical address of the school; 2. Itemized cost of the program to include tuition, scholarships, and all other charges; and 3. The school's contingency, cancellation, and refund</p>	<p>B. Deleted unnecessary words</p> <p>D. Deleted and replaced with new language</p> <p>E. Added new requirement Request for student's education records within five business days</p> <p>2. Revised to delete scholarships</p>	<p>B. Wordy</p> <p>D. Not necessary in this section Clarification</p> <p>E. Clarification Consistency with other licensing agencies.</p> <p>Clarification</p>

	<p>policies.</p> <p>H. Any contract or enrollment agreement used by the school becomes a legally binding instrument upon the school's written acceptance.</p> <p>I. Each school that serves privately placed students shall offer access to a tuition insurance plan if the school financially obligates students for more than quarterly increments of annual tuition.</p>	I. Deleted requirement	I. Difficult to obtain
8VAC20-671-420. Standard school year and school day.	<p>A. Each school shall have a standard school year of at least 180 instructional days. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 instructional hours (990 hours annual instructional time), excluding breaks for meals and recess, and a minimum of three hours for kindergarten.</p> <p>B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5-1/2 hours) unless otherwise stated in the child's Individualized Education Program (IEP), Individualized Instruction Plan (IIP), 504 Plan, or other documentation.</p> <p>C. Each school shall have policies and procedures that address make-up days when the school is unable to meet the required instructional time.</p>	<p>A. Revised for better reading and clarification.</p> <p>Wording revised to match wording of the accrediting standards</p>	A. Clarification requested by stakeholders.
8VAC20-671-430. School and community communication as Community relationships.	<p>A. Each school shall promote communications and foster mutual understanding with parents and the community and use information from parents, citizens, business, and industry in evaluating the educational program.</p> <p>B. At the beginning of each school year, the school shall provide to parents or guardians information on the availability of and source for receiving the curriculum for their child's core subjects and a copy of the school's promotion and retention policies and access to the school's policies and procedures.</p>	<p>Changed the title of section</p> <p>A. Revised. [Each school shall facilitate cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large.]</p> <p>B. Deleted</p>	<p>Clarification</p> <p>B. Redundant</p>
8VAC20-671-440. Philosophy, goals, and objectives	<p>A. Each school shall have a current philosophy, goals, and objectives that serve as the basis for all policies and practices and shall be developed using the following criteria:</p> <ol style="list-style-type: none"> 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 an annual self-evaluation of the school. 2. 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, to increase graduation rates, and to increase the quality of instruction through professional staff development and licensure. 	<p>2. Deleted language</p> <p>Goals and objectives shall be written in plain language so as to be understandable to noneducators, including parents.</p>	Decrease burden on school administrators.

<p>8 VAC20-671-450. Student achievement expectations.</p>	<p>A. A process to identify and recommend strategies to address the learning, behavior, communication, or development of individual students who are having difficulty in the educational setting shall be developed at each school.</p> <p>B. Participation in the Virginia assessment program by students with disabilities shall be prescribed by provisions of their IEPs or 504 Plans. All students with disabilities shall be assessed with appropriate accommodations and alternate assessments when required.</p> <p>C. Each school that serves students who anticipate earning a diploma and graduating from a Virginia high school must follow the requirements for graduation outlined in the Regulations Establishing Standards for Accrediting Public Schools in Virginia (8VAC20-131).</p> <p>D. The school shall cooperate with the public school in the administration of SOL tests to students with disabilities and students who need verified credits to graduate from a public high school in Virginia, and the administration of any other SOL tests.</p> <p>E. The school shall use testing and evaluation materials that are not racially or culturally discriminatory and do take into consideration the student's disabling condition(s), racial background, and cultural background.</p>	<p>B. Deleted last statement</p> <p>C. Changed ...graduating from a Virginia high school to ...graduating from a "Virginia [public] school"</p> <p>D. Deleted end of statement</p>	<p>B. Statement is not necessary Covered in another section</p> <p>C. Revised for clarification</p> <p>D. Unnecessary wording</p>
<p>8 VAC20-671-470 460. Individualized Education Program (IEP)</p>	<p>A. When a child is presently receiving the services of a private school, a representative of the private school shall attend IEP meetings upon the request of the student's school division. If a representative is not able to attend, the school shall use other methods to ensure participation by the private school including individual or conference telephone calls.</p> <p>B. After a child with a disability enters a private school, any meetings to review and revise the child's IEP may be initiated and conducted by the private school at the discretion of the student's school division.</p> <p>C. If the private school initiates and conducts these meetings, the student's school division and the parent(s) shall:</p> <ol style="list-style-type: none"> 1. Be involved in any decision affecting the child's IEP; 2. Agree to any proposed changes in the program before those changes are implemented; and 3. Be involved in any meetings that are held regarding reevaluation. <p>D. A parent(s) does not include local or state agencies or their agents, including local departments of social services, if the child is in the custody of such an agency.</p> <p>E. When a child with a disability is placed by a local school division or a Comprehensive Services Act team in a private school, all rights and protections under state and federal regulations shall be extended to the child.</p>	<p>Repositioned Section 671- 470 moved to 460</p> <p>A. Deleted words at beginning of statement: When a child is presently receiving the services of a private school,</p> <p>B. Deleted words at beginning of statement: After a child with a disability enters a private school</p>	<p>Sections repositioned for improved flow in reading</p> <p>Words deleted, wordy</p>

	<p>regular school year unless the student is unable to participate due to a medical condition. H. Each school shall provide students with opportunities to gain appreciation for art and music. I. Each school shall provide an instructional program that promotes the individual student's developmental growth and academic achievement at successive grade levels, as appropriate. J. The services provided by a private school shall be provided by personnel meeting the same licensure requirements as personnel providing services in the public school, outlined in Licensure Regulations for School Personnel (8VAC20-22). K. The school shall equitably serve the needs and interests of all students, taking into consideration age appropriateness, cultural norms, physical abilities, and cognitive abilities.</p>	<p>Standards of Learning (SOL).] G. Added [or has met the credit requirement for graduation.] J. Deleted, covered under staffing</p>	<p>Duplicative</p>
<p>8VAC20-671-500. Instructional program for elementary school grades.</p>	<p>A. The elementary school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. In addition, each school shall provide opportunities for students to gain an appreciation for art and music. Students shall be required to participate in a program of health and physical fitness during the regular school year. B. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program. 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 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.</p>	<p>A. Deleted from this section, covered under Section 490. Added a lead-in statement to this section.</p>	<p>Duplicative</p>
<p>**8VAC20-671-510. Instructional program for middle school grades</p>	<p>A. The elementary school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. In addition, each school shall provide opportunities for students to gain an appreciation for art and music. Students shall be required to participate in a program of health and physical fitness during the regular school year. B. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program. 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 science. Students who are not</p>	<p>A. Deleted from this section, covered in Section 490 Added lead-in statement [In addition to the applicable requirements under 8VAC20-671-490, the following shall apply:] **C. Added requirement: [Each school shall provide students with</p>	<p>Duplicative C. Provide students opportunities for career and technical exploration Added needed</p>

	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.	opportunities for career and technical exploration.]	requirement
**8VAC20-671-520. Instructional program for secondary school grades.	A. The secondary school grades shall provide each student a program of instruction that supports the SOL in English, mathematics, science, and history/social science. B. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines. C. Students in secondary education programs who plan to graduate with a standard or advanced diploma from a Virginia public high school should have the opportunity to complete credits in foreign languages, fine arts, and career and technical training. D. Classroom driver education may count for 36 class periods of health education. Students shall not be removed from classes other than health and physical education for the in-car phase of driver education. E. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading. F. Guidance and counseling shall be provided for students to ensure that a program of studies contributing to the student's academic achievement and meeting graduation requirements is being followed.	Added lead-in statement A. Deleted, covered under Section 490 Relettered items C. Deleted, replaced with revised language. [Each school shall provide instruction in economic and personal finance and occupational readiness.] **G. Added, guidance and counseling (revised from F.)	B. Provides needed flexibility for schools for students with disabilities C. Clarification C. Added for consistency with public school requirement G. Simplification
8VAC20-671-530. Alternative education.	Schools may provide students, 16 years of age to 18 years of age, an Individualized Student Alternative Education Plan (ISAEP), a program that includes career guidance counseling; mandatory enrollment in a GED preparation program; and career and technical education. Implementation of the ISAEP requires submission of an application and approval by the Department of Education.	Revised statement [Schools may provide students, 16 years of age to 18 years of age who choose to prepare for the Tests of General Educational Development (GED)] an Individualized Student Alternative Education Plan (ISAEP) program.	Revised for clarification and simplification
8VAC20-671-540. Transition services.	A. Schools shall cooperate with the public schools to ensure that the transition plan for each student with a disability, beginning at 14 years of age (or younger), is implemented according to the child's IEP. B. Schools shall provide evidence of transition services designed within an outcome-oriented process for all students, as appropriate, that promotes movement from the private school to a public school the child would normally attend; movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.	No change	

<p>8VAC20-671-550. Extracurricular and other school activities, and recess.</p>	<p>A. School-sponsored extracurricular activities shall be under 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. B. School-sponsored extracurricular activities shall have at least one person certified in CPR for every 10 students. C. Schools that take students on adventure activities shall develop policies and procedures to ensure supervision, health and safety, and medical management.</p>	<p>B. Revised [CPR and first aid certified staff shall accompany students on school-sponsored extracurricular activities.]</p>	<p>Revised for consistency with public school requirement. Reduce burden</p>
<p>8VAC20-671-560. Family life.</p>	<p>A. Schools may use the Standards of Learning for the family life education program or other education program, which shall have the goals of reducing the incidence of pregnancy and sexually transmitted diseases and substance abuse. B. Schools offering family life shall obtain written consent from the parent or guardian for the child's enrollment in the course.</p>	<p>A. Added language to expand goal of family life B. Revised statement: Schools offering family life shall obtain written consent from the parent or guardian for the child's [participation.]</p>	<p>A. Clarification B. Provides flexibility; not requiring a course</p>
<p>8VAC20-671-570. Student work study or on-the-job training.</p>	<p>A. Each school that places students on work-study, on-the-job training, or any other form of employment shall ensure compliance with the applicable laws governing the employment of children. B. Work assignments that are paid or unpaid shall be in accordance with the age, health, ability, and education program of the student. C. Work assignments or employment outside the school, including reasonable rates of pay, shall be approved by the school administrator with the knowledge and consent of the parent or legal guardian.</p>	<p>A. Changed word "places to [place] B. deleted C. Changed to B. Revised wording.</p>	<p>Singular word B. not necessary covered in A. C. Simplified</p>
<p>8VAC20-671-580. Virtual learning.</p>	<p>A. Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through virtual learning. A school shall ensure that each virtual education course is provided by an institution accredited by a nationally recognized accrediting body or is authorized by a public school or school division. B. A school shall ensure that virtual learning courses meet the following requirements: 1. The content, instruction, and assessment of each course is comparable in rigor and breadth to the course that is traditionally delivered; 2. The course content is appropriate for the school's grade levels and age range; and 3. The virtual learning shall be supervised by a licensed teacher or a person eligible to hold a Virginia teaching license. The individual shall be available to the student.</p>	<p>Deleted entire section Details of Code not needed. Revised to A. [Virtual courses may only be offered through accredited providers as outlined in VAC §22.1-212.23 and §22.1-253.13:3 of the Code of Virginia.] [B. The virtual learning shall be proctored by a licensed teacher or appropriately trained paraprofessional who is supervised by a licensed teacher.]</p>	<p>Clarification and simplification</p>
<p>8VAC20-671-</p>	<p>A. Each school shall provide a variety of current</p>		<p>Clarification</p>

<p>590. Equipment, instructional materials, and library media.</p>	<p>grade-level materials and equipment to support the instructional program, including functional life skills programs. B. Each school shall provide access to computers and library media necessary to meet research inquiry and reading requirements of the instructional program and general student interest. C. Each student, as appropriate, shall be provided instruction on the use of instructional equipment and shall demonstrate understanding before access to laboratories. D. Each school shall provide textbooks and instructional materials that support Virginia's Standards of Learning. E. Each school shall establish written policy on the use of computers, including the use of the Internet and email.</p>	<p>Deleted C & D Replaced E with C</p>	<p>and simplification</p>
<p>8VAC20-671-600. School records</p>	<p>Each school shall maintain up-to-date records to include the school's academic calendar, class roster, class schedule, course descriptions, course curriculum, individual student schedules, student progress reports, and student transcript or other documentation of grades.</p>	<p>Minor revision</p>	<p>Clarification</p>
<p>8VAC20-671-610. Diplomas.</p>	<p>A. No school shall use the seal of Virginia in its diploma design. B. Each school that offers a diploma upon graduation shall have written policy and procedures that address the following: 1. The requirements for a diploma shall be those in effect when the student enters the ninth grade for the first time. 2. The requirements for a diploma shall be based upon completion of program requirements that demonstrate academic rigor.</p>	<p>No change</p>	
<p>8VAC20-671-620. School records</p>	<p>A. Each school shall have written policies and procedures that address standards of student conduct and procedures for enforcement to include attendance, truancy, suspension, expulsion, alcohol, drugs, weapons, fighting, bullying, sexual and disability harassment, pornography, and other areas as appropriate. B. When a student is suspended, including in-school suspension, or expelled, the school shall notify the student's home school division within 24 hours.</p>	<p>Revised to: B. When [a publicly placed] student] is suspended, including in-school suspension, or expelled, the [student's] home school division [shall be notified] within 24 hours.</p>	<p>Clarification</p>
<p>8VAC20-671-630. Behavior intervention.</p>	<p>A. Each school shall develop and implement written policies and procedures that emphasize positive behavior interventions that focus on teaching and supporting students to practice methods to manage their own behavior. B. Behavior techniques that are used or available for</p>	<p>Added E. formal behavior management program to reduce or eliminate severely maladaptive, self-injurious behavior.</p>	<p>Necessary addition</p>

	<p>use shall be listed in the order of their relative degree of restrictiveness and specify the staff members who may authorize the use of each technique.</p> <p>C. Staff shall consider behavior management data in their annual review of the school's policies and procedures.</p> <p>D. When substantive revisions are made to policies and procedures governing management of student behavior, written information concerning the revisions shall be provided to students, parents, placing agencies, and the licensing agency prior to implementation.</p>		
<p>8VAC20-671-640. Time-out.</p>	<p>A. The school shall have written policy and procedures governing the conditions under which a student may use time-out and the maximum period of time-out not to exceed 30 minutes per episode. The conditions and maximum period of time-out shall be based on the student's chronological and developmental level. The school's policy and procedures shall include provisions that address the following:</p> <ol style="list-style-type: none"> 1. Each student is entitled to be completely free from any unnecessary use of time-out. 2. The areas in which a student is placed shall not be locked nor the door secured in a manner that prevents the student from opening it. 3. A student in time-out shall be able to communicate with staff. 4. Staff shall check on the student in the time-out area at least every 15 minutes and more often depending on the nature of the student's disability, condition, and behavior. 5. Procedures shall be implemented for documenting the use of time-out and staff checks on the student. 6. Staff shall review procedures when a student consistently chooses to stay in time-out beyond the determined time limit to determine that it has not become reinforcement. 	<p>A. Revised statement</p> <p>2. clarification time-out room</p> <p>5. Use of time-out shall be documented</p>	<p>Revised for consistency with other requirements of other licensing agencies</p> <p>Clarification</p> <p>Consistency with other licensing agencies</p>
<p>8VAC20-671-650. Prohibitions.</p>	<p>A. The following actions are prohibited:</p> <ol style="list-style-type: none"> 1. Restraint and seclusion, except when it is necessary to protect the student or others from personal harm, injury, or death and other less restrictive interventions were unsuccessful; 2. Prone "face down" restraints, mechanical restraints, and pharmacological restraints; 3. Deprivation of drinking water or food; 4. Limitation on contacts and visits with the student's probation officer, regulators, or placing agency representative; 5. Any action that is humiliating, degrading, or abusive; 6. Corporal punishment; 7. Deprivation of approved prescription medication or 	<p>Deleted from Prohibitions A. 1. Restraint and seclusion and prone face down restraints from this section</p> <p>Renumbered items</p> <p>4. Added [social worker]</p>	<p>Clarification, allowed under certain circumstance</p> <p>Consistent with other licensing agencies</p>

	<p>other necessary services and treatment; 8. Denial of access to toilet facilities; 9. Application of aversive stimuli; 10. Strip and body cavity searches; and 11. Discipline, restraint, or implementation of behavior management plans by other students.</p>	<p>9. Deleted 10. Deleted</p>	<p>Consistent with other licensing agencies</p>
<p>8VAC20-671-660. Managing student behavior in emergency situations.</p>	<p>A. Application of a formal behavior management program designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior contingent upon the exhibition of such behaviors is allowed only as part of an individually approved time specific plan that is consistent with sound therapeutic practice. Written consent of the student, parent or guardian, and the student's school division is required. B. Each school shall have written policies and procedures that include, but are not limited to: 1. Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student. 2. A policy stating that corporal punishment and abusive techniques and interventions are not authorized, permitted, or condoned. C. Each school shall develop and implement behavior management techniques in order of their relative degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained school personnel. D. While the use of restraint and seclusion is prohibited, a school that finds it absolutely necessary can only do so under the following conditions: 1. Physical restraint or seclusion is allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage. 2. Physical restraint or seclusion shall not be used as a punishment, retaliation, or for staff's convenience. 3. The school shall have written policies and procedures governing use of physical restraint and seclusion incidents that shall include the following: a. Each student is entitled to be completely free from any unnecessary use of physical restraint or seclusion. Physical restraint and seclusion are allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage. b. The school shall provide written notice of its behavior management program to students, parent(s), and placing agency at the time of the student's</p>	<p>A. Deleted from this section Renumbered items 2. A policy stating [statement] Renumbering 2. inserted [for disciplinary reasons or] 4. changed to 3. Deleted statement</p>	<p>Clarification and Consistency with other licensing agencies Redundant Clarification 4. Duplicative Language</p>

	<p>enrollment.</p> <p>c. Staff shall monitor the use of restraint and seclusion through continuous face-to-face observation, not solely by an electronic surveillance device.</p> <p>d. Restraints may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques.</p> <p>e. Students must be supervised by staff members trained in behavior intervention.</p> <p>f. Schools shall inform the parent and placing agency of each incident of physical restraint or seclusion on the day of the occurrence and make available to the licensing agency upon request.</p> <p>g. Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the restraint or seclusion, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date.</p>	<p>Added [6] [6. The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the staff member steps away from it. The room must meet specification. . . or other emergency.] f 7. Changed reporting on the day of occurrence to immediately not later than 24 hours.</p>	<p>Clarification, Consistent with other licensing agencies</p>
<p>8VAC20-671-670. Videotaping.</p>	<p>A. Schools shall have written policy and procedures regarding videotaping students while in school and any school-sponsored activity, including those used for staff training.</p> <p>B. No student shall be videotaped without written consent of the parent and eligible student.</p> <p>C. Any videotaping of students shall be maintained confidentially unless there is explicit written permission to release or disclose from the parent(s) and eligible student.</p> <p>D. Buildings and grounds surveillance is not considered videotaping for the purpose of this chapter.</p>	<p>No change</p>	
<p>8VAC20-671-680. Referral for evaluation.</p>	<p>A. When a student, including those placed by their parent(s) or from out-of-state, is suspected of having a disability, the school shall make a referral to the division superintendent of the school division where the private school is located. Documentation of the referral notice shall be maintained in the student's record.</p> <p>B. The school shall cooperate with the school division on child find activities.</p>	<p>A. Revised Schools may make a referral, not shall</p> <p>B. Deleted</p>	<p>Clarification</p> <p>B. Not necessary to regulate</p>
<p>8VAC20-671-690. Suspected child abuse and neglect.</p>	<p>A. Written policies and procedures related to child abuse and neglect shall comply with the requirements of § 63.2-1509 of the Code of Virginia and distributed to all staff members. Policies and procedures shall include:</p> <ol style="list-style-type: none"> 1. Handling accusations against staff; and 2. Promptly referring suspected cases of child abuse and neglect to the local child protective services unit 	<p>2. Revised to include specific reporting period</p>	<p>2. Consistent with other licensing agencies</p>

	<p>and for cooperating with the unit during any investigation.</p> <p>B. Any case of suspected child abuse or neglect occurring at the school or on a school-sponsored event or excursion shall be reported immediately to the student's parent, guardian, or both if appropriate, and the placing and licensing agencies.</p> <p>C. When a case of suspected child abuse or neglect is reported to child protective services, the school shall document the following:</p> <ol style="list-style-type: none"> 1. The date and time the suspected abuse or neglect occurred; 2. A description of the suspected abuse or neglect; 3. Action taken as a result of the suspected abuse or neglect; 4. The name of the person who made the report to child protective services; and 5. The name of the person to whom the report was made at the local child protective services unit. <p>D. Suspected child abuse shall be handled and reported as a serious incident.</p>	<p>B. Deleted guardian, or both if appropriate,. Covered in definition of 'parent'. Added statement for clarification</p> <p>C. Not necessary here, covered under serious incidents.</p>	<p>B. Wordy</p> <p>Redundant</p>
<p>8VAC20-671-700. Serious incident reports.</p>	<p>A. Any serious incident, accident, or injury to a student or medication error that occurs at the school or a school-sponsored activity shall be reported immediately, no later than the end of the school day, to the parent, student's public school, placing agency, and licensing agency.</p> <p>B. The school shall document the following:</p> <ol style="list-style-type: none"> 1. The date and time the incident occurred; 2. A brief description of the incident; 3. The action taken as a result of the incident; 4. The name of the person who completed the incident report; and 5. The date and name of the person who made the report to the proper authorities. <p>C. The licensing agency shall review all reports of serious incidents and investigate as appropriate using the complaint resolution procedures of this chapter.</p>	<p>Deleted unnecessary words, Added language for clarification Medication error covered under 710.</p> <p>C. Deleted all, not necessary to review all reports; complaint resolution procedures of this chapter may not be appropriate procedure.</p>	<p>A. Clarification and consistency with other licensing agencies</p> <p>C. Allows flexibility, may need to coordinate with another licensing agency</p>
<p>8VAC20-671-710. Medication and health.</p>	<p>A. Each student shall have on file evidence of a comprehensive physical examination prescribed by the State Health Commissioner from a qualified licensed (i) physician, (ii) nurse practitioner, or (iii) physician assistant acting under the supervision of a licensed physician. The examination must contain, at a minimum, information required on the Commonwealth of Virginia School Entrance Health Form.</p> <p>B. Each student shall have an up-to-date certificate of immunization documenting the immunizations required by the Code of Virginia and State Board of Health's Regulations for the Immunization of School Children (12VAC5-110).</p> <p>C. Any student or staff with a disease or medical</p>	<p>Deleted unnecessary wording</p>	<p>B. Simplification Clarification</p> <p>C. Clarification</p>

	<p>condition that is contagious or infectious shall be excluded from school while in that condition unless attendance is approved by a qualified healthcare provider. Conditions meeting this requirement must be provided in the parent/student handbook or other print materials.</p> <p>D. A first aid kit shall be maintained and readily accessible for minor injuries and medical emergencies in each building used for instruction or other school activity.</p> <p>E. All medications shall be accepted only in the original container with written permission signed and dated by the parent to administer to his child. The use of all prescriptive medication must be authorized in writing by a licensed prescriber.</p> <p>F. All medication and medical paraphernalia shall be securely locked and properly labeled.</p> <p>G. A program of medication administration shall be initiated for a student only when prescribed in writing by a person authorized by law to prescribe medication and written consent from the parent is obtained to administer.</p> <p>H. An individual medication administration record shall be maintained for each medication a student receives and shall include student name, date the medication is to begin, drug name, schedule for administration, strength, route, identification of the individual who administered the medication, and dates the medication was discontinued or changed.</p> <p>I. The provider shall develop and implement written policies and procedures regarding:</p> <ol style="list-style-type: none"> 1. Managing medication errors to include the following: administering first aid; contacting the poison control center; notifying the prescribing physician; taking action as directed; documenting the incident; reviewing medication errors and staff responses; and reporting errors to the parent and placing agency. 2. Handling adverse drug reactions; 3. Revising procedures as events may warrant; 4. Disposing of medication and medical supplies such as needles, syringes, lancets, etc.; 5. Storing of controlled substances; 6. Distributing medication off campus; and 7. Medication refusal to include who is responsible for documentation, where it will be documented and action taken by staff. <p>J. The telephone number of a regional poison control center and other emergency numbers shall be posted on or near the phone.</p> <p>K. Medication training.</p> <ol style="list-style-type: none"> 1. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medication before they can administer 	<p>G. Deleted</p> <p>Changed H. to [G.]</p> <p>Changed I. to [H.]</p> <p>7.Wordy</p>	<p>G. Requirement covered under E in the same section</p> <p>Renumbered</p> <p>Renumbered</p> <p>Simplification</p>
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	<p>medication.</p> <p>2. Training shall be provided to all staff in medication procedures and effects and infection control measures, including the use of standard precautions.</p> <p>3. There shall be a ratio of one staff member to 10 students certified in first aid and CPR and available at all times on the school grounds and during any school-sponsored activity.</p> <p>4. Documentation of medication training must be maintained in personnel files.</p> <p>5. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.</p> <p>L. Monitoring the supply of medications.</p> <p>1. Upon receiving any medication, staff members handling medication shall count individual tablets and measure the level of liquid medicine in the presence of the parent(s) or another staff member and record the count on the medication log.</p> <p>2. The medication log shall include the signature or initials of the staff member who counted the medication and the parent or staff who witnessed the occurrence. When initials are used, the medication administration record must contain the full name of the staff with corresponding initials for identification purposes.</p> <p>3. Students shall be prohibited from transporting medication.</p>	<p>3. Changed requirement one staff to 10 students to staff certified in first aid and CPR shall be available</p>	<p>Consistent with public schools</p>
<p>8VAC20-671-720. School Nutrition</p>	<p>A. Schools with internal food service shall serve to each student on a daily basis a daily diet that (i) consists of nutritionally balanced meals, (ii) includes an adequate variety and quantity of food for the age of students, and (iii) meets the minimum requirements and the U.S. Dietary Guidelines.</p> <p>B. Schools with internal food service shall ensure that all food safety and sanitation procedures are followed in accordance with state and federal regulations.</p> <p>C. Records of menus for all meals served shall be kept on file for six months.</p> <p>D. Special diets shall be provided when prescribed by a physician or requested by the student or parent because of the student's established religion.</p> <p>E. In schools where students are required to bring their own lunch, provisions shall be made to ensure a meal for all students.</p>	<p>Minor technical changes</p>	<p>Edits</p>
<p>8VAC20-671-730. Transportation</p>	<p>A. Each school shall have on file evidence that any vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state regulations, including:</p> <ol style="list-style-type: none"> 1. Vehicle safety and maintenance; 2. Licensure of vehicles; 3. Licensure of drivers; 4. Vehicle liability insurance; 5. Child passenger safety, including requiring students 	<p>A. Deleted words</p>	<p>Simplification</p>

	<p>to wear seat belts or restraints; and</p> <p>6. Safety measures that take into consideration the age and disabling conditions of students.</p> <p>B. All vehicles used to transport students to school activities shall be equipped with first aid kits, a fire extinguisher, and two-way communication devices.</p> <p>C. Individual student emergency information including currently prescribed and over-the-counter medications, significant medical problems, and any allergies shall accompany students when they are being transported.</p>		
8VAC20-671-740. Treatment services.	Licensed providers of treatment services shall coordinate those services to allow students to receive the required hours of instruction to the extent possible. When treatment services are not prescribed by a licensed mental health professional, the student shall receive the required number of hours of instruction.	Deleted this Section	Section not needed in these regulations.
8VAC20-671-750. Student discharge.	<p>A. Each school shall have policies and procedures that address conditions for which a student may be discharged from the school.</p> <p>B. The school's criteria for discharge shall be made available to prospective students, parents, and placing agencies before their enrollment.</p> <p>C. The student's education record shall be documented with the date of discharge and reason for discharge.</p> <p>D. Students shall be discharged only to the parent or legally authorized representative.</p>	Changed Section from 750 to 740	Renumbered section
8VAC20-671-760. Maintenance of student records.	<p>A. The school shall have written policy and procedures for the management of all records, print and nonprint, regarding confidentiality, accessibility, security, and retention.</p> <p>B. Student education records shall be maintained in fireproof cabinets and protected from unauthorized disclosure.</p> <p>C. Each student's education record shall contain information pertinent to the educational growth and development to include a completed enrollment sheet; a current IEP, 504 Plan, or IIP; student transcript; course of studies; and progress reports. Other information should include disciplinary records, health records, and achievement and test data.</p> <p>D. A school shall obtain written consent from the child's parent before disclosure of information from a student's education record to unauthorized parties. Authorized parties shall be limited to school employees, including contracted employees, and representatives of state licensing agencies who need access to the student's records to carry out their work responsibilities.</p> <p>E. A school may disclose information in an emergency to any person who needs that particular information</p>	<p>Changed Section from 760 to 750</p> <p>A. Added [and disposition].</p> <p>B. Student education records shall be maintained in fireproof [fire retardant] cabinets, and protected from unauthorized disclosure.</p> <p>D. additional authorized parties</p>	<p>Renumbered section</p> <p>B. Less financial burden, request of stakeholders</p> <p>Clarification</p> <p>E. Not</p>

	<p>conducted under the review of a human research committee, which shall be established by the school conducting or authorizing the research. Any such committee shall comply with the provisions of § 32.1-162.19 of the Code of Virginia. The committee shall submit to the Governor, the General Assembly, and the Superintendent of Public Instruction or designee at least annually a report on the student projects reviewed and approved by the committee, which shall state significant deviations from the proposals as approved.</p> <p>D. There shall be excluded from the operation of this chapter those categories of research in § 32.1-162.17 of the Code of Virginia that exempt research or student learning outcomes as conducted in educational settings involving regular or special education instructional strategies; the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subjects.</p>		
<p>8VAC20-671-780. Procedures for school closing.</p>	<p>A. A school that ceases operation shall provide written notice as early as possible to all enrolled students, the parent(s), the student's public school, and licensing agencies.</p> <p>B. All advertisements of the school's operation shall cease immediately, and the current license to operate shall be returned promptly to the licensing agency.</p> <p>C. If privately placed students are unable to complete the academic year due to the school's closing, the school's guaranty instrument shall be used for tuition reimbursement to the fullest extent allowable.</p> <p>D. All education records of privately placed students shall be provided to the parent or student who has reached 18 years of age and acknowledgement of such to the licensing agency.</p> <p>E. All education records of publicly placed students shall be returned to the school division of the parent's residence and acknowledgement of such to the parent or student who has reached 18 years of age, and the licensing agency.</p>	<p>Renumbered Section from 780 to 770</p>	<p>Renumbered section</p>

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Mae	Great information	
The Faison School, Kathy Mathews and Adam Warman	Change the definition of “behavior intervention plan” to that used by the behavior community from the book “Applied Behavioral Analysis.”	The definition is consistent with the Board of Education’s <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i> . Schools may use own definition as long as it is comparable to Board’s definition. The technical change was made to ensure clarity: “Behavior intervention plan” means a plan that utilizes positive behavioral interventions and supports to address behaviors that interfere with the learning of students with disabilities or the learning of others or <u>behaviors that require disciplinary action.</u> ”
Rivermont School Alleghany	671-210-7 Word “drugs” should reflect illegal drugs and prescription drugs not prescribed to student.	Added “or a prescription drug not prescribed for the person” to the definition of “illegal drug.”
Commenter at Public Hearing: David Blaiklock, representing the Virginia Association of Independent Specialized Education Facilities (VAISEF)	671-210-7 the consumption of drugs is prohibited. The term drug could be interpreted to mean prescription medication. We recommend changing the term to controlled substance as defined in 671-10.	Added “or a prescription drug not prescribed for the person” to the definition of “illegal drug.”
The Faison School, Kathy Mathews and Adam Warman	Change the definition of “time out” to “The contingent withdrawal of the opportunity to earn positive reinforcement or the loss of access to positive reinforcers for a specified time” or use a different word like “cool down”	No change. Definition is consistent with Board of Education’s <i>Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations</i> . Schools may use own definition as long as it is comparable to Board’s definition.
Virginia Association of Independent Specialized Educational Facilities (VAISEF)* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Recommended adding in to 671-30 that the Department be allowed to grant exceptions for good cause	Agree. Added 671-30 “C. The licensing agency may make exception to the requirements of this chapter for good cause.”
Joanne Webster, Virginia Council for Private Education	671-30-In a previous draft of these regulations, there was a letter D that allowed the Department to grant exceptions for good reason. We recommend this regulation be added back in as the private schools in Virginia serve a diverse group of students with special education	Agree. Added 671-30 “C. The licensing agency may make exception to the requirements of this chapter for good cause.”

	needs. Attempting to impose a rigid set of standards that do not grant any flexibility would be detrimental to the ability of private schools to individualize the educational programming to meet the needs of the students they serve.	
Commenter at Public Hearing: Brendan Folmar, Principal of Charterhouse School at UMFS	Exception clause -671-30	Agree. Added 671-30 “C. The licensing agency may make exception to the requirements of this chapter for good cause.”
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-140.A. (Renewal of licenses) <i>Recommended Changes:</i> The requirement on schools should be eliminated; DOE should assume ongoing intent to operate unless otherwise notified, and should ascertain whether a school is still in operation before planning a licensing visit.	Agree. Section A is deleted and “B” becomes “A” and “C” becomes “B.” the new “B” was amended for clarity to read: “Each license that had not been renewed in accordance with this chapter shall expire.” A new application must be submitted to the licensing agency.”
Northstar Academy, Pat West	671-150 Unannounced visits should not occur in same year as school’s triennial visit. 24 hour notice should be given for unannounced visits.	No change as the Code of Virginia permits unannounced inspections of each school each year (§22.1-323) For the purpose of issuing a license to operate, flexibility is needed in making announced and unannounced visits at any time. Added 150. “4. The licensing agency shall provide a process for school officials to file an appeal when there is disagreement with the licensing agency’s identification of noncompliance with these regulations.”
Northstar Academy, Pat West	671-170 A. 11. Further explanation and examples are needed.	No change. Examples may be given in guidelines.
Northstar Academy, Pat West	671-190 B. A timeline should be provided that provides consistency across school receiving complaints to correct unsatisfactory conditions.	No change. Flexibility is needed in determining a reasonable time period to correct unsatisfactory conditions.
Northstar Academy, Pat West	671-210 7. Cannot enforce (no smoking) for parents and guest at off campus activities. Support for students and staff.	Change to “illegal” drugs and specify that the school sponsored activities are for students. “7. Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities.”
Commenter at Public Hearing: David Blaiklock, representing the Virginia Association of Independent Specialized Education Facilities (VAISEF)	671-210-7 the consumption of drugs is prohibited. The term drug could be interpreted to mean prescription medication. We recommend changing the term to controlled substance as defined in 671-10.	Added “illegal” as a modifier for drugs. “7. Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities.”
VAISEF*	210-7 clarify “drugs” so that it does	Added “illegal” as a modifier for drugs. “7.

Plus 78 individuals who posted comments supporting the VAISEF recommendations	not mean prescription medication	Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities.”
Rivermont School Alleghany	671-210-7 Word “drugs” should reflect illegal drugs and prescription drugs not prescribed to student.	Added “illegal” as a modifier for drugs. “7. Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities.”
Northstar Academy, Pat West	671-210 12. Create a form for school to complete to fulfill this regulation including who should receive the report.	Forms will follow the promulgations of the regulations. Revised to more closely align with other licensing agencies’ requirements: “Report to the licensing agency within 10 business days lawsuits against or settlements with the licensee relating to the health and safety or human rights of students and any criminal charges against staff that may be related to the health and safety or human rights of students.”
Northstar Academy, Pat West	671-220 Submission of an audit would fulfill 1, 2, and 3 and recommend a date for submission be provided.	No change. Schools should consult with a certified public accountant or legal counsel on the depth of the school’s fiscal accountability. Annual submission to the licensing agency is not required.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	240-C Proposed regulation does not speak to amount of funds and could mean even those handling field trip money had to be bonded	Revised adding to 240 C. “or otherwise indemnified against employee dishonesty.”
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-240.C Our residential school has multiple staff handle student funds (eg allowance money, small sums sent by grandparents etc.). Bonding all staff that handle student funds would be an ongoing and expensive distraction from more relevant training. To address this situation, we already have a blanket employee dishonesty policy that covers up to \$50,000. <i>Recommended Changes:</i> Exempt schools from the proposed 671-240.C when they have met the sense of the standard through alternative means such as employee dishonesty insurance.	Revised adding to 240 C. “or otherwise indemnified against employee dishonesty.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF	Recommended verbal assent for students over 14 to participate in fundraising activities.	<u>671-250</u> Revised for clarification and consistency with other licensing agencies. Recommend deleting “ <i>and of a child age 14 or</i>

<p>recommendations</p>		<p><i>older</i>". Add: 250 B. "<u>No student shall be forced to participate in any school fundraising activity.</u>"</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-280 The standard seems to indicate that a person who stands in for the school administrator/instructional leader in the event of that person's absence must meet all of the same endorsement and degree requirements. This standard as written would effectively eliminate on-the-job training and staff development for school leadership positions. Our schools are residential schools that have additional administrators who concentrate in other areas (eg residential services, staff development, etc.) and who are able to provide support and consultation to the Lead Teachers in the absence of the Principal (school administrator). <i>Recommended Changes:</i> If a designee does not meet the credential requirements of the school administrator, the school could be permitted to produce documentation that some of the designee's annual professional development and retraining is devoted to leadership skills specific to the needs of the private school. The training could be in the form graduate level course work, participation in state/regional professional association activities, or a special project approved by the school (eg outcomes research).</p>	<p>No change. The commenter's concern is addresses in 310 F. through the alternative staffing plan. 310 F. "A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels and teaching assignments upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia."</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-310.D.3 Many of our students are private pay and parentally placed. We assign all of our students to teachers for individualized instruction based on the teacher's ability to meet the student's content area instructional needs as well to best match personalities so that we can facilitate both academic achievement and positive associations with learning. A student without a diagnosed disability may benefit greatly from having a special education teacher</p>	<p>Revise by adding "and teaching assignments" to 310 F. "A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels and teaching assignments upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia."</p>

	<p>as a math teacher, for example, even if the special ed. teacher does not have a specific math endorsement. It would be unrealistic for a school such as ours in a rather rural community to find teachers licensed in both special education and all of the content areas and still be able to offer the same successful instructional model we have employed for many years. For the most part, our students have thrived academically under our model and it would be a disservice to undermine it. <i>Recommended Changes:</i> Clarify 310.F, which allows for approval of alternative staffing plans, insofar as how approval is to be sought for 'alternative staffing' plans.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>671-330 B. Requiring two years of coursework or two years of full-time successful work with children may make it challenging for some programs to find qualified support staff. Recommended consistency with other licensing agency's requirement for residential child care staff.</p>	<p>Agree. Reworded to state: "Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), at a minimum hold a high school diploma or general educational diploma (GED), have experience working with children or completed coursework in a related field and work under the supervision of qualified staff."</p>
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671 -330 B. - Current wording precludes qualified 18 year-olds who have received adequate training from organization hiring them. Reword to say "Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), hold a high school diploma or a general education diploma (GED), have experience working with children or completed coursework in a related field, complete orientation conducted by the ;school administrator or designee regarding school policies and procedures and characteristics of the students served and work under the supervision of qualified staff."</p>	<p>Agree. See above response to VAISEF.</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-330. Support Staff B. Broaden definition to allow for more varied coursework or practical experience at the organization's discretion. As written may limit hiring staff whose undergraduate study was in another</p>	<p>Agree. See above response to VAISEF.</p>

	field or whose experience has been other than full-time.	
Northstar Academy, Pat West	671-330 B. Object to paraprofessionals being required to have two years experience with children or course work.	Agree. See above response to VAISEF.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	350 E. is redundant as it is covered in 710 K.1.	Agree it is covered and has deleted.
The Faison School, Kathy Mathews and Adam Warman	671-350 - Change "14" to "30 days in all reference to staff development components. 14 days not enough calendar days and may interfere with hiring practices.	No change. Consistent with other licensing agency requirements
Northstar Academy, Pat West	671-350 B. All calendar day requirements should be set at "30 calendar days" for consistency.	Disagree. 30 days is consistent with other licensing agencies' requirements for 350 D. 14 calendar days is consistent with other licensing agencies for 350 B and C.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	350 H. Requirement for 15 additional hours of annual training is vague and creates time demands that may interfere with other necessary task. Teachers are required to engage in professional development to maintain their license.	Change to state: <u>350 H. "Each full-time staff shall annually receive professional development applicable to their job duties."</u>
Northstar Academy, Pat West	671-350 H. Additional training should apply only to full-time staff engaged in instructing students.	Disagree however section is changed for clarity. <u>350 H. "Each full-time staff shall annually receive professional development applicable to their job duties."</u>
Northstar Academy, Pat West	671-360 B. 5. A listing of required health documents should be included.	Clarified to specifically require a tuberculosis certificate. 350 B.5 "Reports of required tuberculosis certificate."
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	360 A (technically B).9 Term "current" is not clear and request clarification to "unexpired driver's license"	Agree revision needed for clarity. 360 B.9 now states. "Driving record verification from the Department of Motor Vehicles and a copy of a current driver's license for staff who transport students;"
Amy Smith, Grafton	671-360 A (technically B).9 Personnel Records. It should be acceptable to demonstrate compliance through the organization's electronic personnel management system rather than hard copy personnel records. To maintain in other than electronic system would be inefficient and unnecessary.	See amended section 360 B.9.response above to VAISEF. Electronic verification is an option for satisfying this requirement.
Mark Mellusi, The Discovery School of	671-370 School facilities and safety. The construction of Section A	Agree. 1-4 changed to "A-E" to stand as individual requirements.

<p>Virginia</p>	<p>seems to imply that items 1 through 4 are actually included in Virginia Uniform Statewide Building Code (13VAC5-63). They are not, based on my scanning of the online document building code document. In particular, I've reviewed 13VAC5-63-450 et seq., under the general heading 'Maintenance'. <i>Recommended Changes:</i> To prevent inevitably confusing implication, the enumerated items should simply be placed in their own new section labeled 'B', and the current B should become section C, the current C should become D and so forth. If the enumerated items are actually part of the building code, specify the location in the DOE regulations so that readers may find them more readily</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>The construction of Section A seems to imply items 1through 4 are from the Virginia Uniform Statewide Building Code which they are not. Request to make enumerate items new sections.</p>	<p>Agree. 1-4 changed to "A-E" to stand as individual requirements.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>370 A. 2. The 50 square feet per occupant requirement would adversely affect current schools. They would have to reduce their census to comply thereby losing revenue and having to reduce staff. Ask that current programs be grandfathered and that the requirement, if necessary, be set at 50 net per student not per occupant.</p>	<p>Agree that clarification regarding currently licensed schools is needed, that the square foot requirement applies to students only and to new schools and any space modified in current schools. Changed to read: "370 C. Each shall provide safe and adequate instructional areas, space for administrative staff, pupil personnel services, library and media services, and physical education. Schools established after the effective date of these regulations and new classrooms added to existing buildings shall provide 50 square feet of classroom or instructional area per student excluding classroom fixtures."</p>
<p>Dr. Lloyd Tannenbaum, Rivermont Schools</p>	<p>"Proposed regulations pertaining to room size."</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>David Williams, PhD, Phillips Programs</p>	<p>Opposed to 50 square feet per occupant in a classroom. Building complies with building code and was specifically designed for the populations served. Additional space outside the classroom is an available resource for students. Misguided requirement would create</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	a financial hardship and could result in reduced services.	
Rivermont School Alleghany	370-A-2 There needs to be leeway to programs that have established instructional areas that do not meet the 50 square feet per person criteria. Add grandfather clause, require requirement be met for future renovations or buildings. Easy to monitor because building changes have to be approved before they are done.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Holly Stitham, Rivermont School – Tidewater	671-370 A 2. 50 square feet per person would be difficult for established schools and costly to change. Requirement could be for schools that are being built.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Anjolle M. Scott, Rivermont	Do not agree with schools/programs having to meet the criteria of 50 square feet per person	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Sammy Mitchell, Jr. Centra/Rivermont Schools	671 370 A 2 There needs to be leeway to programs that have established instructional areas that do not meet the 50 square feet per person criteria. Add grandfather clause, require requirement be met for future renovations or buildings. Easy to monitor because building changes have to be approved before they are done.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Sharon Yasemsky, Centra/Rivermont School – Tidewater	Do not agree with 50 square feet per person	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Winnie Woods – Brown, Rivermont Schools	Do not agree with 50 square foot per person criteria. It would be disruptive to the classrooms	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Anthony Hudgins/Rivermont Tidewater	Oppose 50 square feet per person criteria. Could be accommodated for new building but costly for current.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Nate Crowley, Rivermont Tidewater School	Disagree with 50 square feet criteria (huge cost for most programs).	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Judie Holton, Rivermont	Do not agree with 50 square feet per person. Could be done for future programs but current programs should have clause that they are exempt	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Lauren Odom/Rivermont School Tidewater	671-370-A-2 50 square feet per person would be difficult and costly to change for established schools but a possibility for schools that are being built.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Marianne Stinson/Rivermont LPC (Tidewater)	671-370-A-2 50 square feet per person would be difficult and costly to change for established schools	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.

	but a possibility for schools that are being built.	
Blue Ridge Education Center, Carol Olson	Amend 50 square feet of space per occupant to 50 square feet per student. Program capacity would have to be reduced if per occupant.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
The Faison School: Kathy Mathews and Adam Warman	Change the word “classrooms to “instructional areas” in 370 A. 2. As many programs do not use traditional classroom space. Their building was design to have children learning outside the classroom in a variety of environments.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-370 School facilities and safety: A2 – Modifying existing classrooms would be extremely costly and in some cases impossible. It could result in lowing intensive staff to student rations or enrollment. Recommend decreasing required square footage or differentiating between space requirements for educational and residential areas.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Northstar Academy, Pat West	671-370 A. 2. 50 square foot per occupant would require reduction in number of students enrolled or require construction of additional classrooms. Recommend removing space requirement but if not change “occupant” to “student” and grandfather existing programs including if they add on or renovate.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Commenter at Public Hearing: Cynthia Culley, Assistant Head of School, Northstar Academy	671-370 A-2 Will schools that do not meet 50 net square foot occupant space be grandfathered in? To meet the requirement Northstar would have to reduce the number of students served, construct new classrooms or close.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-370.A.2 In general, this square footage is absurdly large and apparently arbitrary. This standard would pose a huge financial, not to mention architectural, burden on schools without a clear rationale for its exorbitance. Section 671-370.A.2 as written does not take into account that many schools make effective use of available space by utilizing non-traditional classroom layouts, transitioning between classrooms throughout the day, and the availability of separate indoor and outdoor activity spaces on a daily basis. <i>Recommended</i>	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.

	<p><i>Changes:</i> If the concern is to promote safety, a better standard would be to specify something like 'Each classroom should have sufficient space to allow at least a 3' wide corridor of egress available to all occupants at all times'. If the concern is to meet the space needs of students with particular disabilities, each school should have policies in place and space allotted to address each student's spatial needs via the IEP. At the very least, existing schools that have already been operating at their present locales should be specifically grandfathered in under the standards enforced when the school started.</p>	
<p>Commenter at Public Hearing: David Blaiklock, representing the Virginia Association of Independent Specialized Education Facilities (VAISEF)</p>	<p>An issue exists with regulation 671-370-A -2 which requires each classroom have 50 square feet of space per occupant – its imposing enough to restrict us at all after all these years but to impose the restriction to “occupants” as opposed to “students” becomes intrusive into on-site management of classrooms. Previous regulations did not include a minimum space requirement and all of our programs were established with occupancy permits demonstrating we were in compliance with local zoning ordinances for the programs we operate. We are uncertain as to how the specific number of 50 square feet was established and are also unaware of any data based evidence that supports the benefit of that amount of space. Our programs also include additional space and staffing accommodations that may make having that amount of space unnecessary. The problem with requiring that amount of space is that accommodating 50 square feet per occupant. Some of our programs, such as PHILLIPS School – Annandale build our buildings from the ground up and were designed specifically for the needs of the children we serve. The designs of our buildings were based on our years of experience in</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>working with the populations we serve and include building and staffing accommodations that may not be available in the public schools such as separate areas for students to regain their composure when they are unavailable for learning. The classroom sizes may not meet the requirements of this regulation but VAISEF programs have been able to safely and effectively provide a quality education to the students we serve. Earlier this week, I was meeting with a parent at PHILLIPS who was considering a program for her daughter. She commented on the quality of the building design and went so far as to say the classrooms appeared to be “just the right size” Meeting this requirement would require our programs to construct additional classrooms to support our current enrollment. The only other way we could meet this regulation would be to reduce the number of students within our programs. These solutions would have a significant fiscal impact on all of our programs as we would have to find a way to raise revenue either for new construction or to accommodate for being able to serve fewer students. The fiscal impact would be so great that many of our programs may not be able to survive in meeting this requirement. The result may be the closure of many of our programs resulting in the loss of jobs in local communities. More importantly, there would be a reduction of services available for the children in Virginia who need them the most.</p>	
<p>Commenter at Public Hearing: Gary Jones, CEO of Youth for Tomorrow in Prince William County and Vice President of the Virginia Association of Independent Specialized Education Facilities (VAISEF) and Chairman of its Government Affairs Committee.</p>	<p>Are these proposed regulations more proscriptive than local zoning ordinances which govern the construction of our facilities? If so, why? Some of these proposed regulations are cost prohibitive to small nonprofit facilities. Without modification relative to the proposed physical plan requirements, some of our facilities may not be able to maintain operations.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

<p>Commenter at Public Hearing: Cray Callahan, Education Coordinator, Bridges Treatment Center</p>	<p>671-370-a-2 – “Provide 50 net square feet per occupant space for classrooms...” Our original administration building, housing half of our current educational program was obviously designed and constructed 25+ years ago. It would come short of meeting the requirements contained in the proposed regulation, but has severed (sic) us well for many years. In an effort to meet the changing and challenging learning needs and styles of students in a residential school setting, we have recently completed \$40,000 worth of renovations to these classrooms. With these renovations our students have access to new furniture and Smartboard technology. It is my hope that Bridges and other such programs around the Commonwealth will be able to continue to utilize existing building and classroom spaces in order to serve the needs of Virginia students, who for various reasons cannot be served in the public school setting. Passage of the regulations as proposed would significantly impact all of our efforts to serve these children. The fiscal impact on our programs would be considerable. I feel that existing programs such as Bridges should be eligible for a “Grandfather Clause” to continue to serve students in buildings that met various zoning and/or regulatory requirements at the time of their construction.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Commenter at Public Hearing: Brendan Folmar, Principal of Charterhouse School at UMFS</p>	<p>671-370-A-2 classroom square footage – 50 square feet per occupant in a classroom: Our school and many VAISEF schools serve students in a single classroom with two or more staff supporting students for their educational and behavioral needs. For example, we currently have a classroom with a teacher, two teacher assistants, and one (one-to one) behavior specialist serving 6 students; four staff working with six students. These staff intensive specialized programs</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>provide the positive educational and behavior supports necessary for student success and progress, allotting 50-square feet per occupant would present a challenge. I would recommend that this regulation be re-visited and changed to better meet the needs of our students and specialized programs. 50 square feet per student would be better.</p>	
<p>Commenter at Public Hearing: Wade Puryear, Associate Director of Programs for Elk Hill</p>	<p>The proposed regulations include a requirement (671-370 #2) that schools “provide 50 net square feet per occupant space for classrooms.” This requirement has no specific evidence to support its benefit to students with disabilities and will cause unnecessary detriment to our educational programs and ultimately to our students. The classrooms in our current buildings each barely meet or fall just shy of this requirement when counting teachers and aides as “occupants” and maintaining an 8:1 student to teacher ratio. ...Elk Hill’s school buildings already comply with local zoning ordinances and contain additional staff, separate areas and accommodations that may not be available in public school. Some of these unique accommodations include large open outdoor areas for “self-space,” counselors’ offices, group counseling rooms, and Choices rooms designed for problem solving. Complying with the proposed regulation would mean that Elk Hill would have to expand classrooms or reduce the number of students that we serve. Both of these options would have a huge financial impact on our programs and students. I propose removing the “50 square feet” requirement and replacing it with the term “adequate” as is used regarding other building components in the regulations. If a specific space requirement is deemed necessary, then I would ask that the square footage be reduced and that the requirement</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>only apply to new facilities and not those that have been in successful operation prior to these proposed regulations.</p>	
<p>Commenter at Public Hearing, Andrew McCartney, Kellar School, Fairfax</p>	<p>The most relevant example of a regulation that is more specific than it needs to be is 8VAC 671-370, which requires 50 square feet of classroom space per occupant. When I first read this regulation, I had my mathematics students measure the square footage of several of the rooms at The Kellar School. For my eight student classroom to comply with this regulation, it would have to be about the size of our school's café, which regularly hosts groups of 15 or more students comfortably. So while the goal of the regulation—to make sure that there is adequate room for student safety in class—is admirable, the specific regulation would require about twice as much room as my students tend to use in practice.</p> <p>In order to comply with this regulation, we would be forced to either find a new school building or, more practically, reduce the number of students that we serve. And of course if we reduce the number of students we would have to reduce the number of staff as well. We're already a very small school to begin with; one has to wonder how much smaller we can be before we cease to exist altogether! Such a scenario isn't just damaging to our students who rely on the school for so much more than a good education. It would also mean a lot more unemployed teachers, counselors, and support staff, impacting that low unemployment rate that the State of Virginia has fought so hard to keep.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Commenter at Public Hearing: Kimberli Collet, Director of Education at the Matthew's Center, Manassas, Virginia.</p>	<p>...the proposed regulation that requires 50 sq feet per occupant of a classroom. ... Existing facilities have already met the appropriate local zoning ordinances in order to be licensed to operate. Local zoning ordinances should have authority on this issue. In order to meet this new regulation existing</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	facilities would have to expand their building or reduce capacity.	
Commenter at Public Hearing: Cindy Mills, Education Director, The Barry Robinson Center, Norfolk, VA	8VAC20-671-370-A-2 School Facilities and safety. This standard would require 50 net square feet per occupant for classrooms. We plan our classroom and office space carefully in order to meet the specialized needs of our residents. We know of no evidence to support the need for this much space for students with disabilities. Our school building is inspected and approved by Norfolk's Division of Building Inspection. This new regulation would require us to do major renovations or construction or reduce the number of residents we would serve and this would be cost prohibitive. Reducing our ability to serve children with disabilities would reduce the number of options and services available for children with disabilities in Virginia.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Commenter at Public Hearing: Adam Warman, Director of Enrollment, curriculum and Training, The Faison School	Private day schools utilize a variety of environments as instructional spaces within their buildings. In many schools, students spend as much time learning outside of the classroom as they do inside it. Similarly, staff to student ratios vary greatly in private school settings and may even vary from month to month within a school year. Predicting the space needed to account for 50 square feet per occupant in a dynamic learning environment could easily become an impossible task. Because of the diverse needs of learners in private day settings, I suggest the space requirement either be changed to match the language regarding other building components or that the word "classrooms" be changed to "instructional areas" allowing for greater flexibility.	Change as indicate in response to VAISEF for 370 A.2.
Commenter at Public Hearing: Chris Ruble, Newport News Behavioral Health	50 net square foot per occupant is too restrictive.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Commenter at Public Hearing: Jennie Johnson, representing the Virginia Association of Independent	Concern exists with regulation 671-370-A-2 which requires each classroom have 50 square feet of space per occupant. Many of the	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.

<p>Specialized Education Facilities and Timber Ridge School</p>	<p>VAISEF schools including Timber Ridge School have existing building that are already constructed and comply with local zoning ordinances. To comply with this new regulation would require expensive modifications to the buildings or new construction. As a not for profit school, this would create a hardship for our school and many of our VAISEF schools. I kindly ask the Virginia Department of Education to consider allowing a grandfather clause so that this regulation only applies to new construction that occurs after these regulations pass and does not require us to expand our current classroom space.</p>	
<p>Commenter at Public Hearing: Lane McIntyre, Associate Executive Director of Oakwood School in Fairfax, Virginia.</p>	<p>I am requesting that you eliminate the regulation requiring 50 square feet of space per person per classroom. Quick calculations...for our facility to increase all of our classrooms to that standard would cost us between \$600,000 - \$800,000. That is a lot of money for a small school like ours, and it would not increase the quality of education that we already provide for our students at all. In fact, those of you with a background in Special Education know that for some LD students with sensory issues, too much space is actually detrimental to their ability to concentrate and feel comfortable. If you won't eliminate that regulation all together, I strongly urge you to at least offer a grandfather clause to existing schools. And I would make that grandfather clause applicable even if those schools do renovations to their existing structures, so that schools won't be forced to spend additional money to increase the size of all the classrooms in the building when they pull permits to renovate bathrooms or gymnasiums or computer labs. If you do keep the regulation, please make it applicable only to brand new construction and to brand new schools.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>370 A. 3. Could be interpreted to mean all schools are required to have laboratories, play areas, and dining areas.</p>	<p>Agree revision needed for clarity. Revised language for 370 A.3. which is now 370 D: "Each school shall provide adequate, safe and properly equipped classrooms and instructional areas, and where appropriate, laboratories, play areas, and dining areas that meet the needs of students and instruction."</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-370.A.3 The standard seems to imply that schools are required to have laboratories. Schools that do not have 'laboratories' as separate rooms may nevertheless offer enriching laboratory activities. The standard as written is thus vague and may be taken to imply that existing schools (which already have approved floor plans and space allotments) must add separate laboratory classrooms. <i>Recommended Changes:</i> Change the word 'laboratories' to 'laboratory activities' to suggest that laboratory activities themselves must be adequate, safe, and equipped. However, the space in which the laboratory activities occur can be designated by the school.</p>	<p>Change as indicate in response to VAISEF for 370 A. 3. (370 D.)</p>
<p>Northstar Academy, Pat West</p>	<p>671-370 E. Object to off campus activities. School personnel cannot enforce to parents "no smoking," they are our employers.</p>	<p>Smoking is covered under section 210.7 and is clarified that smoking is prohibited while on campus and at school sponsored student activities therefore 370 E. is removed.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>370 G. Requiring a lifeguard for all aquatic activities is far more than other regulatory agencies require. Suggest distinguishing between wading, swimming and boating.</p>	<p>Agree language was too encompassing and broader than other regulatory agencies' requirements. Changed to read: 370 G is now "370 J. There shall be a written policy concerning the provision of safeguards for water-related activities and a provision a certified lifeguard supervises all swimming activities."</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-370.G <i>'there shall be a written policy concerning safeguards for aquatic-related activities to include supervision by a certified lifeguard'</i> is written too broadly and without regard to what constitutes 'aquatic-related activities' or the actual necessity of a certified lifeguard to be on hand to provide meaningful life-saving assistance. <i>Recommended Changes:</i> Distinguish between wading (water up to two feet or waist level for older children), swimming, and boating activities. Require staff supervision</p>	<p>Change as indicate in response to VAISEF for 370 G. (Now 370 J).</p>

	and staff-to-student ratios appropriate to age group and disability condition, and to each type of activity. Require policies that ensure behavioral supervision of students during each type of activity. Require swimming activities in particular to be supervised by a lifeguard. Require schools that use boating activities as part of a recreation program to implement policies and procedures that ensure adequate staff supervision and the provision of safety equipment as required by law, and allow them to teach safe boating as it is practiced throughout Virginia. Requiring students and staff to wear their life jackets at all times during a boating activity would be a sensible additional provision.	
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-370 School facilities and safety: I – Requiring intercom systems may add an unnecessary cost when physical set up allows for other means of obtaining staff – back-up. Suggest broadening to include emergency access plan rather than specifying mode of communication.	Agree revision warranted. 370 I is now 370 J. Section changed to read: “370 L “There shall be a communication system available to staff at all times in the classroom and during school-sponsored activities.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	380 C. Recommend the number of required tornado drills be the same as required for public schools.	Revised to require at least one tornado drill consistent with public schools. Also added is requirement for at least one earthquake drill annually. “380 C. Each school shall have at least one tornado drill and at least one earthquake drill every school year.”
Rivermont School Alleghany	3 tornado drills a year is too many. Major disruption and only needed once a year.	Changed as indicate in response to VAISEF for 380 C.
Holly Stitham, Rivermont School – Tidewater	671 -380 C 3 tornado drills is too many. 1 per semester is appropriate.	Changed as indicate in response to VAISEF for 380 C.
Nate Crowley, Rivermont Tidewater School	Disagree with 3 tornado drills (would be a distraction)	Changed as indicate in response to VAISEF for 380 C.
Eugene Leftwich/Rivermont Tidewater/Centra	Oppose 3 tornado drills. Disruptive to classes. 2 per semester/year would be best.	Changed as indicate in response to VAISEF for 380 C.
Northstar Academy, Pat West	671- 380.Contingency Plans D. 1 VDOE should offer specific directions and training to assist in dealing with natural disasters and unsafe situations.	No change recommended. The proposed requirement is consistent with other licensing agencies and leaves the amount and depth of training to be given for the school to determine.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-380 Contingency Plans E. Recommend limiting emergency preparedness training to individuals	No change recommended as all staff needs to be prepared for emergencies

	responsible for independent, direct student care.	
The Faison School, Kathy Mathews and Adam Warman	671-380 J. - Change the requirement to apply only to school that are not opened year round. Frequent drill can be traumatic and interrupt instructional time.	Revised for consistency with the <i>Code of Virginia</i> 's requirement for public schools. School providers would be able to submit a request for exception to the requirement, ex., a school serving children with autism may find that frequent drills can be traumatic or a year-round school. An alternative schedule might be warranted. The new Section 671-30 would allow the licensing agency to make exception to the requirement for good cause. "380 J. At least one emergency evacuation drill shall be conducted in each building occupied by students at least once per week for the first twenty school days and then once a month for the rest of the school year and more often if necessary."
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-380 Contingency Plans J Requiring fire drills weekly during the first month of school may trigger significant behavior problems at a time the school is least equipped to address them. Recommend requiring monthly drills and recommend more frequent practice after extended breaks.	See above response to Faison School for 380 J.
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	8VAC20-671-380.J Residential schools that operate on a year-round basis do not have a 'first month' of school in which to conduct evacuation drills. Year-round schools may enroll students at any time during the school year, and do not have a large incoming class in a single month. Only a small percentage of students would be participating in an evacuation drill for the first time in any given month. The staff at these schools does not fall out of practice with evacuation drills over the summer since the schools are year-round. <i>Recommended Changes:</i> Specify that year-round school programs conduct evacuation drills monthly in each building occupied by students, and specify that they are exempt from multiple drills in the first month of school	See above response to Faison School for 380 J.
VAISEF* Plus 78 individuals who posted comments	400 A Residential programs are allowed to conduct strip searches by other licensing agencies so it is	Added language for consistency with other licensing agencies, "except as permitted by other licensing agencies." This proposed

<p>supporting the VAISEF recommendations</p>	<p>requested that language be added to allow an exception for those programs.</p>	<p>regulation is consistent with other licensing regulations. DSS regulation, 22VAC40-151-790, <i>“strip searches and body cavity searches are prohibited.”</i> DBHDS, 12VAC35-46-890, <i>“strip searches and body cavity searches are prohibited except as permitted by other applicable state regulation, or as ordered by a court of competent jurisdiction.”</i> “400 A. Strip searches and body cavity searches are prohibited except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.”</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>410 D Request distinction between students placed for non-educational reasons and those referred by a local school division</p>	<p>Agree change is warranted. 410 D. (now 410 E.) “When the student’s education records are not provided during the application process, with written parental consent, the school shall make a request within five business days of enrollment to the student’s last attended school or the division superintendent or designee.”</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-410 Student application and admission D. Requiring written requests when students are placed by the school division is unnecessary. When the school does have to request records, 5 days may not be realistic. Recommend changing to 15 business days.</p>	<p>See response to VAISEF immediately above for 410 D (now 410 E.)</p>
<p>Northstar Academy, Pat West</p>	<p>671-420 A. The Standard School year and School day should be based on either instructional hour or 180 days as long as either meet the seat hour requirements.</p>	<p>Agree. Revisions made to clarify that the requirement can be satisfied by either 180 instructional days or 990 annual hours of instructional time. Also 420 A. provides that the school day average at least 5 ½ hours and 420 B is deleted. “420 A. Each school shall have a standard school year of at least 180 teaching days or a total of least 990 teaching hours per year. The standard school day for students in grades 1 through 12 shall average at least five and one-half teaching hours or average 27 and one-half hours weekly, excluding breaks for meals and recess, and a minimum of three instructional hours daily for kindergarten.”</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>420 B Concerned that language requires 5 ½ hours of instruction daily removing flexibility to provide a total of 27 ½ hours weekly with some days longer than others.</p>	<p>See response to Northstar Academy to 420 A. above. B. has been eliminate as it is included in 420 A.</p>
<p>Commenter at Public Hearing: Cindy Mills, Education Director, The</p>	<p>8VAC20-671-420-B . Standard School Year and school day. We understand the need for focused</p>	<p>See response to Northstar Academy above to 420 A. above. B. has been eliminate as it is included in 420 A.</p>

<p>Barry Robinson Center, Norfolk, VA</p>	<p>instruction each school day for our students. We would like the flexibility to meet the time requirements for weekly instruction in a way that best meets the needs of our program. That might involve a different number of daily school hours of instruction, but all together for the week, we would provide 27.5 hours of instruction.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>430 A Feel that collaboration with community is important but input in to their programs should be from stakeholders and that the language be changed from evaluating to seeking input.</p>	<p>Revised and re-titled section to become Community Relationships. A. and B were deleted and replaced with: "Each school shall facilitate cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large."</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-430.B. Residential schools that operate on a year-round basis do not have a 'beginning of school year' that is synchronized for all or even a majority of the students. <i>Recommended Changes:</i> Specify that school's (sic) operating on a year-round basis may provide the required information by the time of the initial service plan meeting and must provide the information at least annually thereafter.</p>	<p>See 430 A. response to VAISEF above which included eliminating B.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>440-A-2-Many of our programs have been in existence for many years and our objectives and goals have allowed us to be successful in working with the children we serve. However, these goals and objectives may not be written in measurable terms. We recommend the removal of the measurable terms language from this regulation so that successful programs do not need to go through the process of rewriting their program goals and objectives.</p>	<p>Changed to read "Goals and objectives shall be written in plain language so as to be understandable to non-educators, including parents."</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-450.C Many of our students are truly private school students. Parentally placed, privately funded, not eligible for special education, even from out-of-state, the wording of this standard would bind them to Virginia state diploma standards, including SOL testing that has <i>never</i> been offered to them and verified credits that would therefore be <i>impossible</i> to attain. The decision as to whether they will eventually</p>	<p>Agree the word "public" is needed before "Virginia high school." 450 C. Each school that serves students who anticipate earning a diploma and graduating for a public Virginia high school must follow the requirements for graduation outlined in the Regulations Establishing Standards for Accrediting public Schools in Virginia."</p>

	<p>attend public or private school after leaving placement is often not made until the final months of placement. Additionally, the wording of this standard creates conflict with proposed standard 8VAC20-671-310.F, which allows for schools to request and receive approval for alternative staffing plans. The standard as written would potentially trigger accreditation problems for accredited schools in good standing with the accrediting body where there were none before. Specifically, VAISEF has moved in recent years to promote greater coordination with DOE licensure standards. An inadvertent consequence of this standard may be to discourage schools from pursuing accreditation altogether. In the words of one renowned railroad entrepreneur, the standard as written will cause 'confusion and delay'. <i>Recommended Changes:</i> Consistently affirm throughout the regulations DOE's recognition that students placed in licensed private special education schools come from a variety of backgrounds and often with needs not directly related to the impetus for DOE licensure. This is to say, the private schools may be licensed as special education schools, but due to their individual missions may serve a broader population. Scrupulously avoid making blanket statements regarding compliance with entire sets additional of (sic) regulations, particularly when the other sets of regulations were developed to guide public agencies, schools systems, and schools. Specify that students must meet course distribution requirements for the diplomas they are seeking. Specify that eligible students must take available SOL tests provided by the public school system.</p>	
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671-460 B. Add "to the extent possible" to the end of the sentence (regarding age appropriate peers)</p>	<p>460 B is now 490 Program of instruction and learning objectives for more logical flow of sections. Language added to renumbered 490 B. for clarity and consistency with the Board of</p>

		<p>Education’s <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i>. “490 B. The instructional program shall be designed to meet the needs of all students enrolled and shall educate students with age appropriate peers unless it can be shown that for a particular child with a disability, the alternative placement is appropriate and documented on the student’s IEP, 504 Plan, or IIP.”</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>460 D and E are the same regulations</p>	<p>Deleted E as it was a duplicate.</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-460 Program of Instruction and learning objectives: F, G, H The requirements may limit the ability to teach necessary adaptive skills to students with severe physical and cognitive disabilities. Recommend limiting requirements to those programs of study leading to a standard diploma.</p>	<p>460 F, G, and H are now 490 F, G, and H. F. has been changed to read: “490 F. Each school shall provide a program of instruction that clearly articulates learning outcomes for the core subjects: English, mathematics, science, and history/social science. Schools may use Virginia’s Standards of Learning (SOL).” Participation decisions are made on an individual basis. Students with severe physical and cognitive disabilities may appropriately be candidates for Aligned Standards of Learning which are academic standards reduced in complexity and depth.</p>
<p>Commenter at Public Hearing: Lane McIntyre, Associate Executive Director of Oakwood School in Fairfax, Virginia</p>	<p>671-460 F. There seems to be a broad effort to force private institutions to look and function more and more like public institutions. The result is a slow degradation of the quality of services and the unique impact we can have on the students that we serve. There has been, for many years, a wonderful partnership of private and public educational efforts that has allowed us as a nation to serve the masses, but not neglect those who are unable to learn in a traditional way or to function in a “regular” classroom. This symbiotic relationship has enabled the United States to lead the world in the achievement of educating ALL of our children, not</p>	<p>460 F. is now 490 F. It was changed to read: “Each school shall provide a program of instruction that clearly articulates learning outcomes for the core subjects; English, mathematics, science, and history/social science. School may use Virginia’s Standards of Learning.”</p>

	<p>just those who are deemed “normal” as is the case with so many other nations.</p> <p>While not without some pushing and pulling between private and public bodies, it has become accepted that private educational institutions are necessary in the achievement of reaching ALL children. Public institutions are not equipped to serve many of the those challenged students, just as private institutions are not equipped to serve the large quantities of students that public schools can.</p> <p>Unfortunately, the trend is to increasingly demand that private educators comply with all the same regulations and procedures that are necessary for public educators to serve such a vast number of students. Frankly stated, many of the procedures and protocols in these proposed regulations do just that. The argument is, “well, the public schools are required to do this...” But our schools were founded to do something different from public schools. Many of the efforts to force us to conform to the image of a public institution rob us of our ability to be different in order to serve a different student population.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>460 G Having a student participate in physical education after they have met the credit requirement towards graduation may not be the most efficient use of their academic time. They recommend language consistent with graduation requirements.</p>	<p>460 G. is now 490 G and was Revised to clarify it does not apply if student has met the health and physical education requirements.</p>
<p>Rivermont School Alleghany</p>	<p>671-460 G. Change for consistency with graduation requirements</p>	<p>See response to VAISEF on 460 G. above.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>460 J Having to employ content endorsed teachers would be a fiscal burden. Recommend using current day school requirement.</p>	<p>460 J has been removed as it is now addressed in “380 A. 1.Schools where students are instructed by content or grade level endorsed teachers shall have available appropriately endorsed special education teachers to case manage IEPs and to provide disability specific technical assistance and instruction. 2. Schools offering only self contained classroom instruction shall have teachers endorsed in either special education</p>

		<p>general curriculum or special education adapted curriculum depending on the functioning level of the students. Teachers who have maintained disability specific endorsements shall teach students with the named disability endorsement.”</p> <p>The added language is consistent with the current <i>Regulations Governing the Operation of Private Day Schools for Students with Disabilities</i>.</p>
<p>Stacie Thompson, Program Supervisor, Phillips Programs</p>	<p>671-460 J Teacher licensure/endorsement. Requiring teaches to be endorsed in both special education and content areas would eradicate the use of self-contained classrooms. Our students have difficulty with transitions, self-regulation, social skills and organizational skills. The self contained model is a big part of why the students are successful and learning. Reconsider teacher endorsements requirements.</p>	<p>See response to VAISEF for 460 J. immediately above which allows self contained classroom instruction. 460 J has been removed as it is now addressed in “380 A.</p>
<p>Amy Taylor, Phillips Programs</p>	<p>...Not all students are able to meet curriculum needs at the pace required. Our students require special accommodations and modifications during their day to be successful. I teach in a self-contained room. There is no way for me to be certified in each educational category. My students are not able to transition to other classes and have several teachers during the day. They need the consistency of a classroom to be successful. They are not able to follow the curriculum at a normal pace set as they struggle to retain information. Lessons are slowed down to maximize the amount of information they are able to learn. The reasons why students have IEPs are because they each require INDIVIDUALZIED EDCUCATION PLANS to be successful. ...Learning in school is much more than textbook information. We MUST teach our students survival skills. My students need daily prompts to be dressed appropriate, how to</p>	<p>See response to VAISEF for 460 J. immediately above which allows self contained classroom instruction. 460 J has been removed as it is now addressed in “380 A.</p>

	<p>act appropriate, how to count money, how to address letters, how to wash their clothing, how to prepare simple foods, how to shop with a budget....and so much more. Our students are being robbed of the education they deserve. I get that we need to teach English, Writing, Math, History, Science....I understand this importance.....but when do we look at preparing our students to be the best independent citizens that give back to their communities and are able to be successful adults???Special Education Teachers are a special breed of teachers. ... Education is about the student.</p>	
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-460.J It is vital for small, private schools in rural counties such as ours to have the option to have licensed teachers teach outside of their endorsement areas, when the prospective teacher has the ability to teach the content area and the desire to undertake professional development. It is simply not feasible to expect schools in these locales to attract a large enough pool of applicants who 1) meet all of the endorsement requirements and 2) have the ability to handle the personal demands of working with our population of students, and to guarantee that those personnel would be available 100% of the time. The standard as written will drive schools to seek out teachers solely based on credentials at the time of hire, at the expense of being able to hire teachers who have the interpersonal skills suitable to the job and who are willing to develop professionally. This result would cause many students' education to suffer.</p> <p><i>Recommended Changes:</i> Allow private schools to request to have teachers engage in professional development activities on the job that help improve the skills needed to instruct the population served by the school. This provision could be made for schools that seek alternate</p>	<p>See response to VAISEF for 460 J. immediately above which allows self contained classroom instruction. 460 J has been removed as it is now addressed in "380 A.</p>

	<p>staffing plans as outlined in proposed 8VAC20-671-310.F.</p>	
<p>Commenter at Public Hearing: Cindy Mills, Education Director, The Barry Robinson Center, Norfolk, VA</p>	<p>8VAC20-671-470. Individualized Education Program (IEP) This regulation does not address the serious problem of local school divisions not ensuring educational services (and a free and appropriate public education [FAPE] for special education students) for students who are placed into a residential treatment facility under a physician's order and for non-educational reasons. Many parents are now placing their children in treatment facilities when less restrictive community based services have not been successful in keeping the child or the adolescent safe and able to attend school and be maintained in the home and community. These placements often occur in the midst of crisis or emergency situations. These parents are trying to get the care their children need so they can come back home and rejoin the family and their regular activities to include returning to their home school. In order for parents to place their child in a residential placement, the child must demonstrate extreme or dangerous behaviors over time and parents are often at their wits end in knowing how to help their children. They are not avoiding their child's public school placement, they are trying to find help so their child can safely and productively return home and to their school. That is most certainly the goal for a therapeutic placement in a residential facility. We would recommend that this regulation include guidance for those situations when a child is admitted under a physician's order for non-educational reasons in a residential facility. This would include the expectation that the local school division is responsible for working with the private facility in a timely matter (sic) to ensure there is active communication and continuity in the child's educational program. This would also include financial support</p>	<p><u>671-470</u> These proposed regulations do not place requirements on public schools. They are written specifically for private schools for students with disabilities. The commenter's concern is now being studied by the VDOE special education staff. Stakeholders may expect Guidelines that will outline the procedures for ensuring the child's education when placed in a private facility for non-educational reasons.</p>

	to follow the student while enrolled in school at the residential facility until he or she is able to return home.	
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	671-480-A- We recommend specifying whether it is 30 business or calendar days for the development of the IIP.	480 A. now 470 A. Individualized Instruction Program (IIP) was revised as shown below to indicate business days from enrollment not admission. “Students not determined eligible for special education and those placed by their parents shall have an Individualized Instruction Program (IIP) developed within 30 business days of enrollment that describes strengths and needs of the student, current level of functioning, goals and objectives, course of study, and postsecondary goals for students 14 years of age and older.”
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-480 Individualized Instruction Program (IIP): A – 60 days is a more reasonable amount of time to develop an IIP for a student needing a thorough assessment or one with significant behavioral issues.	See response to VAISEF regarding IIP above. If the school determines that more time is needed for a specific student they could request an exception.
Northstar Academy, Pat West	671-480 A. Individualized Instruction Program (IIP) Recommend 30 business days and change date of admission to date of enrollment.	See response to VAISEF regarding IIP above.
Northstar Academy, Pat West	671-480 D Individualized Instruction Program (IIP) Age of student should be included.	Changed to indicate the student’s participation is “as appropriate.” 470 D (formerly 480 D) no states: “The IIP shall be reviewed at least annually by a team that includes the school administrator or teacher, other staff as appropriate, parent, and student as appropriate.”
The Faison School, Kathy Mathews and Adam Warman	671- 500, 510, 520 - Add bullet point to end of elementary, middle and secondary sections: “When a student’s IEP/IIP team determines that developmental prerequisites are missing and required to advance and make progress in English, mathematics, science, and history/social science, this instructional time can be counted towards and applied to the aforementioned instructional time requirements.” The developmental approach is appropriate for students who are unable to speak, communicate, make eye-contact, and follow directions.	Section A is deleted from 500, 510, and 520 to provide greater flexibility. A prefatory statement is provided for 500, 510 and 520. “In addition to the applicable requirements under 8VAC20671-490, the following shall apply:” Developmental prerequisite instruction should be addressed in the IEP.
Virginia Institute of Autism; Rorie Hunter, Ethan Long,	671-500, 510, 520 These requirements are overly prescriptive	Section A is deleted from 500, 510, and 520 to provide greater flexibility. Developmental

and Cresse Morrell	and potentially limiting for students with individualized needs and/or extreme behavioral challenges. Recommend removing the requirements.	prerequisite instruction should be addressed in the IEP.
Northstar Academy, Pat West	671 – 500, 510, 520 Instruction Program for Elementary school Grades, Middle School Grades, and Secondary School Grades Regulations is too broad and needs clarification regarding additional instruction in reading. If this in addition 140 clock hours for secondary students it would require additional staff and lengthening school day.	No change made regarding requirement for additional instruction in reading in the three sections. School officials would be able to use uniquely designed instruction based on individual student needs which could be incorporated throughout the school instructional program and the school day.
Commenter at Public Hearing: Cynthia Culley, Assistant Head of School, Northstar Academy	671-500, 510, and 520 If the additional instructional time in reading is in addition to 140 clock hours it would require additional staff and a longer school day for Northstar.	See response to Northstar Academy immediately above.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	520 language does not take in to account students working on special diplomas and provision of functional living skills and community based instruction.	Add a new section was added; “520 D. A curriculum that includes occupational readiness and functional skills training including community based instruction shall be available for students as the need is determined by the IEP or IIP.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	520 C. previous regulations included practical arts in addition to fine arts. Clarify why this is not still the case.	The term “practical arts” is no longer used in the Board’s accrediting standards.
Rivermont School Alleghany	671-520 Question ultimate responsibility for guidance and counseling and asking if this is a public school function.	F. Revised for clarification that guidance counselors are not required. The section which is now G reads: “520 G. Staff shall provide guidance and counseling to assist students in meeting graduation requirements.”
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-520 Instructional program for secondary school grades: F. Recommend defining more explicitly who can fill role to provide guidance or counseling.	See response to Rivermont immediately above to 520 F (now 520 G)
Rev. Eddy Aliff, Virginia Assembly of Independent Baptist	671-540 Transition Services Questioning why a child has to transition back to a public school. Parent should make final determination of how child should be educated. Requested clarifying	This section is directed at publicly placed students with disabilities and addresses transition services that are required by federal and state regulations. It does not mean that a parent must make plans to put their child in a public school if they choose to have the child

	explanation of section if it has been misconstrued.	educated privately.
Northstar Academy, Pat West	671-550 Extracurricular and Other School Activities B. As a school with a no-cut policy, it would be cost prohibitive to require hiring additional personnel or a change to the policy which is in contradiction to the school's philosophy.	550_B. The requirement exceeds public school requirements therefore it is as shown. "CPR and first aid certified staff shall accompany student on school sponsored activities." <i>Schools that are part of a residential facility are required by other licensing agencies to have all staff certified and many day schools have determined it prudent to require all staff to be trained in CPR and first aid.</i>
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	570 C. term "outside school" is vague and needs to be clarified	"Outside school" has been removed as it did cause confusion. The section is now states: "Work assignments or employment, including rates of pay, shall be approved by the school administrator with the consent of the parent."
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	580 - question necessity of having specific regulation on virtual courses suggesting that if regulations is necessary it that that virtual courses can only be offered through accredited providers as outlined in VAC §22.1-212.23 and VAC §22.1-253. 113.3	Language for this section is replaced as suggested by VAISEF. 580 A. "Virtual courses may only be offered through accredited providers as outlined in VAC§22.1-212.23 and §22.1-253.112:3 of the <i>Code of Virginia</i> . B. The virtual learning shall be proctored by a licensed teacher or appropriately trained paraprofessional who is supervised by a licensed teacher. The teacher or paraprofessional shall be available to the student."
Rivermont School Alleghany	671-580 Change to state virtual courses can only be offered through accredited providers.	See above response to VAISEF on 580.
Commenter at Public Hearing: Jennie Johnson, representing the Virginia Association of Independent Specialized Education Facilities and Timber Ridge School	Regulation 671-580. Virtual Learning. First I would like to thank Virginia DOE for continuing to develop standards and regulations that prepare the students of the commonwealth with 21 st Century skills. I agree and support the graduation requirement that ensures all students pursuing a standard or advance4d studies diploma must take a virtual course. Under this proposed regulation, however, section 3 requires that virtual learning shall be supervised by a licensed teacher or a person eligible to hold a Virginia teaching license. It is my understanding that the virtual courses are taught by a licensed teacher. I would recommend that the language be changed to include support staff and	See above response to VAISEF on 580.

	<p>paraprofessionals. The last point that I would like to make in regard to this requirement is that the private schools may encounter hardships paying for the virtual classes. For example we can access Virtual Virginia for our students at a cost of \$500.00 per credit course. We have been advised to attempt to work with our local LEAs to access the courses for our mandated student's (sic) but that does not help the schools that serve non-mandated students. I would kindly ask that the Virginia Department of Education consider allowing the private schools that are licensed by Virginia DOE and accredited by a Virginia DOE approved accrediting body or bodies, to consider allowing the private schools access to these courses at no cost or significantly reduced cost for our students.</p>	
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671-590 D. Change from textbooks and instructional materials to: "Each school shall provide materials necessary to support instruction Virginia's Standards of Learning and IEP goals."</p>	<p>590 has been amended: "A. Each school shall provide instructional materials and equipment necessary to support the instructional program including the goals and objectives established for individual students. B. Students shall receive instruction on the use of classroom equipment as appropriate and demonstrate applicable safety competencies before being allowed to use such equipment." C and D are deleted.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>620 B Requesting clarification that notification of the local school division is required only for special education students receiving in-school suspension and not for general education students</p> <p>Further requested changing 24 hour notification to end of next business day.</p>	<p>The school division of a publicly placed student must be notified in order to comply with federal procedures regarding suspension and expulsion of students with disabilities. No change to 24 hour notification recommended.</p> <p>Revised to apply only to publicly placed student: "620 B. When a publicly placed student is suspended, including in-school suspension, or expelled, the student's home school division shall be notified within 24 hours."</p>
<p>Rivermont School Alleghany</p>	<p>671-620 B. Should state these people need to be notified by the end of the next business or school day.</p>	<p>See above response to VAISEF regarding 620 B.</p>
<p>Northstar Academy, Pat West</p>	<p>671-620 Student Conduct B. Communication between private and public school concerning student behavior is imperative but recommend a 24-48 hour window to</p>	<p>See above response to VAISEF regarding 620 B.</p>

<p>Rivermont School Alleghany</p>	<p>report. 671-640 Recommend part A and part B with A covering students placed in time-out and B covering those who choose to be in time out. For the safety of staff and students, time out areas need to have locks on them that are spring loaded so they can only remain locked if a staff member is holding it.</p>	<p>Commenter is actually speaking to students in seclusion and not those in time-out. The doors are addressed for time out in 640 as follows in 2: "A door to a time-out room shall not be locked nor secured in a manner that prevents a student from opening it." Seclusion room doors are addressed in 660 D.6. "The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the staff member steps away from it. The room must meet specifications including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency."</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671 -640 Time-out. A2 recommend allowing door to be secured in an emergency situation as long as student is monitored, the room meets specification to ensure safety, and documentation requirements are in place.</p>	<p>See above response to Rivermont School Alleghany as what is referenced is seclusion.</p>
<p>Commenter at Public Hearing: Jennie Johnson, representing the Virginia Association of Independent Specialized Education Facilities and Timber Ridge School</p>	<p>Regulation 671-650-A-1, 3, and 10. Prohibitions: The first point I would like to address deals with the fact that we have conflicting regulatory issues for the residential schools from other licensing entities. For example, strip searches and prone restraints are allowed by other licensing agencies. In fact, Timber Ridge Schools (sic) licensing agency, Virginia Department of Behavioral Health has told us to do strip searches following the strict guidelines to ensure the safety of all students that have a known history bringing contraband on to the campus. Now granted we only do these strip searches with a very small percentage of our students. So my questions would be does the proposed regulations that we are commenting to today supersede the regulations of Virginia Department of Behavioral Health? Physical restraint and seclusion is listed under this regulation 671-650-A-1 Prohibitions with an exception that they can be used when necessary to protect the student or others from harm. As is written this is confusing and it may be clearer if physical</p>	<p>671-650 It is agreed restraint, seclusion, body cavity searches should be removed from this section There are times when those actions are necessary. Sections revised for clarity and consistency with the other licensing agencies.</p>

	<p>restraint and seclusion be removed from the prohibitions section. In the next regulation, 671-660-D – 1 through D -3, Managing student behavior in emergency situations, this proposed regulation clearly outlines the acceptable conditions for allowing the use of restraint. Regulation 671-660-D-1 does states (sic) however, that restraints and seclusion is prohibited. I would recommend that prohibited be removed from that section and state that the use of physical restraint and seclusion is only used under the following conditions: which have been outline (sic) in D-through 3. Also under this regulation, we believe that the only appropriate use of physical restraint and seclusion is in an emergency situation where a student is posing imminent risk to themselves or others. I would recommend that you remove the language relating to sever property damage.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>650 A. 1-2 Recommended removing restraint and seclusion from prohibitions since they are allow in emergencies. Also objected to prohibition of prone restraint suggesting it be allowed when another licensing agency allows it or if part of commercial training program protocol.</p>	<p>Restraint including prone restraint and seclusion were removed from the list of prohibitions. See above response to Jennie Johnson regarding prohibitions.</p>
<p>Rivermont School Alleghany</p>	<p>671-650 A1. Restraint and seclusion should be removed from prohibitions since it is clearly defined in 660 D when they can be used.</p>	<p>See above response to Jennie Johnson regarding prohibitions.</p>
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671- 650 A. 2. -Remove prohibition for prone restraints as best practice methodologies stress individual approach that is safest for that person.</p>	<p>Agree. See above response to Jennie Johnson regarding prohibitions</p>
<p>Rivermont School Alleghany</p>	<p>671-660 A 2 If prone restraints are prohibited then supine and lying restraints should be considered prohibited as well.</p>	<p>See above response to Jennie Johnson regarding prohibitions</p>
<p>Commenter at Public Hearing: Adam Warman, Director of Enrollment, Curriculum and Training, The Faison School</p>	<p>Prone restraints have been combined with mechanical and pharmacological restraints in the current document. Determining the safest way to manage a crisis or stop imminently dangerous behavior</p>	<p>Agree. See above response to Jennie Johnson regarding prohibitions</p>

	<p>for individuals using a broad brush is ineffective and potentially dangerous. Physical and psychological conditions exist that can potentially make face up, side or standing restraints more intrusive and dangerous for a person than a prone restraint. The true culprits in restraint that lead to serious injury or death are placing pressure on body organs and joints, interruption of breathing, and underlying health issues that cause cardiac arrest, stroke, or other serious medical issues. None of those concerns are remedied by prohibiting prone restraints and, in fact, those same concerns can be exasperated (sic) by this prohibition.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>650 A.4 Concerned that allowing unrestricted contacts could result in task avoidance.</p>	<p>Change word “with” to “from” to indicate this is not a student led decision. It does not prohibit the school from providing schedules suggesting convenient, least disruptive times. “650 A4. Limitations on contacts and visits from the student’s probations officer, social worker, or placing agency representative.”</p>
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671- 650 A. 9 - Replace aversive with harmful or “painful”</p>	<p>A.9. is deleted as it covered under A.5 which prohibits any action that is humiliating, degrading or abusive.</p>
<p>Commenter at Public Hearing: Adam Warman, Director of Enrollment, Curriculum and Training, The Faison School</p>	<p>“Aversive stimuli” are prohibited, which is an overly inclusive term. Therefore we suggest changing to a more precise term that encapsulates the spirit of the prohibition is “harmful or painful stimuli.”</p>	<p>See response immediately above to Faison School.</p>
<p>Rivermont School Alleghany</p>	<p>671-660 D.1. Language should be modified to state: “causing severe property damage that may result in injury to student.”</p>	<p>Language added. 660 D11 is now “660 B.1 Physical restraint and seclusion is allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or other or causing sever property damage that may result in personal injury.”</p>
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>Remove “or causing sever property damage” D. 3 a.</p>	<p>See 660 D 1 response to Rivermont Alleghany.</p>
<p>Commenter at Public Hearing: Adam Warman, Director of Enrollment, Curriculum and Training,</p>	<p>Recommend the removal of the language that allows restraint and seclusion to be used in cases of property damage. While property</p>	<p>See 660 D 1 response to Rivermont Alleghany.</p>

The Faison School	damage can lead to an imminently dangerous situation, the destruction of books, doors, walls, computers, windows or other property is not inherently dangerous. Only when the student or another person is in imminent physical danger should restraint or seclusion be utilized and even then only for the shortest duration possible.	
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-660 Managing student behavior in emergency situations: D change wording. If they are allowable in an emergency situation then they are not prohibited.	Agree. Removed from prohibitions.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	660 D 3.f. Serious incidences in residential facilities should be handled through the agency licensing the residential facility and not these regulations.	If the restraint or seclusion occurs in the school these regulations apply it occurs outside the school it should be handled through the agency licensing the facility. 660 D 3.F. is now 660 B.7. "The parent and student's home school division and placing agency, as appropriate, shall be informed immediately but not later than 24 hours of each incident of physical restraint or seclusion."
The Faison School, Kathy Mathews and Adam Warman	671-660 D 3f. - Change notification to "within 24 hours of the occurrence and make available to the licensing agency upon request"	See response to VAISEF immediately above.
The Faison School, Kathy Mathews and Adam Warman	671-660 D 3 - .Add "In the absence of a behavior intervention plan less restrictive interventions that were unsuccessfully attempted prior to using physical restraint must also be described."	660 B 8.includes requiring documentation of less restrictive interventions that were unsuccessfully tried prior to using physical restraints.
Northstar Academy, Pat West	671-660 Managing Student Behavior in Emergency Situations F. Communication between private and public school concerning student behavior is imperative but recommend a 24-48 hour window to report.	Wording was changed for 660 D 3.F. which is now 660 B.7. "The parent and student's home school division and placing agency, as appropriate, shall be informed immediately but not later than 24 hours of each incident of physical restraint or seclusion"
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-700 Serious incident reports: A – Recommend inclusion of public school and licensing agency notification only for incidents requiring hospitalization or involving suspected abuse or neglect.	The definition of serious incident includes only accidents or injuries requiring attention by a physician and hospitalization. Reworded to state: "700 A. Any serious incident, accident, or injury to a student that occurs at the school or school-sponsored activity shall be reported immediately, but not later than 24 hours of the occurrence to the parent, and licensing agency. For publicly placed students, the home school division and the placing agency shall also be notified."
Commenter at Public Hearing: Mark Mellusi, The Discovery School of	671-700.A. A residential school licensed by DSS is currently required to make serious incident	Although a number of residential facilities have "School" as part of their name, only serious incidents that occur during the academic day

<p>Virginia</p>	<p>reports within 24 hours (22VAC40-151-960). ... The types of problem referred to 671-700.A would occur as part of the residential domain for our schoolFor instance, our school uses medication administrators and trained residential staff to administer medications to students; academic staff do not participate in medication administration. Additionally, physical restraints do not occur in the academic setting, but may occur in the residential setting. Multiple layers of regulatory jurisdiction will potentially lead confusion and predictably lower compliance rates. <i>Recommended Changes:</i> Exempt residential schools from 971-700.A when they are already following a comparable Serious Incident Report procedure required by another state licensing agency such as DSS.</p>	<p>and within the academic program (school) would be reported to VDOE. Revised the time period for reporting of serious incidents for consistency with other licensing agencies as shown in above response to Virginia Institute of Autism.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>760 B. If fireproof file cabinets which are best practice are required, a grace period to allow programs to budget for expensive cabinets is recommended.</p>	<p>760 B. Changed “fireproof to “fire resistant’ for consistency with requirement of other licensing agencies. New language reads: “Educational records of currently enrolled students shall be maintained in fire-resistant cabinets and protected from unauthorized disclosure.”</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-760 Maintenance of student records: B – Recommend locked cabinets not necessarily costly fireproof ones.</p>	<p>See response to VAISEF regarding 760 B. above.</p>
<p>Northstar Academy, Pat West</p>	<p>671 – 760 Maintenance of Students Records B. Fire proof cabinets are cost prohibitive.</p>	<p>See response to VAISEF regarding 760 B. above.</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-760 Maintenance of student records: K.2. Five days is too short. Recommend a 15 business day requirement.</p>	<p>760 K. 2. Has been deleted. No timelines are given in K. It now states: “Transfer of records. When a privately placed student graduates or leaves school, education records shall be offered to the eligible student or parent. The records of a publicly placed student who graduates or leaves school shall be transferred to the child’s home school.”</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-760.K.2 This standard has confusing grammar, an inconsistent shift between active and passive voices, and may be lacking at least one verb. <i>Recommended Changes:</i> Consider replacing ‘When a student transfers to another school, the sending school shall transfer the student’s complete education record</p>	<p>760 K. 2. Has been deleted. K now states only: “Transfer of records. When a privately placed student graduates or leaves school, education records shall be offered to the eligible student or parent. The records of a publicly placed student who graduates or leaves school shall be transferred to the child’s home school.”</p>

	to the new school within five business days of the request, and provide notification of the records transfer to the parent, guardian, and placing agency.	
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Add an appeals process to promote consistency amongst regulators	Added at 150. 5. "The licensing agency shall provide a process for school officials to file an appeal when there is disagreement with the licensing agency's identification of noncompliance with these regulations."
Joanne Webster, Virginia council for Private Education (VCPE)	Recommends an appeals process for times when there is a disagreement with the regulator on compliance issues.	See response to VAISEF immediately above. Appeals process added at 150. 5.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Recommend when minor issues require intensive labor to correct, a finding of substantial compliance be given and not a non-compliance finding.	<u>Substantial compliance has been added to the definitions and referenced under the issuance of a triennial license.</u> The definition is "Substantial compliance means that while there may be noncompliance with one or more regulations that represent minimum risk, compliance clearly and obviously exist with most of the regulations as a whole."
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	FAPE for students who are parentally placed in residential programs for non-educational reasons should be regulated in these regulations requiring the provision of services in the school setting and not through homebound instruction.	These proposed regulations do not place requirements on public schools. They are written specifically for private schools for students with disabilities. The issue concerning parental placement for non-educational reasons is a matter for the Board's <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i> . The commenter's concern is now being studied by the VDOE special education staff. Stakeholders may expect Guidelines that will outline the procedures for ensuring the child's education when placed in a private facility for non-educational reasons.
Michael S. Triggs, The Hughes Center	In support of VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Wade Puryear, Elk Hill	Repeated (copied) VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Warren Bull, Specialized Youth Services of Virginia	Support VAISEF's position regarding the proposed changes Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kimberly M. Lindblad, LCSW	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Stacie Thompson, Program Supervisor, Phillips Programs	Support of VAISEF position paper Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Cray Callahan, Bridges	Copied VAISEF statement	Each of the VAISEF recommendations is

Treatment Center		responded to above in the order in which it appears in the proposed regulations.
Steven Glenn, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Chris Quigg, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Gretchen Vaughn, Special Education Teacher, Bridges	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Ray Paige, Special Education Teacher, Bridges Treatment	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terrelle Stewart	VAISEF Recommendations. Please take these recommendations into account especially the recommendations that address staffing issues	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Liz Allen, Rivermont School-Chase City	Supports VAISEF's recommendations, request for clarification, comments on inconsistencies and requests. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Deborah Morgan, Specialized Youth Services of VA	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Nathan Sullivan, Sp. Ed. Teacher, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Lisa Cornelius, Sp. Ed. Teacher, Bridges Treatment Center	Please read/consider VAISEF recommendations Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jason Daniluk, Sp. Ed. Teacher, Bridges	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Dr. Lloyd Tannenbaum, Rivermont Schools	"Proposed regulations pertaining to room size."	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Heidi Sheets, Rivermont School/Chase City	Support of VAISEF recommendations	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
David Blaiklock, Education Program Coordinator, PHILLIPS Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Patricia West, Northstar Academy	In Support of VAISEF's Recommendation Paper Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Takicha Lee, PHILLIPS Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Michael Mbugi, Phillips Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Peter Schaffer	Parent of SPED student and	Each of the VAISEF recommendations is

	working in the field, VAISEF Recommendations present meaningful comments addressing issues.	responded to above in the order in which it appears in the proposed regulations.
Cindy Culley, Director of Admissions – Northstar Academy	In support of VAISEF Recommendations Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Debbie Pell, Executive Director, The Dominion School	Fully supports comments in relation to Proposed Regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Dr. John Lamanna, Timber Ridge School	Supports the VAISEF position statements. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
James R. Weaver, CFO, The Dominion School	Fully supports VAISEF’s position on the Proposed Regulations Copied VAISEF statement (<i>ended with clarification 671-G</i>)	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Brandee Cutlip, Phillips Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Tony Costanzo, Science Teacher at The Dominion School	Supports VAISEF’s position Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Amy Calahan, Rivermont School-Chase City	Supports the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Stephen Jurentkuff, LCSW, Specialized Youth Services of Virginia	Supports the VAISEF recommendations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Lauren, Phillips Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Beth Hulfish Phillips Programs	Copied VAISEF statement (<i>different format</i>)	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kimberli A. Collett, Director of Education Matthews Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Sue Horstmann, M.Ed. The Dominion School	Support the following VAISEF position statement on the proposed regulations. Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Holly Stitham, Rivermont School – Tidewater	Supports VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Anjolle M. Scott, Rivermont	Supports VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Canice Nuckols, Grafton Integrated Health Network	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Rorie Hunter, Director of Education , Virginia Institute of Autism	VIA supports position statement submitted by VAISEF which aligns with the letter submitted to Dr. Ruffin	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.

Jim McGee, Rivermont Schools	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Brandon Timmons, Rivermont School Hampton	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Vanessa Bhalia, Rivermont Schools	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Janet Floyd, Rivermont school -Rockbridge	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terry Templeton*	Please reconsider Vaisef Recommendations Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Patricia Gee, Rivermont School Chase City	Support VAISEF’s recommendations, request for clarification, comments on inconsistencies and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Annette Williams, Rivermont School/Chase City	Support VAISEF’s recommendations, request for clarification, comments on inconsistencies and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Sammy Mitchell, Jr. Centra/Rivermont Schools	Support VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Sharon Yasemsky, Centra/Rivermont School - Tidewater	Approve/agree with the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Winnie Woods – Brown, Rivermont Schools	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Dublin Brooks, Rivermont School – Chase City	Support VAISEF’s recommendations, request for clarification, comments on inconsistencies and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Brandy Edmonds, Rivermont Chase City	Copied VAISEF statement on clarification, inconsistency, and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terra Garrett, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Anna Kate Murphy, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Judie Holton, Rivermont	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Eugene Leftwich/Rivermont Tidewater/Centra	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kerry Knott, CEO – Harbor Point Behavioral Health Center	Support of VAISEF position on proposed regulations	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Lauren Odom/Rivermont	Support the VAISEF statements	Each of the VAISEF recommendations is

School Tidewater		responded to above in the order in which it appears in the proposed regulations.
Angela Stambaugh	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jordyn Hardy, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Amy Hartswick, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Trixie Herbert, PHILLIPS Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Stacie Waldman, The Kellar School of Inova Kellar Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Marianne Stinson/Rivermont LPC (Tidewater)	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kathryn Russell	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Erica Wells, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Drew Edwards, Centra Health	Please read/consider VAISEF recommendations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Joanne Webster, Virginia Council for Private Education	Supports the comprehensive comments submitted on behalf of our member organization, VAISEF.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Andrew McCartney, Kellar School	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jenny Oxendine, Rivermont School Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Melissa Shuler – Rivermont Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Alice Gillespie, Rivermont/Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
(Therapist) Rivermont School – Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Mark Mellusi, The Discovery School of Virginia	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Chip Case, Discovery School of Virginia	Support VAISEF response to proposed regulations. Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kenny Day, The Kellar School	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it

		appears in the proposed regulations.
Joi Chisholm-Thaxton, Harbor Point Behavioral Health Center	Agree with position submitted by VAISEF and believe their vision is instrumental in assisting private schools who support students with disabilities	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Leslie Rick, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terry Templeton/Rivermont school – Dan River*	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Nancy Ford, Phillips Programs	<i>No comments given</i>	N/A
Cheryl McGarvey, Rivermont Chase City	<i>No comments given</i>	N/A
M. Mclvor	Diploma	Diplomas are addressed in 671-610

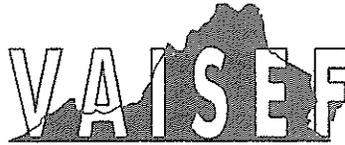
All changes made in this regulatory action

*Please list all changes that are being proposed and the consequences of the proposed changes.
Describe new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

Enter any other statement here

The Board of Education does not have current regulation that govern the operation of schools for students with disabilities who are educated in private day schools and children’s residential facilities.



Serving Children and Families Since 1973

Virginia Association of Independent Specialized Education Facilities

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March 29, 2013

Sandra E. Ruffin, Ed.D.
Director of Federal Program Monitoring
Virginia Department of Education
Special Education and Student Services
P.O. Box 2120
Richmond, VA 23216-2120

Dear Dr. Ruffin:

On behalf of the Virginia Association of Independent Specialized Education Facilities (VAISEF), I would like to express our deepest gratitude and appreciation for the extremely collaborative approach that you and the Department of Education staff took in developing the Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671). You went to great lengths to include multiple stakeholders on multiple occasions to ensure the regulations were developed in a manner that supported the ability of private schools for students with disabilities to provide high quality programs for these students in the Commonwealth of Virginia. I am especially appreciative of the cooperative work you did with David Blaiklock, who tirelessly spearheaded VAISEF's efforts on this project.

Please accept this letter as VAISEF's endorsement in support of the most recent draft of the Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671) that was edited via the webinar stakeholder meeting on March 27, 2013. We believe these regulations provide clear guidelines for the operation of our programs while affording flexibility necessary to properly educate the diverse population of children we serve.

We are hopeful that the proposed regulations are approved expeditiously so that our programs can begin to focus on implementation.

Sincerely,

Ronald K. Spears
President

VCPE

Virginia Council for Private Education

1901 Huguenot Road
Suite 301
Richmond, Virginia 23235
www.vcpe.org

April 9, 2013

Sandra E. Ruffin, Ed.D.
Director of Federal Program Monitoring
Virginia Department of Education
Special Education and Student Services
P.O. Box 2120
Richmond, VA 23216-2120

Dear Dr. Ruffin:

The Virginia Council for Private Education would like to thank you for your cooperation and responsiveness during the development of the Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671). Your efforts to include collaborative input from the Virginia Association of Independent Specialized Education Facilities (VAISEF) were especially appreciated.

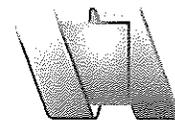
The purpose of this letter, beyond expressing our gratitude, is to offer our full support of the latest draft of the regulations (8VAC20-671). We understand from our membership that the draft regulations allow for the flexibility necessary to accommodate the diverse needs of the special education population yet provide clear guidelines for the operation of the programs and the implementation of the changes.

Many thanks to you and to your staff, particularly Carolyn White Hodgins, Karen Schonauer and Judith McKinny for a steadfast show of support during this process. We look forward to continued work with your office.

Sincerely,

Josie Webster
Vice President
sent via email
jwebster@vcpe.org
P. 804.467.8274
F. 866.846.4004

cc: Warren Bull, VAISEF Representative on the VCPE Board of Directors
George McVey, VCPE President



Virginia Institute of Autism

1414 Westwood Road
Charlottesville, Virginia 22903
434.923.8252 • Fax 434.923.8566
www.viaschool.org

April 5, 2013

Dr. Sandra Ruffin
Director of Federal Program Monitoring
Virginia Department of Education
Special Education and Student Services
P.O. Box 2120
Richmond, VA 23216-2120

Dear Dr. Ruffin:

I am writing to personally thank you and your office for all of the work that has been put into the revisions to the proposed private school regulations. I know that this process has spanned several years and involved countless hours of work to effectively address the needs and circumstances of both day and residential schools. You have provided multiple opportunities for stakeholders to give input on the regulations, in writing and in person, and the most recent draft clearly demonstrates that this feedback has been incorporated. The regulations provide a clear roadmap for us to ensure that we are providing high quality services for our students and families and meeting the needs of all stakeholders.

On behalf of the leadership staff of the Virginia Institute of Autism, I would like to express my hope that the Board of Education accepts the proposed regulations at its next meeting so that we can move forward with consistent implementation of these standards across the private school community. If there is anything at all that I can do to aid in this process, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Rorie Hutter".

Rorie Hutter, MEd, BCBA
Director of Education
rhutter@viaschool.org



PHILLIPS

Programs for Children and Families

Sandra E. Ruffin, Ed.D.
Director of Federal Program Monitoring
Virginia Department of Education
Special Education and Student Services
P.O. Box 2120
Richmond, VA 23216-2120

April 3, 2013

Dear Dr. Ruffin:

PHILLIPS Programs for Children & Families would like to express our deepest gratitude and appreciation the Virginia Department of Education responses to the comments made by our staff members on the proposed Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671). We also want to thank you for the two stakeholder meetings during which you incorporated feedback directly into the regulations. The development of these regulations has truly been a collaborative effort where you and your staff have been very open to input.

Please accept this letter as our support of the Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671) that was edited via the webinar stakeholder meeting on March 27, 2013. We believe these regulations provide clear guidelines for the operation of our programs while affording the flexibility necessary to properly educate the diverse population of children we serve.

We are hopeful that the proposed regulations are approved expeditiously so that our programs can begin to focus on implementation.

Sincerely,

Piper Phillips Caswell
President & CEO

PHILLIPS Programs • 7010 Braddock Road • Annandale, VA 22003 • www.phillipsprograms.org
PHILLIPS School - Annandale • 703-941-8810 • fax 703-658-2378
PHILLIPS Teaching Homes • 703-941-3471 • fax 703-658-9056
PHILLIPS Family Partners • 703-941-9054 • fax 703-658-9056
PHILLIPS School - Laurel • 8920 Whiskey Bottom Road • Laurel, MD 20723 • 301-470-1620 • fax 301-470-1624

Their Potential - Our Commitment

Hodgins, Carolyn (DOE)

From: Patti Cook [pattic.brac@gmail.com]
Sent: Thursday, March 28, 2013 11:37 AM
To: Ruffin, Sandra (DOE)
Cc: Hodgins, Carolyn (DOE)
Subject: Proposed Changes to the Regulations

Dear Dr. Ruffin,

Thank you for your demonstration in leadership with regard to the presentation and discussion surrounding the proposed changes to the regulations governing Private Day Schools with Disabilities. Your department went to great lengths to address the concerns of the individual schools, while making every effort to consistently align the regulations with those of other agencies. The Blue Ridge Autism and Achievement Center appreciates the efforts of the department to consider areas of concern and formulate proposed changes that are in the best interest of all involved. We would like to express our support for the proposed changes. Thank you for encouraging our participation in the process.

Best Regards,

Patti Cook

Patti Cook
Administrative Director
Blue Ridge Autism and
Achievement Center
540-261-1289

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Phone: (540) 229-6495
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contactus@KEYSAcademy.org
www.KEYSAcademy.org

March 28, 2013

To Whom It May Concern,

I am Sue Garnett, the Personnel Manager for **KEYS Academy LLC**. We are a Private Day School licensed by the Virginia Department of Education to serve Special Education students in grades 4-12, diagnosed with Emotional Disabilities and Other Health Impairments.

We are in support of the revised, proposed regulations titled: **Regulations Governing the Operation of Private Day Schools for Students with Disabilities, 8VAC20-10 through 8VAC20-670** reviewed in the March 27, 2013, Webinar held by the Virginia Special Education Department. We look forward to implementing the revised regulations once approved by the **Virginia State Board of Education**.

Best regards,

Sue Garnett

Sue Garnett
Personnel Manager
540-842-8833

Ruffin, Sandra (DOE)

From: Jennie Johnson [johnson@trs.school.org]
Sent: Friday, March 29, 2013 4:35 PM
To: Ruffin, Sandra (DOE)
Subject: State Board of Education - Proposed Regulations

Dr. Ruffin;

On behalf of Timber Ridge School, I would like to thank your department for working so closely with the private schools to ensure that the regulations are meeting the needs of the students that we serve. I am in support of the proposed regulations and enjoyed the process of working with you on this beneficial project.

Sincerely,

Jennie Johnson, MA, M.Ed.
Director of Educational Services
Timber Ridge School

CC: Dr. John Lamanna, CEO

This communication is confidential and is intended to be privileged pursuant to applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify the sender.

The Discovery School of Virginia, Inc.

Post Office Box 1160
Dillwyn, Virginia 23936

3/27/13

Dr. Sandra Ruffin
Director
Office of Federal Program Monitoring
Virginia Department of Education

Dear Dr. Ruffin:

On behalf of the Discovery School of Virginia and the Discovery School of Virginia for Girls, I am writing you in support of the proposed Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671) as they have been recently revised. The proposed regulations will judiciously help promote the educational interests of students with special needs who are placed in private schools in Virginia. The proposed regulations advance clear standards, protect student safety, and permit measured opportunities to implement flexible approaches which are so necessary to meeting the needs of youth in our care.

With regard to the actual process of developing the regulations, your team's leadership has been exemplary for its inclusiveness, responsiveness to input from stakeholders, and persistence over several long years of work. Your team has heard, addressed, accepted, and rejected a multitude of requests from an incredible variety of private providers, but always with patience and thoughtfulness, and this has resulted in a set of proposed regulations that represent significant improvement over prior versions. The transparent and cooperative atmosphere that DOE has fostered has been educational in and of itself. By participating, I have found myself learning new perspectives from colleagues across the state, and gained a greater appreciation for the work done by your office in particular.

As an educator who is greatly concerned with the educational and vocational needs of students with special needs, I look forward to the proposed regulations moving forward without unnecessary delay.

Sincerely,

Mark Mellusi
Principal
The Discovery School of Virginia

◆ _____ ◆

TITLE 8. EDUCATION
STATE BOARD OF EDUCATION
Proposed Regulation

Titles of Regulations: **8VAC20-670. Regulations Governing the Operation of Private Day Schools for Students with Disabilities (repealing 8VAC20-670-10 through 8VAC20-670-440).**
8VAC20-671. Regulations Governing the Operation of Private Schools for Students with Disabilities (adding 8VAC20-671-10 through 8VAC20-671-780).

8VAC20-671-10. Definitions.

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

"Applicant" means the person, partnership, corporation, or association that has completed and submitted an application to the licensing agency for approval for a license to operate a school for students with disabilities in Virginia.

"Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in this definition are satisfied.

"Behavioral intervention plan" means a plan that utilizes positive behavioral interventions and supports to address behaviors that (i) interfere with the learning of students with disabilities or with the learning of others or (ii) [behaviors that] require disciplinary action.

"Behavioral support" means those principles and methods employed by a school to help a student achieve positive behavior and to address and correct a student's behavior in a constructive and safe manner in accordance with written policies and procedures governing program expectations, educational and treatment goals, safety and security, and the student's Individualized Education Program (IEP), [~~or~~] Individual[ized] Instruction Plan (IIP) [, or 504 Plan].

"Board" means the State Board of Education[.] [~~which has general supervision of the public school system.~~]

"Business day" means Monday through Friday, 12 months of the year, exclusive of federal and state holidays (unless holidays are specifically included in the designation of business days).

"Calendar days" means consecutive days, inclusive of Saturdays and Sundays. Whenever any period of time fixed by this chapter shall expire on a Saturday, Sunday, or federal or state holiday, the period of time for taking such action under this chapter shall be extended to the next day that is not a Saturday, Sunday, or federal or state holiday.

"Complaint" means an accusation that a school has violated one or more of the requirements of this chapter or other applicable regulation.

"Consent" means:

1. The parent(s) or eligible student has been fully informed of all information relevant to the activity for which consent is sought in the parent's or eligible student's native language or other mode of communication;
2. The parent(s) or eligible student understands and agrees in writing to the carrying out of the activity for which

consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. The parent(s) or eligible student understands that the granting of consent is voluntary on the part of the parent(s) or eligible student and may be revoked any time.

If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked. Revocation ceases to be relevant after the activity for which consent was obtained was completed.)

The meaning of the term "consent" is not the same as the meaning of the term "agree" or "agreement." "Agree" or "agreement" refers to an understanding between the parent and the school about a particular matter and as required in this chapter. There is no requirement that an agreement be in writing, unless stated in this chapter. The school should document their agreement.

"Controlled substance" means a drug or other substance identified under Schedules I, II, III, IV, or V in § 202(c) of the Controlled Substances Act, 21 USC § 812(c).

"Corrective action plan" means the school's plan of action to correct a finding of noncompliance [applicable to this chapter or other applicable regulation]. The plan must identify specific timelines and the person(s) responsible for implementation.

"Deaf-blindness" means simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. (34 CFR 300.8(c)(3))

"Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects the child's educational performance. (34 CFR 300.8(c)(3))

"Department" means the Virginia Department of Education.

"Developmental delay" means a disability affecting a child age two by September 30 through six, inclusive: (34 CFR 300.8(b) and 34 CFR 300.306(b))

1. Who (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development or (ii) has an established physical or mental condition that has a high probability of resulting in developmental delay;

2. The delay is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency; and

3. The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group.

"Disability category" means a listing of special education eligibility classifications for students served including: autism, deaf-blindness, developmental delay, emotional disability, hearing impairment (including deafness), intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment (including blindness). § 22.1-213 of the Code of Virginia; 34 CFR 300.8(a)(1) and 34 CFR 300.8(a)(2)(i) and (ii).

"Education records," [also known as scholastic records,] mean those records that are directly related to a student and maintained by the school or by a party acting for the school. Education records may be recorded in any manner including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, or microfiche. Education records include discipline and medical records. Education records include electronic

exchanges between school personnel and parent(s) regarding matters associated with the child's educational program.

"Eligible student" means a student who has reached 18 years of age.

"Emotional disability" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: (34 CFR 300.8(c)(4))

1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
3. Inappropriate types of behavior or feelings under normal circumstances;
4. A general pervasive mood of unhappiness or depression; or
5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disability includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability as defined by the [*Regulations Governing Special Education Programs for Children with Disabilities in Virginia.*]

"Guaranty instrument" means a surety bond, irrevocable letter of credit, or certificate of deposit.

"Hearing impairment" means an impairment in hearing in one or both ears, with or without amplification, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in the Regulations Governing Special Education Programs for Children with Disabilities (34 CFR 300.8(c)(5)).

"Illegal drug" means a controlled substance [or a prescription drug not prescribed for the person] but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 USC § 812(c), or under any other provision of federal law.

"Individualized Education Program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised at least annually in a team meeting in accordance with the *Regulations Governing Special Education for Children with Disabilities in Virginia*. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs. (34 CFR 300.22)

"Individualized Instruction Plan" or "IIP" means a written statement (plan) for a child who is privately placed or for a child who has not been determined eligible for special education services that is developed, reviewed, and revised at least annually in a team meeting that includes the parent [and student when appropriate]. The IIP specifies the student's academic level, course of study, individual educational needs, and the educational services the child will receive.

"Intellectual disability" means the definition formerly known as "mental retardation" and means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance. (34 CFR 300.8(c)(6))

"Licensee," also known as the sponsor, means the person, partnership, corporation, or association to whom a license is issued and who is legally responsible for compliance with this chapter.

"License to operate" or "license" means a document issued by the State Superintendent of Public Instruction that [verifies authorizes] approval to operate a school for students with disabilities [~~and that indicates the status of the~~

school regarding compliance with applicable regulations].

"Licensing agency" means the Virginia Department of Education.

"Multiple disabilities" mean simultaneous impairments (such as intellectual disability with blindness or intellectual disability with orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness. (34 CFR 300.8(c)(7))

"Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). (34 CFR 300.8(c)(8))

"Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome that adversely affects a child's educational performance. (34 CFR 300.8(c)(9))

"Paraprofessional," also known as paraeducator, means an appropriately trained employee who assists and is supervised by qualified professional staff in meeting the requirements of this chapter.

"Parent" means (§ 22.1-213.1 of the Code of Virginia):

1. A person who is:

a. A biological or adoptive parent of a child;

b. A foster parent, even if the biological or adoptive parent's rights have not been terminated, but subject to subdivision 2 of this definition;

c. A guardian generally authorized to act as the child's parent or make educational decisions for the child (but not the Commonwealth if the child is a ward of the Commonwealth);

d. An individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

e. If no party qualified under subdivisions 1 a through d of this definition can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with 8VAC20-81-80.

2. The biological or adoptive parent, when attempting to act as the parent pursuant to this section and when more than one party is qualified under subdivision 1 of this definition to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent has had his residual parental rights and responsibilities terminated pursuant to § 16.1-277.01 , 16.1-277.02 , or 16.1-283 of the Code of Virginia or a comparable law in another state.

3. The local school division shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent pursuant to this section, and the local school division is entitled to rely upon the actions of the foster parent pursuant to this section until such time that the biological or adoptive parent attempts to act as the parent.

4. If a judicial decree or order identifies a specific person or persons among subdivisions 1 a through e of this definition to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of the special education identification, evaluation, and placement of a child and the provision of a free appropriate public education to a child.

"Personally identifiable information" means information that includes, but is not limited to:

1. The student's name, the child's parent, or other family member;

2. The address of the child;
3. A personal identifier, such as the child's social security number or student number; or
4. A list of personal characteristics that would make the student's identity easily traceable.

"Physical restraint" means the use of approved physical interventions or "hands-on" holds by trained staff to prevent a student from moving his body to engage in a behavior that places him or others at risk of physical harm. Physical restraint does not include:

1. Briefly holding a student in order to calm or comfort the student; or
2. Holding a student's hand or arm to escort the student safely from one area to another. [(Board of Education's Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations)]

"Privately placed student" means a student placed in a private school for students with disabilities by his parent(s).

"Publicly placed student" means a student placed in a private school for students with disabilities by a local school division[,] [~~or~~] Comprehensive Services Act team[,] or [~~by~~] court order.

"Qualified personnel" or "qualified staff" means personnel who have met [the state-approved or state-recognized [Virginia Department of Education approved or recognized] certification, licensing, [or other comparable requirement applicable to a specific discipline.] [registration, or other comparable requirements that apply to the area in which the individual is providing special education or related services. In addition, the professional must meet other state agency requirements for such professional service and Virginia licensure requirements as designated by Virginia law or regulations.]

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education and includes speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services; social work services in schools; and parent counseling and training. Related services do not include a medical device that is surgically implanted including cochlear implants, the optimization of device functioning (e.g., mapping), maintenance of the device, or the replacement of that device. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services (such as artistic and cultural programs, and art, music and dance therapy, if they are required to assist a child with a disability to benefit from special education. (§ 22.2-213 of the [Code of Virginia]; 34 CFR 300.34(a) and (b))

"School" means a school for students with disabilities that has a license to operate issued by the Superintendent of Public Instruction.

"School for students with disabilities," "school," or "schools" means a privately owned and operated preschool, school or educational organization, no matter how titled, maintained, or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to persons determined to have autism, deaf-blindness, developmental delay, a hearing impairment including deafness, multiple disabilities, orthopedic impairment, other health impairment, an emotional disturbance, a severe disability, a specific learning disability, a speech or language impairment, a traumatic brain injury, or a visual impairment including blindness. (§ 22.1-319 of the [Code of Virginia])

"Seclusion" means the confinement of a student alone in a room from which the student is physically prevented from leaving. (Board of Education's Guidelines for the Development of Policies and Procedures for Managing

Student Behaviors in Emergency Situations)

"Section 504" means that section of the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance.

"Serious incident" means:

1. Any accident or injury requiring medical attention by a licensed physician;
2. Any illness that requires hospitalization;
3. Any runaway; or
4. Any event that affects, or potentially may affect, the health, safety, or welfare of any student being served at the school or school-related activity.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician.

"Special education" means specially designed instruction, to meet the unique needs of a child with a disability. There is no cost to the parent(s) for special education for a child who is placed in a school for students with disabilities by a school division, [the Department of Social Services] [a Comprehensive Services Act team, or court order. (§ 22.1-213 of the [Code of Virginia]; (34 CFR 300.39) The term includes:

1. Speech-language pathology services or any other related service, if the service is considered special education rather than a related service under state standards;
2. Vocational education; and
3. Travel training.

"Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction to: (34 CFR 300.39(b)(3))

1. Address the unique needs of the child that result from the child's disability; and
2. Ensure access of the child to the general curriculum, so that the child can meet the educational standards that apply to all children within the jurisdiction of the local educational agency.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of (i) visual, hearing, or motor disabilities; (ii) intellectual disabilities; (iii) emotional disabilities; or (iv) environmental, cultural, or economic disadvantage. (§ 22.1-213 of the [Code of Virginia])

Dyslexia is distinguished from other learning disabilities due to its weakness occurring at the phonological level. Dyslexia is a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

"Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, expressive or receptive language impairment, or voice impairment, that adversely affects a child's educational performance. (34 CFR 300.8(c)(11))

"Standard precautions" mean precautions designed to prevent transmission of HIV, hepatitis B virus (HBV), and

other bloodborne pathogens when providing first aid or health care. Standard [precautions] ~~cautions~~ apply to blood; all body fluids, secretions, and excretions except sweat, regardless of whether or not they contain blood; nonintact skin; and mucous membranes. The precautions are designed to reduce the risk of transmission of microorganisms from both recognized and unrecognized sources of infection when providing first aid or health care. Standard precautions include protective barriers such as gloves, gowns, aprons, masks, or protective eye wear that can reduce the risk of exposure with materials that may contain infectious microorganisms.

"Standards of Learning" or "SOL" means Virginia's rigorous academic standards established by the Board of Education.

"Strip search" means a visual inspection of the body of a student when that student's outer clothing or total clothing is removed, and there is an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

[“Substantial compliance” means that while there may be noncompliance with one or more regulations that represent minimum risk, compliance clearly and obviously exists with most of the regulations as a whole.]

"Superintendent" means the [State-state]Superintendent of Public Instruction.

"Teacher of record" means the teacher who is responsible for the delivery of instruction. The teacher of record shall hold a license issued by the [State-Virginia] Board of Education.

"Time-out" means assisting a student to regain control by removing the student from his immediate environment to a different open location until the student is calm or the problem behavior has subsided. (Board of Education's *Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations*)

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; ~~problem-solving~~ problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma. (34 CFR 300.8(c)(12))

"Visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. (34 CFR 300.8(c)(13))

"Volunteer" means any individual who of his own free will and without compensation provides goods or services to the school.

"Virtual learning" means the delivery of instruction through emerging technologies such as satellite, streaming video, or the Internet.

8VAC20-671-20. Exemptions.

This chapter shall not apply to any of the following at § 22.1-320 of the [Code of Virginia]:

1. Any school that is licensed or approved pursuant to other statutes of the Commonwealth;
2. Any public or private high school accredited or recognized by the Board of Education that has offered or may offer programs for students with disabilities covered in this chapter, if any tuition, fees, and charges made by the school are collected in accordance with the regulations prescribed by the governing body of such school;

3. Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in any public or private school or in preparation of an individual for an examination for professional practice or higher education;
4. A program through which persons with disabilities are provided employment and training primarily in simple skills in a sheltered or protective environment; [or]
5. Any privately owned or operated preschool, or elementary, middle, or secondary school that operates primarily to provide educational services to students without disabilities, although the school may serve children with disabilities in a regular academic setting[.];~~or~~]
- ~~6. Any private school for students with disabilities that operates or on the premises of an elementary, middle, or secondary public school in a regular school setting during a typical school day.~~

8VAC20-671-30. Licenses generally.

A. The Board of Education has established general requirements for a license to operate a private school for students with disabilities and has authorized the Superintendent of Public Instruction to issue licenses. The following applies in accordance with § 22.1-323 of the [Code of Virginia]:

1. No person shall open, operate, or conduct any school for students with disabilities in this Commonwealth without a license to operate.
2. A license to operate shall be restricted to the disability categories specifically indicated on the license, which may include one or more of the disability categories in the definition of a school for students with disabilities in this chapter.
3. A license to operate may be issued for a period of up to three successive years.
4. The term of a school's license may be reduced at any time during the licensure period based on a change in the school's compliance with these requirements.
5. A license to operate shall be prominently displayed on the premises of the school in a place open for inspection by any interested person during the hours of operation.
6. A license to operate shall be restricted to the approved conditions as printed on the license. Such conditions include, but are not limited to, the maximum number of students that can be enrolled, the disability category or categories of students that can be served, age range and gender, [and grade levels].

B. An individual seeking to operate a school for students with disabilities shall file an application with the licensing agency.

[C. The licensing agency may make exception to the requirements of this chapter for good cause.]

8VAC20-671-40. Advertising.

The following provisions consistent with § 22.1-323 of the [Code of Virginia] regarding advertisement of a school shall apply:

1. No school may use the seal of the Commonwealth in any advertisement, publication, or document, including diplomas, certificates, and other awards.
2. The advertisement of a school shall be in a form and manner that is free from misrepresentation, deception, or fraud and shall conform to the following:
 - a. The complete school name as listed on the license to operate shall be used in all publicity, publications, or promotions or for marketing purposes.
 - b. Advertisement shall not expressly or by implication indicate by any means that the license to operate represents an endorsement by the Virginia Department of Education or the Board of Education.
 - c. No fraudulent or misleading statement shall be in print or nonprint about the school's admission policy, tuition and fees; programs and services; size and location; or any other information concerning the school.
 - d. Endorsements, commendations, or recommendations by students, individuals, manufacturers, business establishments, or organizations are prohibited except with their written consent and without any offer of financial compensation.
 - e. The accrediting agency shall be named [using its official title][;] if accreditation is used[;] as part of a school's promotional materials.
3. Prospective applicants may advertise projected services and staff positions while in the application process but

shall not misrepresent licensure status and shall not enroll students prior to receiving a license to operate from the Superintendent of Public Instruction.

8VAC20-671-50. Types of licenses.

The following shall apply consistent with § 22.1-323.1 of the [Code of Virginia]:

1. A conditional license shall be issued [upon approval of an application to operate a school for students with disabilities not to exceed a period of one year. ~~to a new school that demonstrates compliance with administrative and policy requirements but has not demonstrated compliance with all requirements of this chapter.~~]

a. A conditional license may be renewed [for a period of one year when a new school demonstrates compliance with administrative and policy requirements but has not demonstrated substantial compliance with requirements of this chapter.]

~~[b. The issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months.]~~

~~2. A provisional license may be issued to a school that has demonstrated an inability to maintain compliance with this chapter or other applicable regulations.~~

~~a. A provisional license may be issued at any time.~~

~~b. A provisional license may be renewed.~~

~~e. The issuance of a provisional license and any renewal thereof shall be for no longer a period than six [twelve] successive months.]~~

~~3.[2.] An annual license may be issued under the following conditions and may be extended for a period not to exceed [six- 36] successive months:~~

~~a. When a school holds a [A school applies for renewal while holding a conditional or [provisional license and] substantially meets the requirements of this chapter;~~

~~b. The licensing agency determines that a major violation has occurred that impacts the overall operation of the school; or~~

~~[b.] e. [When a] The school makes significant changes in its operation.~~

~~4. [3] A triennial license shall be issued when a school [holds an annual or triennial license and substantially meets the requirements of this chapter.]~~

~~a. Applies [Holds for renewal while holding an annual or triennial license; and~~

~~b. Substantially meets or exceeds the requirements of this chapter and other applicable regulations.~~

~~5. The term of a school's license may be modified at any time during the licensure period based on a change in the school's compliance with this chapter and other applicable regulations.~~

~~2.[4. A provisional license may be issued to a school that has demonstrated an inability to maintain compliance with this chapter or other applicable regulations.]~~

~~a. A provisional license may be issued at any time.~~

~~b. A provisional license may be renewed.~~

~~c. The issuance of a provisional license and any renewal thereof shall be for no longer a period than six [twelve] successive months.~~

8VAC20-671-60. Change in condition.

A. A condition of a license may be modified during the term of the license with respect to: capacity of the school or classrooms; disability category or categories of students served; age range; [grade levels of students]; change in location; change in services; change in ownership; merger of schools; and enrollment of day student(s) in a residential setting.

B. A change in a condition shall not be implemented prior to approval by the licensing agency. [The licensing agency shall respond to the request and provide approval or denial in 10 calendar days following the date the request was received.]

C. A change in a condition may not be approved during a provisional or conditional licensure period.]

8VAC20-671-70. License to operate is nontransferable.

A change of ownership occurs when control of a school changes from one owner to another. If there is a change

in ownership, the following shall apply:

1. The licensee shall notify the licensing agency at least 30 calendar days prior to the proposed change.
2. The new owner shall submit an initial application for a license to operate to the licensing agency within 30 calendar days following the effective date of the change in ownership.
3. The school may operate under the existing license for 60 calendar days from the effective date of the change in ownership at which time a conditional license may be issued.

8VAC20-671-80. Penalty for noncompliance in obtaining a license to operate.

Failure to obtain a license to operate a school for students with disabilities shall result in the following penalties allowed in § 22.1-331 of the Code of Virginia:

1. Any person who opens, operates, or conducts a school without first obtaining a license to operate may be found guilty of a Class 2 misdemeanor.
2. Each day the school remains open without a license to operate, the owner or board of directors shall incur a separate offense.
3. The licensing agency shall refer to the Office of the Attorney General any alleged or known violation of this chapter. The Office of the Attorney General shall refer the matter to the Commonwealth's attorney of proper jurisdiction.

8VAC20-671-90. Directory of private schools for students with disabilities.

The licensing agency shall maintain a directory of schools holding valid licenses to operate that shall be available to the public (§ 22.1-332 of the Code of Virginia). The directory ~~[shall identify other applicable state licensing agencies over the school and]~~ may include additional information to inform the public about the school's operation.

8VAC20-671-100. Initial application.

To obtain a license to operate a school for students with disabilities, [an] application shall be filed with the [Virginia] Department of Education. A completed initial application shall include the following:

1. Complete name ~~[and with]~~ physical [and mailing addresses] of the school;
2. Name and address of owners, controlling officials, and managing employees;
3. Evidence that the applicant has conducted a needs assessment;
4. Evidence of the applicant's compliance with the applicable regulations of the State Corporation Commission when the school is owned by a partnership or corporation;
5. Narrative description of building and scale drawing or copy of all floor plans including room use and dimensions;
6. Certificate of occupancy with educational use group or other report from the appropriate government agency or agencies indicating that the location meets applicable zoning, building code, use permit, business license, fire safety, and sanitation requirements;
7. Copy of the deed, lease, or other legal instrument authorizing the school to occupy such location;
8. Proposed working budget for the year showing projected revenue and expenses for the first year of operation and a balance sheet showing assets and liabilities; a three-year financial plan; and documentation of sufficient operating capital or line of credit to carry the school through the first year of operation;
9. Original signed surety bond, irrevocable letter of credit, or certificate of deposit to protect the contractual rights of parents and students;
10. Schedule of tuition and other fees and the procedure for collecting and refunding tuition;
11. Copies of all proposed advertisements;
12. Description of the education program to include disability category or categories to be served, enrollment capacity, [grade level(s),] age range, gender, and course offerings;
13. Listing of instructional resources and equipment;
14. Description of related services;
15. School's policy manual;
16. Proposed staffing and organizational chart;

17. Job description for each position;
18. Parent/student handbook;
19. Statement [regarding of]transportation services if the school provides transportation for students;
20. Statement regarding provision of student lunches; and
21. Any other information necessary to complete the application process.

8VAC20-671-110. Applicant commitments.

Each application for a license to operate a school for students with disabilities shall contain the following commitments:

1. To conduct the school in accordance with all applicable regulations of the board;
2. To permit the board or department to inspect the school or classes being conducted therein at any time and to make available to the board or department, when requested to do so, all information pertaining to the activities of the school required for the administration of this chapter, including its financial condition;
3. To advertise the school at all times in a form and manner that is free from misrepresentation, deception, or fraud and to conform to provisions of the board governing such advertising;
4. To ensure that all representations made by an agent of the school are free from misrepresentation, deception, or fraud and to conform to provisions of the board governing such advertising;
5. To display the current license to operate prominently where it may be inspected by students, visitors, and the board or department; and
6. To maintain all premises, equipment, and facilities of the school in an adequate, safe, and sanitary condition.

8VAC20-671-120. Assessment of application.

A. The licensing agency shall evaluate each application within 60 calendar days from the date received and advise the applicant in writing of approval or deficiencies.

B. The applicant shall correct all deficiencies within 30 calendar days from the date of the written assessment of the application. The licensing agency may grant an extension for a reasonable period of time.

~~C. Any application that has not been approved within the allotted time period shall be denied and returned to the applicant. The applicant may reapply for a license 90 calendar days following the date of the returned application.~~

~~D. C.] The licensing agency may require the applicant to appear before a review committee for final approval of the application.~~

8VAC20-671-130. On-site inspection.

Before a license can be issued [to an applicant], the licensing agency shall conduct an on-site inspection or equivalent virtual inspection of the school building and grounds to determine its suitability for the operation of a school for students with disabilities.

8VAC20-671-140. Renewal of licenses.

~~A. Sixty calendar days prior to the expiration of a license to operate, the licensee shall submit to the licensing agency notification of intent for continued operation of the school.~~

~~A. B.] The license of each school that continues to operate as such shall be renewed on or before the anniversary date set by the licensing agency.~~

~~B. C.] Each license that has not been renewed in accordance with this chapter shall expire. [and a new license shall be obtained from the board before such school may continue to operate. A new application must be submitted to the licensing agency.]~~

8VAC20-671-150. Monitoring.

The licensing agency shall:

1. Make at least one announced or unannounced visit during the effective dates of the license to operate for the purpose of monitoring the school's compliance with this chapter;
2. Notify relevant local governments and placing and funding agencies of health and safety or human rights

violations.

[3. Notify the appropriate public agencies when a school's licensure status is lowered to provisional.]

~~[3. 4.] Cooperate with other licensing agencies, specifically, the Department of Social Services and the Department of Behavioral Health and Developmental Services, in fulfilling [their] licensing responsibilities. The licensing agency shall notify the relevant local governments and placing and funding agencies when a school's licensure status is lowered to provisional.~~

[5. The licensing agency shall provide a process for school officials to file an appeal when there is disagreement with the licensing agency's identification of noncompliance with these regulations.]

8VAC20-671-160. Complaint resolution procedures.

A. A complaint may be filed with the licensing agency by any individual or organization and shall address an action that occurred not more than one year prior to the date the complaint is received by the licensing agency.

B. A complaint must provide a statement of some disagreement with procedures or process regarding any matter relative to this chapter or other applicable regulations.

C. Upon receipt of a complaint, the licensing agency shall initiate an investigation to determine whether the school is in compliance with applicable laws and regulations in accordance with the following procedures:

1. Within seven business days of the receipt of a complaint, the licensing agency shall provide written notification to each complainant and the private school.

a. The notification sent to the school shall include:

(1) A copy of the complaint;

(2) An offer of technical assistance in resolving the complaint;

(3) A statement that the school has the opportunity to propose a resolution of the complaint;

(4) A request that the school submit within 10 business days of receipt of the letter of notification either:

(a) Written documentation that the complaint has been resolved; or

(b) If the complaint was not resolved, a written response including all requested documentation.

2. The licensing agency shall review the complaint and the school's response and determine the need for any further investigation or corrections.

3. The licensing agency shall notify appropriate agencies of serious violations.

4. During the course of the investigation, the licensing agency shall:

a. Conduct an investigation of the complaint that shall include a complete review of all relevant documentation and may include interviews with appropriate individuals and an independent on-site investigation, if necessary.

b. Consider all facts and issues presented and the applicable requirements specified in this chapter or other applicable regulations.

c. Make a determination of compliance or noncompliance on each issue in the complaint based upon the facts and applicable regulations and notify the parties in writing of the findings and the bases for such findings. The licensing agency has 60 calendar days after the written complaint is received to carry out the investigation and to resolve the complaint. An extension of the 60 calendar day time limit may occur if exceptional circumstances exist with respect to a particular complaint.

d. Ensure that the final decision is effectively implemented, if needed, through technical assistance activities, negotiations, and corrective actions to achieve compliance.

e. Notify the parties in writing of any needed corrective actions and the specific steps that shall be taken by the school to bring it into compliance with applicable timelines.

E. Parties to the complaint procedures shall have the right to appeal the final decision to the licensing agency within 30 calendar days of the issuance of the decision.

F. When the school develops a plan of action to correct the violations, such plan shall include timelines to correct violations not to exceed 30 business days unless circumstances warrant otherwise. The plan of action shall include a description of all changes contemplated and shall be subject to approval of the licensing agency.

G. If the school does not come into compliance within the period of time set forth in the notification, the licensing agency may reduce or revoke the school's license to operate.

8VAC20-671-170. Denial, revocation, or suspension of license.

- A. The superintendent may refuse to issue or renew a license to operate or may revoke or suspend a license issued to any school pursuant to this chapter for the following causes (§ 22.1-329 of the [Code of Virginia]):
1. Violating any provision of this chapter or regulation of the board;
 2. Furnishing false, misleading, or incomplete information to the board or department or failure to furnish information requested by the board or department;
 3. Violating any commitment made in an application for a license;
 4. Presenting either by the school or by any agent of the school to prospective students information relating to the school which is false, misleading, or fraudulent;
 5. Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by law;
 6. Making any false promises through agents or by advertising or otherwise of a character likely to influence, persuade, or induce enrollments;
 7. Paying a commission or valuable consideration to any person for any act of service performed in willful violation of this chapter;
 8. Failing to maintain financial resources adequate for the satisfactory conduct of courses of instruction offered or to retain a sufficient or qualified instructional staff;
 9. Demonstrating unworthiness or incompetency to conduct the school in a manner calculated to safeguard the interests of the public;
 10. Failing within a reasonable time to provide information requested by the board or department as a result of a formal or informal complaint to or by the board or department that would indicate a violation of these requirements;
 11. Attempting to use or employ any enrolled students in any commercial activity whereby the school receives any compensation whatsoever without reasonable remuneration to the student, except to the extent that employment of students in such activities is necessary or essential to their training and is permitted and authorized by the board; or
 12. Engaging in or authorizing any other conduct, whether of the same or of a different character from that specified in this section, that constitutes fraudulent or dishonest dealings.

8VAC20-671-180. Summary or final order of suspension.

The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the [Code of Virginia]) shall be applicable to proceedings under this section. In compliance with § 22.1-329 of the [Code of Virginia], the following shall apply:

1. In addition to the authority for other disciplinary actions provided in this chapter, the Superintendent of Public Instruction may issue a summary order of suspension of a license of a residential or day school for students with disabilities in conjunction with any proceeding for revocation, denial, or other action when conditions or practices exist in the school that pose an immediate and substantial threat to the health, safety, and welfare of the students who are residing or attending the school and the Superintendent of Public Instruction believes the operation of the school should be suspended during the pendency of such proceeding.
2. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Superintendent of Public Instruction or designee.
3. After such hearing, the Superintendent of Public Instruction may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Superintendent of Public Instruction's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Superintendent of Public Instruction had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

4. The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Superintendent of Public Instruction may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of students who are residents of a home or facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to students.

8VAC20-671-190. Timeline for correction of unsatisfactory conditions.

In compliance with § 22.1-330 of the [Code of Virginia], the board or department:

1. May, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts that, if proved, would constitute grounds for refusal, suspension, or revocation of a license, investigate the actions of any applicant for or any person or persons holding or claiming to hold a license to operate.

2. Before refusing to renew, revoking, or suspending any license, may grant such period of time as it deems reasonable to correct any unsatisfactory condition.

8VAC20-671-200. Governing body.

A. Each school shall use its complete name as listed on the license to operate for all publicity, publications, promotions, or marketing purposes.

B. Any governing board, body, entity, or person to whom it delegates the legal responsibilities and duties of the licensee shall be clearly identified.

8VAC20-671-210. Responsibilities of the licensee.

The licensee shall:

1. Appoint an individual(s) to whom it delegates the authority and responsibility to assume the administrative direction of the school. The appointment shall be in writing.

2. Develop and implement a written decision-making plan that shall include provision for a staff person with the qualifications of the school administrator or education program director to be designated to assume the temporary responsibility for the operation of the school in the absence of the school administrator. The plan shall include a current organizational chart.

3. Ensure that staff positions and responsibilities meet the needs of the population served.

4. Develop a written statement of the objectives of the school including a description of the target population and the program offerings.

5. Develop and implement written policies and procedures to monitor and evaluate the effectiveness of the education program on a systematic and ongoing basis and implement improvements when the need is determined.

6. Ensure compliance with applicable child labor laws.

7. Develop a written policy prohibiting the consumption of tobacco products, [illegal] drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored [student] activities.

8. Require as a condition of employment that any applicant who accepts employment full-time or part-time, permanent or temporary, including interns and volunteers [who work alone with students], to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through Virginia's Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. In addition, where the applicant has resided in another state within the last five years, the school shall as a condition of employment determine if there are any founded complaints of child abuse or neglect in such state(s) pursuant to §§ 22.1-296.3 and 22.1-296.4 of the [Code of Virginia].

9. Require as a condition of employment that any applicant who accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, including interns and volunteers [who work alone with students], provide written consent and necessary personal information for the school to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515 of the [Code of Virginia].

10. Notify the licensing agency within five calendar days of any change in administration or newly appointed

individual responsible for the day-to-day administration or operation of the school.

11. Ensure that all staff members receive annual professional development related to their job responsibilities.

12. Report to the licensing agency within 10 business days lawsuits, ~~settlements, or criminal charges relating to the operation of the school~~ against or settlements with the licensee relating to the health and safety or human rights of students and any criminal charges against staff that may be related to the health and safety or human rights of students.]

13. Develop and implement an accessible policy and procedures to handle grievances from students, parents, and employees. [Schools are required to provide written notification of the right to file a complaint with the Virginia Department of Education's private school licensure office.]

8VAC20-671-220. Fiscal accountability.

A. The licensee shall prepare at the end of each fiscal year:

1. An operating statement to include a month-to-month accounting of revenue and expenses for the fiscal year just ended;

2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence of sufficient funds to operate; and

3. A balance sheet showing assets and liabilities for the fiscal year just ended.

B. There shall be a system of financial recordkeeping that shows a separation of the school's accounts from all other records.

C. There shall be written policies and procedures that address the day-to-day handling of the school's funds.

D. The licensing agency reserves the right to call for one of these two types of statements:

1. An audited financial statement certified by an outside independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants; or

2. A financial statement that has been reviewed by an outside independent certified public accountant in accordance with principles established for reviews by the American Institute of Certified Public Accountants.

8VAC20-671-230. Protection of contractual rights.

In compliance with § 22.1-324 of the [Code of Virginia], provisions for the protection of contractual rights shall include the following:

1. With each application, the applicant shall submit and maintain a guaranty instrument payable to the Commonwealth of Virginia to protect the contractual rights of students and other contracting parties.

2. The guaranty instrument shall be based on the school's approved capacity. A minimum guaranty of \$10,000 for up to 25 students and \$5,000 for each additional 25 students shall apply.

3. In the event a guaranty instrument is terminated, the license to operate will terminate within 30 calendar days if a replacement bond or other instrument is not filed with the licensing agency.

4. If a school collects no advance tuition other than equal monthly installments or receives payment after services have been rendered, the school may apply to the licensing agency for exemption from the guaranty requirements.

8VAC20-671-240. Insurance.

A. The licensee shall maintain liability insurance covering the premises and the school's operation.

B. The licensee shall ~~maintain~~ ensure liability insurance on all vehicles used to transport students, including vehicles owned by staff. [The school shall obtain written consent from the parent to transport a student in a staff member's personal vehicle.]

C. The members of the governing body and staff who are authorized to handle school or students' funds shall be bonded [or otherwise indemnified against employee dishonesty.]

8VAC20-671-250. Fundraising.

[A.] Written consent of the parent(s) ~~[or legal guardian and of a child age 14 or older]~~ shall be obtained before participating in any school fundraising activity.

[B. No student shall be forced to participate in any school fundraising activity.]

8VAC20-671-260. Relationship to the licensing agency.

The licensee shall make information available to the licensing agency upon the requested due date in order to make a timely determination of compliance with this chapter and other applicable regulations and statutes. The licensing agency may alter the term of a license if the school fails to comply in a reasonable time period.

8VAC20-671-270. Personnel policies and procedures.

A. The licensee shall have written personnel policies and procedures that include, but are not limited to, job qualifications, job descriptions, staff supervision, evaluation, grievance, and termination.

1. The licensee shall develop and implement written policies and procedures that persons appointed or designated to assume the responsibilities of each position possess the education, experience, ~~[knowledge,]~~ skills, and abilities specified in the job description.

2. The licensee shall make written personnel policies and procedures accessible to each employee.

B. The licensee shall maintain a current organizational chart of all full-time and part-time positions.

8VAC20-671-280. Job qualifications.

A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in this chapter shall meet the qualifications of the position, comply with all applicable regulations for each function, and demonstrate a working knowledge of the policies and procedures applicable to the position.

8VAC20-671-290. Job descriptions.

A. There shall be a written job description for each position that includes job title; duties and responsibilities; job title of the immediate supervisor; and minimum education, experience, ~~[knowledge,]~~ skills, and abilities required for entry-level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

8VAC20-671-300. School administrators.

A. The licensee shall designate ~~[one or more]~~ an individual(s) [who is a graduate of an accredited college or university and is] responsible for the administrative operation of the school ~~[who serves as the instructional leader and is responsible for]~~ effective school management that promotes positive student achievement, and a safe and secure environment in which to teach and learn. [This individual may also serve as the instructional leader.]

B. ~~[As the instructional leader, t]~~[T]he school administrator 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;

2. Seek to maintain a safe and secure school environment;

3. Involve the staff of the school in identifying the types of staff development needed to improve student achievement and ensure that the staff participate in those activities;

4. Analyze classroom practices and methods for improvement of instruction;

5. Ensure that students' education 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 students']~~ performance, are included in the record[s]; and

6. Monitor and evaluate the quality of instruction, provide staff development, and provide support that is designed to improve instruction.

C. The instructional leader shall hold a valid five-year renewable postgraduate professional license issued by the board with an endorsement in school administration and supervision or special education and have at least three years of experience working with students with disabilities.

D. The instructional leader or designee shall at all times be on the premises of the school while the school is in

operation.

E. All staff on duty must know who is responsible for the administration of the school at any given time.

8VAC20-671-310. Teachers and staffing.

A. Each teacher shall meet the requirements of the [Licensure Regulations for School Personnel] (8VAC20-22).

[1. Schools where students are instructed by content or grade level endorsed teachers shall have available appropriately endorsed special education teachers to case manage IEPs and to provide disability specific technical assistance and instruction.]

[2. Schools offering only self-contained classroom instruction shall have teachers endorsed in either special education general curriculum or special education adapted curriculum depending on the functioning level of the students.]

B. Staffing shall be in accordance with the [Regulations Governing Special Education Programs for Children with Disabilities in Virginia] (8VAC20-81) in the following settings:

1. A student with an Individualized Education Program (IEP) may be instructed with students without disabilities, as appropriate, and in accordance with the IEP.

2. A student with an IEP may receive services with children with the same disability or with children with different disabilities.

C. Teacher personnel assignments shall be in accordance with [Regulations Governing Special Education Programs for Children with Disabilities in Virginia] (8VAC20-81).

1. General education qualified personnel who are knowledgeable about the students and their special education may implement special services in collaboration with special education personnel.

2. Special education services include those services provided directly to the student and those provided indirectly.

D. Teacher caseloads shall be assigned in accordance with the [Regulations Governing Special Education Programs for Children with Disabilities in Virginia] (8VAC20-81).

1. If children with disabilities in a single building receive academic content area instruction from multiple special education teachers, the teachers' caseloads shall be determined by using a building average.

2. When special education personnel are assigned to provide services for students who do not have a disability under this chapter or are assigned to administrative duties, there shall be a reduction in the caseload specified in proportion to the percentage of school time on such assignment.

3. Special education personnel may be assigned to serve children who are not eligible for special education and related services as long as they hold appropriate licenses and endorsements for such assignments.

E. Staffing for early childhood special education shall be in accordance with the [Regulations Governing Special Education Programs for Children with Disabilities in Virginia] (8VAC20-81).

1. Children of preschool ages (two to five, inclusive) who are eligible for special education may receive early childhood special education.

2. Students receiving early childhood special education may receive services together with other preschool-aged children with the same or with different disabilities.

F. A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels [and teaching assignments] upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).

8VAC20-671-320. Substitute teachers.

A. No substitute teacher shall be used to fill a vacant teaching position for more than 90 teaching days in such vacancy during one school year.

B. Substitute teachers shall be at least 18 years of age, hold a high school diploma or a [~~general educational diploma~~ General Educational Development (GED) certificate], have two years of full-time postsecondary education or two years of successful work experience with children with disabilities or equivalent, and [attend receive] orientation to the school's policies and procedures.

8VAC20-671-330. Support staff.

A. School support personnel, including contractual service providers, shall meet the Board of Education's [Licensure Regulations for School Personnel] (8VAC20-22) or the requirements of another state or national accrediting agency.

B. Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), [at a minimum hold a high school diploma or [GED a general educational diploma (GED), have two years of full-time successful work experience with children or completed two years of coursework in a related field, complete orientation conducted by the school administrator or designee regarding school policies and procedures and characteristics of students served, and work under the supervision of qualified staff.]

C. No support staff shall be used as replacement for teachers or related service staff unless they meet the qualifications of the position.

D. Support staff who do not meet licensure or certification requirements shall not be given misleading work titles or titles that infer [that] they meet required credentials.

8VAC20-671-340. Staff supervision.

The licensee shall develop and implement written policies and procedures regarding the supervision of employees and all other individuals working with children, including volunteers and interns.

8VAC20-671-350. Staff development.

A. Within seven calendar days following [their staff's] begin date, each staff member responsible for working with students shall receive orientation of the school's philosophy, goals and objectives; duties and responsibilities of their position; and the school's policy and procedures for behavior intervention.

B. Within 14 calendar days following [their staff's begin date and before an individual is alone supervising students,] all staff shall receive emergency preparedness and response training that shall include: alerting emergency personnel and sounding alarms; implementing evacuation procedures with particular attention to students with special needs; using, maintaining, and operating emergency equipment; accessing emergency information for students including medical information; and utilizing community support services.

C. Within 14 calendar days following [their staff's] begin date, all staff shall receive professional development on confidentiality; the school's administrative decision-making plan; and policies and procedures [including prohibited actions] that are applicable to their positions, duties, and responsibilities.

D. Within 30 calendar days following [their staff's] begin date, all staff shall receive training on the school's policy and procedures, including standard precautions, child abuse and neglect, [and] mandatory reporting [, and maintaining appropriate professional relationships and interactions among staff and students, and suicide prevention.]

[E. Within 30 calendar days following their begin date, all staff responsible for medication administration shall have successfully completed an approved medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications. Staff shall meet this requirement before administering any medication to students and shall receive annual retraining.]

[F. E.] All staff shall receive annual professional development and refresher [in on the school's policies and procedures on standard precautions,] emergency preparedness and response to include alerting emergency personnel and sounding alarms; implementing evacuation procedures with particular attention to students with special needs; [and] using, maintaining, and operating emergency equipment [, accessing emergency information for students and staff including medical information and utilizing community supports.]

[G. F.] All staff shall receive annual professional development and refresher on behavior supports, child abuse and neglect, [and mandatory reporting [, maintaining appropriate professional relationships and interactions among staff and students, and suicide prevention.]

H. G. Each full-time staff [person shall annually receive professional development complete an additional 15 hours of annual training applicable to the staff's job duties.]

8VAC20-671-360. Personnel records.

A. Separate up-to-date personnel records shall be maintained for each full-time and part-time employee, student

intern, and volunteer for whom background investigations are required by Virginia statute. Content of personnel records of volunteers, student interns, and contractual service providers shall include, at a minimum, documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. A record shall be maintained for each staff to include:

1. A completed employment application or other documentation providing the individual's name, address, and telephone number;

2. Documentation of qualifications [including educational background and professional licensure or certification];

3. Employment history;

4. Written references or notations of oral references;

5. Reports of required[health examinations-tuberculosis certificate];

6. Annual performance evaluations;

7. Date of employment for each position held and date of separation;

8. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;

9. [Driving record verification from the ~~Documentation of~~ Department of Motor Vehicles ~~checks~~ and a current copy of the driver's license for all staff who transport students;]

10. Documentation of all training required by this chapter and any other training or professional development received by individual staff; and

11. A current job description.

C. All personnel records shall be maintained confidentially and retained in their entirety for a minimum of three years after staff's separation from the school.

8VAC20-671-370. School facilities and safety.

A. Each school shall be maintained in [~~a manner ensuring~~ compliance with the Virginia Uniform Statewide Building Code (13VAC5-63). ~~Each school shall:]~~

~~[1. B. Each school shall maintain~~ Maintain a physical plant that is accessible, barrier free, safe, and clean[.]

~~[2. C. Each school shall provide~~ Provide suitable[safe] and adequate instructional areas, [~~and~~] space for administrative staff, pupil personnel services, library and media services, and physical education. [Schools established after the effective date of these regulations and classrooms added to existing buildings shall provide 50 [~~net~~] square feet [~~per occupant~~] of classroom or instructional area per student [excluding classroom fixtures.] ~~with consideration given to safety.]:-~~

~~[3. D. Each school shall~~ Provide provide] adequate, safe, and properly equipped classrooms [and instructional areas, and where appropriate,] laboratories, play areas, and dining areas that meet the needs of students and instruction.

~~;- and]~~

~~[4. E. Each school shall~~ Provide-provide] space for safe storage of items such as first aid equipment, medication, household supplies, school supplies, and equipment.

~~[B. F.]~~ After the initial application, the school shall document annually that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) and maintain records of regular safety, health, and fire inspections conducted and certified by local health and fire departments.

~~[C. G.]~~ Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted in advance to the licensing agency for approval.

~~[D. H.]~~ Animals allowed on the premises shall be tested, inoculated, and licensed as required by law.

~~[E. Smoking shall be prohibited at all times and in all school buildings, on all school grounds, and during off-campus school sponsored activities.]~~

~~[F. I.]~~ Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.

~~[G. J.]~~ There shall be a written policy concerning [the provision of] safeguards for [~~aquatic related activities to~~

include supervision by a certified lifeguard] water-related activities and a provision that a certified life guard supervises all swimming activities.

[H. K.] There shall be a written policy regarding safeguards for school-sponsored activities including adventure and wilderness activities.

[H. L. There shall be an electronic two-way-a] communication system available to staff at all times in the classroom and during school-sponsored activities.

8VAC20-671-380. Contingency plans.

A. A school shall have contingency plans for emergencies that include staff certification in cardiopulmonary resuscitation (CPR), [abdominal thrust (Heimlich maneuver),] and emergency first aid.

B. The school administration shall ensure that the school has:

1. Written procedures to follow in emergencies such as fire, injury, illness, and violent or threatening behavior. Contingency plans should be developed with the assistance of state or local public safety authorities. Such plans shall be outlined in the student handbook and [discussed reviewed] with staff and students; during the first week of each school year;

2. Space for the proper care of students who become ill; and

3. A written procedure for responding to violent, disruptive, or illegal activities by students on school property or during a school-sponsored activity.

C. Each school shall have at least [three one tornado drill[s] and at least one earthquake drill] every school year. ~~and more often if necessary for practice. in order that students may be practiced in such drills.]~~

D. The school shall have a written emergency preparedness and response plan for all locations that addresses:

1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks, (ii) communitywide plans to address different disasters and emergency situations, and (iii) assistance, if any, that the local emergency management office will provide to the school in an emergency.

2. Analysis of the school's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, workplace violence [intruder, hostile situation,] or terrorism, missing persons, riot, severe injuries, or other emergencies that would disrupt the normal course of service delivery.

3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities; coordination of logistics during the emergency; communications; life safety of students, employees, contractors, student interns, volunteers, and visitors; property protection; community outreach; and recovery and restoration.

4. Written emergency response procedures for assessing the situation; protecting students, employees, contractors, student interns, volunteers, and visitors; [protecting] equipment and education records; and restoring services.

5. Emergency procedures, which shall address:

a. Communicating with employees, contractors, and community responders;

b. Warning and notification of students;

c. Providing emergency access to secure areas and opening locked doors;

d. Conducting evacuations to emergency shelters or alternative sites and accounting for all students;

e. Relocating students and staff, if necessary;

f. Notifying family members and legal guardians;

g. Alerting emergency personnel and sounding alarms; and

h. Locating and shutting off utilities when necessary.

6. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters.

7. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

8. Children who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

E. The school shall have emergency preparedness and response training for all employees, contractors, student interns, and volunteers that shall include responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures including evacuation of students with special needs (i.e., deaf, blind, nonambulatory);
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency information for students including medical information; and
5. Utilizing community support services.
- F. There shall be documented review of the emergency preparedness plan annually and revisions made if necessary.
- G. Employees, contractors, student interns, and volunteers shall be prepared to implement the emergency preparedness plan in the event of an emergency.
- H. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and students.
- I. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all students within seven days following admission or a substantive change in the procedures.
- J. At least one [emergency evacuation drill (~~the simulation of the school's emergency procedures~~) shall be conducted ~~each week during the first month of school and one each month thereafter~~] in each building occupied by students [at least once per week for the first twenty school days and then once a month for the rest of the school year and more often if necessary.]
- K. Evacuation drills shall include, at a minimum:
 1. Sounding of emergency alarms;
 2. Practice in evacuating buildings and buses or vans;
 3. Practice in alerting emergency authorities;
 4. Simulated use of emergency equipment; and
 5. Practice in securing student emergency information.
- L. A record shall be maintained for each evacuation drill and shall include the following:
 1. Buildings and buses or vans in which the drill was conducted;
 2. Date and time of drill;
 3. Amount of time to evacuate the buildings;
 4. Specific problems encountered;
 5. Staff tasks completed including head count and practice in notifying emergency authorities; and
 6. The name of the staff members responsible for conducting and documenting the drill and preparing the record.
- M. The record for each evacuation drill shall be retained for three years after the drill.
- N. At least one staff member shall be assigned the responsibility for ensuring that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.
- O. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety, and welfare of students, the school shall notify the parent(s), the student's public school, placing agency, and licensing agency as soon as possible, but no later than 24 hours after the incident occurs.

8VAC20-671-390. Weapons.

The licensee shall develop written policies and procedures governing prohibition of the possession and use of firearms, pellet guns, air guns, and other weapons on the school's premises and during school-related activities unless the weapons are in the possession of licensed security personnel or [~~law enforcement~~ law enforcement] officers.

8VAC20-671-400. Strip searches.

- A. Strip searches and body cavity searches are prohibited, [except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.]
- B. A school that does not conduct pat downs shall have a written policy prohibiting them.
- C. A school that conducts pat downs shall develop and implement written policies and procedures that shall provide the following:
 1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;

2. Pat downs shall be conducted by personnel of the same gender as the student being searched;
3. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the school's written policies and procedures; and
4. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses.

8VAC20-671-410. Student application and admission.

A. The school's written admission policy shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Admission procedures;
4. Exclusion criteria that identify behaviors or conditions the school will not accept; and
5. A description of how educational services will be delivered.

B. ~~[A summary of each~~ The] school's admissions policy, course offerings, ~~[at each grade level,]~~ and behavioral management program shall be made available to students, parents, and placing and licensing agencies.

C. Each school's admissions process shall be designed to determine the suitability of enrolling a student. The school shall accept and serve only those students whose needs are compatible with the services provided by the school.

[D. Upon enrollment and at least annually, the school shall provide to parents access to the school's policies and procedures, school's curriculum, and the school's promotion and retention policies.]

~~[D. The school shall provide written notification for a student's education records within five business days of the student's enrollment. Notification shall be made to the superintendent of the school division where the student last attended. The school shall request current information pertinent to the student's educational growth to include, but not limited to, the IEP, 504 Plan, or career development plan; plan of study; assessments; grades or transcript; discipline records; and health records.]~~

[E. When the student's education records are not provided during the application process, with written parental consent, the school shall make a request within five business days of enrollment to the student's last attended school or the division superintendent or designee.]

~~[E. F.] An application for admission is not to be construed as a binding instrument on the part of the student or the school.~~

~~[F. G.] A school may require the payment of a reasonable nonrefundable initial application fee to cover expenses in connection with processing a student's application provided it retains a signed statement in which the parties acknowledge their understanding that the fee is nonrefundable. No other nonrefundable fees shall be allowed prior to enrollment.~~

~~[G. H.] Any contract or enrollment agreement used by the school shall be in writing and clearly specify the following:~~

1. Complete name and physical address of the school;
2. Itemized cost of the program to include tuition, ~~[scholarships, and~~ all other charges, and any scholarship amount applied to the cost of tuition; and]
3. The school's contingency, cancellation, and refund policies.

~~[H. I.] Any contract or enrollment agreement used by the school becomes a legally binding instrument upon the school's written acceptance [of the student].~~

~~[I. Each school that serves privately placed students shall offer access to a tuition insurance plan if the school financially obligates students for more than quarterly increments of annual tuition.]~~

8VAC20-671-420. Standard school year and school day.

A. Each school shall have a standard school year of at least 180 ~~[instructional- teaching]~~ days [or a total of at least 990 teaching hours per year]. The standard school day for students in grades 1 through 12 shall average at least [five and one-half 5 1/2] teaching hours ~~[(990 hours annual instructional time)-~~ or average 27 and one-half hours weekly], excluding breaks for meals and recess, and a minimum of three [instructional hours daily] for kindergarten.

~~[B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5 1/2 hours) unless otherwise stated in the child's Individualized Education Program (IEP), Individualized Instruction Plan (IIP), 504 Plan, or other documentation.]~~

~~B. [The private school shall initiate a team meeting to review the child's IEP, 504 Plan or IIP when a student has a medical, mental, or physical condition that requires modification of the student's school schedule.]~~

~~C. Each school shall have policies and procedures that address make-up days when the school is unable to meet the required instructional time.~~

8VAC20-671-430. [School and community communications: Community Relationships.]

~~[A. Each school shall promote communications and foster mutual understanding with parents and the community and use information from parents, citizens, business, and industry in evaluating the educational program.]~~

~~Each school shall facilitate cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large.~~

~~B. Upon enrollment and at least annually, At the beginning of each school year, the school shall provide to parents or guardians [access to the school's curriculum and policies and procedures to include information on the availability of and source for receiving the curriculum for their child's core subjects and a copy of the school's promotion and retention policies and access to the school's policies and procedures.]~~

8VAC20-671-440. Philosophy, goals, and objectives.

~~A. Each school shall have a current philosophy, goals, and objectives that 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 an annual self-evaluation of the school.~~

~~2. [The g-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, to increase graduation rates, and to increase the quality of instruction through professional staff development and licensure.]~~

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

8VAC20-671-450. Student achievement expectations.

~~A. A process to identify and recommend strategies to address the learning, behavior, communication, or development of individual students who are having difficulty in the educational setting shall be developed at each school.~~

~~B. Participation in the Virginia assessment program by students with disabilities shall be prescribed by provisions of their IEPs or 504 Plans. [All students with disabilities shall be assessed with appropriate accommodations and alternate assessments when required.]~~

~~C. Each school that serves students who anticipate earning a diploma and graduating from a [public] Virginia high school must follow the requirements for graduation outlined in the [Regulations Establishing Standards for Accrediting Public Schools in Virginia] (8VAC20-131).~~

~~D. The school shall cooperate with the public school in the administration of SOL tests. [to students with disabilities and students who need verified credits to graduate from a public high school in Virginia, and the administration of any other SOL tests.]~~

~~E. The school shall use testing and evaluation materials that are not racially or culturally discriminatory and do take into consideration the student's disabling condition(s), racial background, and cultural background.~~

[8VAC20-671-460. Program of instruction and learning objectives.]

~~[A. Each school's instructional program shall reflect the written philosophy of the school. The methods, procedures, and practices shall reflect an understanding of and meet the applicable academic, vocational, therapeutic, recreational, and socialization needs of the students served.]~~

~~B. The instructional program shall be designed to meet the needs of all students enrolled and shall educate~~

~~students with age-appropriate peers [unless it can be shown that for a particular child with a disability, the alternative placement is appropriate and documented on the student's IEP, 504 Plan, or IIP.]~~

~~C. Services shall be delivered in accordance with the student's IEP, IIP, or 504 Plan.~~

~~[D. Children of preschool ages (two to five, inclusive) shall receive services determined by the child's IEP or IIP.]~~

~~D. E. Each school serving Students 14 years of age and older shall [be] provided opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to [postsecondary education,] training, employment, and independent living, as appropriate.~~

~~E. Each school shall provide opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to postsecondary training, education, employment and independent living skills, as appropriate.~~

~~F. Each school shall provide a program of instruction that supports the SOL [clearly articulates learning outcomes] for the core subjects: English, mathematics, science, and history/social science. [Schools may use Virginia's Standards of Learning (SOL).]~~

~~G. Each school shall require students to participate in a program of health and physical fitness during the regular school year unless the student is unable to participate due to a medical condition [or has met the credit requirement for graduation.]~~

~~H. Each school shall provide students with opportunities to gain appreciation for art and music.~~

~~I. Each school shall provide an instructional program that promotes the individual student's developmental growth and academic achievement at successive grade levels, as appropriate.~~

~~J. The services provided by a private school shall be provided by personnel meeting the same licensure requirements as personnel providing services in the public school, outlined in Licensure Regulations for School Personnel (8VAC20-22).~~

~~K. [J.]The school shall equitably serve the needs and interests of all students, taking into consideration age appropriateness, cultural norms, physical abilities, and cognitive abilities.~~

[8VAC20-671-470. 8VAC20-671-460] Individualized Education Program (IEP).

~~A. [When a child is presently receiving the services of a private school,]A representative of the private school shall attend IEP meetings upon the request of the student's school division. If a representative is not able to attend, the school shall use other methods to ensure participation [by the private school] including individual or conference telephone calls.~~

~~B. [After a child with a disability enters a private school,] Any meetings to review and revise the child's IEP may be initiated and conducted by the private school at the discretion of the student's school division.~~

~~C. If the private school initiates and conducts these meetings, the student's school division and the parent(s) shall:~~

- ~~1. Be involved in any decision affecting the child's IEP;~~
- ~~2. Agree to any proposed changes in the program before those changes are implemented; and~~
- ~~3. Be involved in any meetings that are held regarding [reevaluation-re-evaluation].~~

~~D. A parent(s) does not include local or state agencies or their agents, including local departments of social services, if the child is in the custody of such an agency.~~

~~E. When a child with a disability is placed by a local school division or a Comprehensive Services Act team in a private school, all rights and protections under state and federal regulations shall be extended to the child.~~

[8VAC20-671-470. Individualized Education Program (IEP).]

~~[A. When a child is presently receiving the services of a private school, [A] representative of the private school shall attend IEP meetings upon the request of the student's school division. If a representative is not able to attend, the school shall use other methods to ensure participation by the private school including individual or conference telephone calls.~~

~~B. After a child with a disability enters a private school, [Any meetings to review and revise the child's IEP may be initiated and conducted by the private school at the discretion of the student's school division.~~

~~C. If the private school initiates and conducts these meetings, the student's school division and the parent(s) shall:~~

- ~~1. Be involved in any decision affecting the child's IEP;~~

- ~~2. Agree to any proposed changes in the program before those changes are implemented; and—~~
~~3. Be involved in any meetings that are held regarding reevaluation [re-evaluation].—~~
~~D. A parent(s) does not include local or state agencies or their agents, including local departments of social services, if the child is in the custody of such an agency.—~~
~~E. When a child with a disability is placed by a local school division or a Comprehensive Services Act team in a private school, all rights and protections under state and federal regulations shall be extended to the child.]—~~

~~**[8VAC20-671-480. Individualized Instruction Program (IIP).—**~~

- ~~[A. Students not determined eligible for special education] without disabilities and those placed by parents for educational reasons shall have an Individualized Instruction Program (IIP) developed within 30 [business] days of admission enrollment that describes strengths and needs of the student, current level of functioning, goals and objectives, timelines, course of study, and postsecondary goals for students 14 years of age and older.—~~
~~B. Each school shall request with [written] consent of the parent(s) the student's education records from the last school attended, and information from other agencies as appropriate. This information should be used in developing the student's IIP.—~~
~~C. The IIP shall provide a beginning and ending date of services.—~~
~~D. The IIP shall be reviewed at least annually by a team that includes the [school administrator or teacher, other staff as appropriate, parent, and student as appropriate.] and the parent.—~~
~~E. Student progress reports shall be provided to the parent or guardian at least quarterly.]~~

~~**[8VAC20-671-480. 8VAC20-671-470] Individualized Instruction Program (IIP).**~~

- ~~A. Students [not determined eligible for special education without disabilities and those placed by parents for educational reasons]-shall have an Individualized Instruction Program (IIP) developed within 30 [business days of admission]enrollment that describes strengths and needs of the student, current level of functioning, goals and objectives, [timelines,] course of study, and postsecondary goals for students 14 years of age and older.—~~
~~B. Each school shall request with [written] consent of the parent(s) the student's education records from the last school attended, and information from other agencies as appropriate. This information should be used in developing the student's IIP.—~~
~~C. The IIP shall provide a beginning and ending date of services.—~~
~~D. The IIP shall be reviewed at least annually by a team that includes the [school administrator or teacher, other staff as appropriate, parent, and student as appropriate. and the parent.]—~~
~~E. Student progress reports shall be provided to the parent [or guardian] at least quarterly.—~~

~~**8VAC20-671-490. 504 Plans.—**~~

~~[Each school admitting students with 504 Plans shall implement the plan and cooperate with the school division in its annual review. [An individualized instruction plan (IIP) shall be developed for each student with a 504 Plan.]—~~

~~**[8VAC20-671-490. 8VAC20-671-480. 504 Plans.]**~~

~~Each school admitting students with 504 Plans shall implement the plan and cooperate with the school division in its annual review. An individualized instruction plan (IIP) shall be developed for each student with a 504 Plan.—~~

~~**[8VAC20-671-460. 8VAC20-671-490.] Program of instruction and learning objectives.—**~~

- ~~A. Each school's instructional program shall reflect the written philosophy of the school. The methods, procedures, and practices shall reflect an understanding of and meet the applicable academic, vocational, therapeutic, recreational, and socialization needs of the students served.—~~
~~B. The instructional program shall be designed to meet the needs of all students enrolled and shall educate students with age-appropriate peers [unless it can be shown that for a particular child with a disability, the alternative placement is appropriate and documented on the student's IEP, 504 Plan, or IIP.]—~~
~~C. Services shall be delivered in accordance with the student's IEP, IIP, or 504 Plan.—~~
~~[D. Children of preschool ages (two to five, inclusive) shall receive services determined by the child's IEP or~~

IIP.]

~~[D. E. Each school serving Students 14 years of age and older shall [be] provided opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to [postsecondary education,] training, employment, and independent living, as appropriate.~~

~~[E. Each school shall provide opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to postsecondary training, education, employment and independent living skills, as appropriate.]~~

F. Each school shall provide a program of instruction that ~~[supports the SOL~~ clearly articulates learning outcomes] for the core subjects: English, mathematics, science, and history/social science. [Schools may use Virginia's Standards of Learning (SOL).]

G. Each school shall require students to participate in a program of health and physical fitness during the regular school year unless the student is unable to participate due to a medical condition [or has met the credit requirement for graduation.]

H. Each school shall provide students with opportunities to gain appreciation for art and music.

I. Each school shall provide an instructional program that promotes the individual student's developmental growth and academic achievement at successive grade levels, as appropriate.

~~[J. The services provided by a private school shall be provided by personnel meeting the same licensure requirements as personnel providing services in the public school, outlined in Licensure Regulations for School Personnel (8VAC20-22).]~~

~~[K. J.]~~ The school shall equitably serve the needs and interests of all students, taking into consideration age appropriateness, cultural norms, physical abilities, and cognitive abilities.

8VAC20-671-500. Instructional program for elementary school grades.

~~[A. The elementary school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. In addition, each school shall provide opportunities for students to gain an appreciation for art and music. Students shall be required to participate in a program of health and physical fitness during the regular school year.— In addition to the applicable requirements under 8VAC20-671-490, the following shall apply:]~~

~~[B. A.]~~ In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program.

~~[C. B.]~~ To provide students with sufficient opportunity to learn, a minimum of 75% [75 percent] of the annual instructional time of 990 hours shall be given to instruction in the disciplines of English, mathematics, science, and history/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 instruction [at time] in reading.

8VAC20-671-510. Instructional program for middle school grades.

~~[A. The middle school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. Each school shall provide opportunities for appreciation of art and music and an introduction to career and technical exploration and require students to participate in a program of health and physical fitness during the regular school year.]~~

~~[B. English, mathematics, science, and history/social science shall be required.— In addition to the applicable requirements under 8VAC20-671-490, the following shall apply:]~~

~~[C. A.]~~ To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines of English, mathematics, science, and history/social science.

~~[D. B.]~~ Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading.

[C. Each school shall provide students with opportunities for career and technical exploration.]

8VAC20-671-520. Instructional program for secondary school grades.

[In addition to the applicable requirements under 8VAC20-671-490, the following shall apply:]

~~A. The secondary school grades shall provide each student a program of instruction that supports the SOL in English, mathematics, science, and history/social science.]~~

~~[B. A.] To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines.~~

~~[C. B. Students in secondary education programs who plan to graduate with a standard or advanced diploma from a Virginia public high school should have the opportunity to complete credits in foreign languages, fine arts, and career and technical training education. Each school shall provide a course of study that leads to graduation and postsecondary success.]~~

~~[C. Each school shall provide instruction in economics and personal finance and occupational readiness.]~~

~~[D. A curriculum that includes functional living skills training, including community-based community-based instruction, shall be available for students as the need is determined by the IEP or IIP.]~~

~~[D. E.] Classroom driver education may count for 36 class periods of health education. Students shall not be removed from classes other than health and physical education for the in-car phase of driver education.~~

~~[E. F.] Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading.~~

~~[F. Guidance and counseling shall be provided for students to ensure that a program of studies contributing to the student's academic achievement and meeting graduation requirements is being followed.]~~

~~[G. Staff shall provide guidance and counseling to assist students in meeting graduation requirements.]~~

8VAC20-671-530. Alternative education.

~~Schools may provide students, 16 years of age to 18 years of age [who choose to prepare for the Tests of General Educational Development (GED) certificate] an Individualized Student Alternative Education Plan (ISAEP) program. that permits enrollment that includes career guidance counseling; mandatory enrollment in a GED preparation program; and career and technical education] Implementation of the ISAEP program requires submission of an application and approval by the Department of Education.~~

8VAC20-671-540. Transition services.

~~A. Schools shall cooperate with the public schools to ensure that the transition plan for each student with a disability, beginning at 14 years of age (or younger), is implemented according to the child's IEP.~~

~~B. Schools shall provide evidence of transition services designed within an outcome-oriented process for all students, as appropriate, that promotes movement from the private school to a public school the child would normally attend; movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.~~

8VAC20-671-550. Extracurricular and other school activities, and 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] organized to avoid interrupting the instructional program.~~

~~B. [CPR and first aid certified staff shall accompany students on Sschool-sponsored extracurricular activities. shall have at least one person certified in CPR for every 10 students.]~~

~~C. Schools that take students on adventure activities shall develop policies and procedures to ensure supervision, health and safety, and medical management.~~

8VAC20-671-560. Family life.

~~A. Schools may use the Standards of Learning for the family life education program or other education program, [which shall have that is designed to promote parental involvement, foster positive self concepts and provide mechanisms for coping with peer pressure and the stresses of modern living according to the student's developmental stage and has the goal goals of reducing the incidence of pregnancy and sexually transmitted diseases and substance abuse.]~~

~~B. Schools offering family life shall obtain written consent from the parent [or guardian for the child's~~

participation enrollment in the course].

8VAC20-671-570. Student work study or on-the-job training.

A. Each school that places students on work study, on-the-job training, or any other form of employment shall ensure compliance with the applicable laws governing the employment of children.

~~[B. Work assignments that are paid or unpaid shall be in accordance with the age, health, ability, and education program of the student.]~~

~~[C. B. Work assignments or employment outside the school, including reasonable rates of pay, shall be approved by the school administrator with the knowledge and consent of the parent. or legal guardian.]~~

8VAC20-671-580. Virtual learning.

A. [Virtual courses may only be offered through accredited providers as outlined in VAC §22.1-212.23 and §22.1-253.13:3 of the Code of Virginia. Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through virtual learning.]

[B. The virtual learning shall be proctored by a licensed teacher or appropriately trained paraprofessional who is supervised by a licensed teacher. The teacher or paraprofessional shall be available to the student.]

~~[A school shall ensure that each virtual education course is provided by an institution accredited by a nationally recognized accrediting body or is authorized by a public school or school division.]~~

B. A school shall ensure that virtual learning courses meet the following requirements: .1 212.23 and 1. The content, instruction, and assessment of each course is comparable in rigor and breadth to the course that is traditionally delivered;—

2. The course content is appropriate for the school's grade levels and age range; and—

3. The virtual learning shall be supervised by a licensed teacher. or a person eligible to hold a Virginia teaching license. The teacher or paraprofessional individual shall be available to the student.]

8VAC20-671-590. Equipment, instructional materials, and library media.

A. Each school shall provide [a variety of current grade level] instructional materials and equipment [necessary] to support the instructional program [including the goals and objectives established for individual students. individual, including functional life skills programs.]

B. [Each school shall provide access to computers and library media necessary to meet research inquiry and reading requirements of the instructional program and general student interest. Students shall receive instruction on the use of classroom equipment as appropriate and demonstrate applicable safety competencies before being allowed to use such equipment.]

~~[C. Each student, as appropriate, shall be provided instruction on the use of instructional equipment and shall demonstrate understanding before access to laboratories.]~~

~~[D. Each school shall provide textbooks and instructional materials that support Virginia's Standards of Learning.]~~

~~[E. C.] Each school shall establish written policy on the use of computers, including the use of the Internet and email [e-mail.]~~

8VAC20-671-600. School records.

Each school shall maintain up-to-date records to include [a listing of all enrolled students with directory information,] the school's academic calendar, class roster, class schedule, course descriptions, course curriculum, individual student schedules, student progress reports, and [student transcript or other documentation of each student's grades and credits earned.]

8VAC20-671-610. Diplomas.

A. No school shall use the seal of Virginia in its diploma design.

B. Each school that offers a diploma upon graduation shall have written policy and procedures that address the following:

1. The requirements for a diploma shall be those in effect when the student enters the ninth grade for the first time.

2. The requirements for a diploma shall be based upon completion of program requirements that demonstrate academic rigor.

8VAC20-671-620. Student conduct.

A. Each school shall have written policies and procedures that address standards of student conduct and procedures for enforcement to include attendance, truancy, suspension, expulsion, alcohol, drugs, weapons, fighting, bullying, sexual and disability harassment, pornography, and other areas as appropriate.

B. When a publicly placed student is suspended, including in-school suspension, or expelled, the [student's school shall notify the student's] home school division [shall be notified] within 24 hours.

8VAC20-671-630. Behavior intervention.

A. Each school shall develop and implement written policies and procedures that emphasize positive behavior interventions that focus on teaching and supporting students to practice methods to manage their own behavior.

B. Behavior techniques that are used or available for use shall be listed in the order of their relative degree of restrictiveness and specify the staff members who may authorize the use of each technique.

C. Staff shall consider behavior management data in their annual review of the school's policies and procedures.

D. When substantive revisions are made to policies and procedures governing management of student behavior, written information concerning the revisions shall be provided to students, parents, placing agencies, and the licensing agency prior to implementation.

[E. Application of a formal behavior management program designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior contingent upon the exhibition of such behaviors is allowed only as part of an individually approved plan that is consistent with sound therapeutic practice.]

8VAC20-671-640. Time-out.

~~[A. The school shall have written policy and procedures governing the conditions under which a student may use time-out and the maximum period of time-out not to exceed 30 minutes per episode. The conditions and maximum period of time-out shall be based on the student's chronological and developmental level. The school's policy and procedures shall include provisions that address the following:]~~

[Policies and procedures shall be written that govern the conditions under which a student may self-select self-select or be placed in time-out and the maximum length of time a student may be in time-out. The conditions for time-out and the length of time a student may be in time-out shall be based on the student's chronological and developmental levels. The school's policy and procedures shall include:]

1. Each student is entitled to be completely free from any unnecessary use of time-out.

2. ~~[The areas in which a student is placed~~ A door to a time-out room shall] not be locked nor ~~[the door]~~ secured in a manner that prevents the student from opening it.

3. A student in time-out shall be able to communicate with staff.

4. Staff shall check on the student ~~[in the time-out area]~~ at least every 15 minutes and more often depending on the nature of the student's disability, condition, ~~[and or]~~ behavior.

5. ~~[Procedures shall be implemented for documenting~~ The use of time-out and staff checks on the student shall be documented].

6. Staff shall review procedures when a student consistently chooses to stay in time-out beyond the determined time limit to determine that it has not become reinforcement.

8VAC20-671-650. Prohibitions.

~~[A.]~~ The following actions are prohibited:

~~[1. Restraint and seclusion, except when it is necessary to protect the student or others from personal harm, injury, or death and other less restrictive interventions were unsuccessful:]~~

[1. Mechanical restraints]

[2. Pharmacological restraints]

~~[2. Prone "face down" restraints, mechanical restraints, and pharmacological restraints]~~

3. Deprivation of drinking water or food

- ~~4. Limitation on contacts and visits [with from] the student's probation officer, [social worker regulators,] or placing agency representative, [-or]~~
- ~~5. Any action that is humiliating, degrading, or abusive~~
- ~~6. Corporal punishment~~
- ~~7. Deprivation of approved prescription medication or other necessary services[and treatment]~~
- ~~8. Denial of access to toilet facilities~~
- ~~[9. Application of aversive stimuli;]~~
- ~~[10. Strip and body cavity searches; and]~~
- ~~[11. 10.] Discipline, restraint, or implementation of behavior management plans by other students.~~

8VAC20-671-660. Managing student behavior in emergency situations.

~~[A. Application of a formal behavior management program designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior contingent upon the exhibition of such behaviors is allowed only as part of an individually approved time specific plan that is consistent with sound therapeutic practice. Written consent of the student, parent or guardian, and the student's school division is required.]~~

~~[B. A.] Each school shall have written policies and procedures that include, but are not limited to:~~

~~1. Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student.~~

~~2. A [policy stating statement] that corporal punishment and abusive techniques and interventions are not authorized, permitted, or condoned.~~

~~[C. 3. A statement that Each school shall develop and implement] behavior management techniques [are applied] in order of their [relative] degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained [school] personnel.~~

~~[D. B.] A school that uses [physical] restraint and seclusion shall have written policies and procedures to include the following:~~

~~1. Physical restraint or seclusion is allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage [that may result in personal injury].~~

~~2. Physical restraint or seclusion shall not be used [for disciplinary reasons or] as a punishment, retaliation, or for staff's convenience.~~

~~[1. 3. Each student is entitled to be completely free from any unnecessary use of physical restraint or seclusion. Physical restraint and seclusion are allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage.~~

~~b. The school shall provide written notice of its behavior management program to and acknowledged by students, parent(s), and placing agency at the time of the student's enrollment.]~~

~~[e.[4.] Staff shall [continuously] monitor the use of [physical] restraint and seclusion through continuous face-to-face observation, [and shall not rely on solely by an electronic surveillance device.~~

~~[d. 5. Physical restraints Restraints] may only be implemented, monitored, and [or] discontinued by staff who have [received proper training, been trained in the proper and safe use of restraint, including hands-on techniques.~~

~~e. Students must be supervised by staff members trained in behavior intervention.]~~

~~[6. The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the staff member steps away from it. The room must meet specification including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency.]~~

~~[f. 7. Schools shall inform] The parent [and student's home school division] and placing agency [, as appropriate,] shall be informed immediately but not later than 24 hours] of each incident of physical restraint or seclusion.[on the day of the occurrence and make available to the licensing agency upon request.]~~

~~[g. 8.] Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the [physical] restraint or seclusion, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration,~~

description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date.

8VAC20-671-670. Videotaping.

A. Schools shall have written policy and procedures regarding videotaping students while in school and any school-sponsored activity, including those used for staff training.

B. No student shall be videotaped without written consent of the parent and eligible student.

C. Any videotaping of students shall be maintained confidentially unless there is explicit written permission to release or disclose from the parent(s) and eligible student.

D. Buildings and grounds surveillance is not considered videotaping for the purpose of this chapter.

8VAC20-671-680. Referral for evaluation.

~~[A.] When a student, [including those placed by their parent(s) or from out of state], is suspected of having a disability, the school [shall] may make a referral to the division superintendent of the school division where the private school is located. Documentation of the referral notice shall be maintained in the student's record.~~

~~[B. The school shall cooperate with the school division on child find activities.]~~

8VAC20-671-690. Suspected child abuse and neglect.

A. Written policies and procedures related to child abuse and neglect shall comply with the requirements of § 63.2-1509 of the [Code of Virginia] and distributed to all staff members. Policies and procedures shall include:

1. Handling accusations against staff; and

2. ~~[Promptly referring Reporting as soon as possible, but no later than 24 hours after having a suspicion of a reportable offense suspected cases]of child abuse and neglect to [the proper authorities and cooperating with child protective services during any investigation the school local child protective services unit and for cooperating with the unit during any investigation.]~~

B. Any case of suspected child abuse or neglect occurring at the school or on a school-sponsored event or excursion shall be reported immediately to the student's parent, ~~[guardian, or both if appropriate],~~ and [licensing agency. For publicly placed students, the home school division and] the placing [agency shall also be notified and licensing agencies].

~~[C. Suspected child abuse shall be handled and reported as a serious incident.]~~

[C. Suspected child abuse or neglect shall be immediately documented to include the following: ~~When a case of suspected child abuse or neglect is reported to child protective services, the school shall document the following:]~~

1. The date and time the suspected abuse or neglect occurred;

2. A description of the suspected abuse or neglect;

3. Action taken as a result of the suspected abuse or neglect;

4. The name of the person who made the report to child protective services; and

5. The name of the person to whom the report was made at the local child protective services unit.

8VAC20-671-700. Serious incident reports.

A. Any serious incident, accident, or injury to a student ~~[or medication error]~~ that occurs at the school or a school-sponsored activity shall be reported immediately, [but] no later than ~~[the end of the school day]~~ 24 hours of the occurrence] to the parent, and [licensing agency. For publicly placed students, the home school division and] the placing [agency shall also be notified ~~student's public school division, placing agency, and licensing agency.]~~

B. The school shall document the following:

1. The date and time the incident occurred;

2. A brief description of the incident;

3. The action taken as a result of the incident;

4. The name of the person who completed the incident report; and

5. The date and name of the person who made the report to the proper authorities.

C. The licensing agency shall review [all] reports of serious incidents and investigate as appropriate ~~[-using the complaint resolution procedures of this chapter].~~

8VAC20-671-710. Medication and health.

A. Each student shall have on file evidence of a comprehensive physical examination prescribed by the State Health Commissioner from a qualified licensed (i) physician, (ii) nurse practitioner, or (iii) physician assistant acting under the supervision of a licensed physician. The examination must contain, at a minimum, information required on the Commonwealth of Virginia School Entrance Health Form.

B. Each student shall have an up-to-date certificate of immunization. ~~[documenting the immunizations required by the Code of Virginia and State Board of Health's Regulations for the Immunization of School Children (12VAC5-110).]~~

C. Any student or staff with a ~~[disease or medical condition that is contagious or infectious shall be excluded take leave attend]~~ from school while in that condition unless attendance is approved by a qualified healthcare provider. Conditions meeting this requirement must be provided in the parent/student handbook or other print materials.

D. A first aid kit shall be maintained and readily accessible for minor injuries and medical emergencies in each building used for instruction or other school activity.

E. All medications shall be accepted only in the original container with written permission signed and dated by the parent to administer to his child. The use of all prescriptive medication must be authorized in writing by a licensed prescriber.

F. All medication and medical paraphernalia shall be securely locked and properly labeled.

~~[G. A program of medication administration shall be initiated for a student only when prescribed in writing by a person authorized by law to prescribe medication and written consent from the parent is obtained to administer.]~~

~~[H. G.]~~ An individual medication administration record shall be maintained for each medication a student receives and shall include student name, date the medication is to begin, drug name, schedule for administration, strength, route, identification of the individual who administered the medication, and dates the medication was discontinued or changed.

~~[H. H.]~~ The provider shall develop and implement written policies and procedures regarding:

1. Managing medication errors to include the following: administering first aid; contacting the poison control center; notifying the prescribing physician; taking action as directed; documenting the incident; reviewing medication errors and staff responses; and reporting errors to the parent and placing agency.

2. Handling adverse drug reactions;

3. Revising procedures as events may warrant;

4. Disposing of medication and medical supplies such as needles, syringes, lancets, etc.;

5. Storing of controlled substances;

6. Distributing medication off campus; and

~~[7. Documenting medication refusal. Medication refusal to include who is responsible for documentation, where it will be documented and action taken by staff.]~~

~~[I.]~~ The telephone number of a regional poison control center and other emergency numbers shall be posted on or near the phone.

~~[K. J.]~~ Medication training.

1. All staff responsible for medication administration shall have successfully completed a medication training [including refresher training, in a] program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medication before they can administer medication.

2. Training shall be provided to all staff in medication procedures and effects and infection control measures, including the use of standard precautions.

3. ~~[There shall be a ratio of one staff member to 10]~~ Staff certified in first aid and CPR [shall be] and available at all times on the school grounds and during any school-sponsored activity.]

4. Documentation of medication training must be maintained in personnel files.

5. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

~~[L. K.]~~ Monitoring the supply of medications

1. Upon receiving any medication, staff members handling medication shall count individual tablets and measure

the level of liquid medicine in the presence of the parent(s) or another staff member and record the count on the medication log.

2. The medication log shall include the signature or initials of the staff member who counted the medication and the parent or staff who witnessed the occurrence. When initials are used, the medication administration record must contain the full name of the staff with corresponding initials for identification purposes.

3. Students shall be prohibited from transporting medication.

8VAC20-671-720. School nutrition.

A. Schools with ~~[internal]~~ food service shall ~~[ensure a serve to each student on a daily basis a daily]~~ diet that (i) consists of nutritionally balanced meals, (ii) includes an adequate variety and quantity of food for the age of students, and (iii) meets~~[the]~~ minimum requirements ~~and~~ [of] the U.S. Dietary Guidelines.

1. ~~[Schools with internal food service shall ensure that]~~ All food safety and sanitation procedures are ~~[shall be]~~ followed in accordance with state and federal regulations.

~~[C.]~~ 2. Records of menus for all meals served shall be kept on file for six months.

~~[D.]~~ 3. ~~[Provisions shall be made for special diets shall be provided]~~ when prescribed by a physician or requested by the student or parent because of the student's established religion.

~~[E. B.]~~ In schools where students are required to bring their own lunch, provisions shall be made to ensure a meal for all students.

8VAC20-671-730. Transportation.

A. Transportation provided for or used by students shall comply with local, state, and federal laws relating to: ~~[Each school shall have on file evidence that any vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state regulations, including:]~~

1. Vehicle safety and maintenance;

2. Licensure of vehicles;

3. Licensure of drivers;

4. Child passenger safety, including requiring children to wear [appropriate] seat belts or restraints for the vehicle in which they are being transported;

~~[4. 5.]~~ Vehicle liability insurance;

~~[5. 6.]~~ Safety measures that take into consideration the age and disabling conditions of students.

B. All vehicles used to transport students to school activities shall be equipped with first aid kits, a fire extinguisher, and two-way communication devices.

C. Individual student emergency information including currently prescribed and over-the-counter medications, significant medical problems, and any allergies shall accompany students when they are being transported.

~~8VAC20-671-740. Treatment services.~~

~~Licensed providers of treatment services shall coordinate those services to allow students to receive the required hours of instruction to the extent possible. When treatment services are not prescribed by a licensed mental health professional, the student shall receive the required number of hours of instruction.~~

~~[8VAC20-671-750. 8VAC20-671-740.] Student discharge.~~

A. Each school shall have policies and procedures that address conditions for which a student may be discharged from the school.

B. The school's criteria for discharge shall be made available to prospective students, parents, and placing agencies before their enrollment.

C. The student's education record shall be documented with the date of discharge and reason for discharge.

D. Students shall be discharged only to the parent or legally authorized representative.

~~8VAC20-671-760. 8VAC20-671-750.] Maintenance of student records.~~

A. The school shall have written policies and procedures for the management of all records, print and nonprint, regarding confidentiality, accessibility, security, ~~[and]~~ retention, and [disposition].

B. Student education records shall be maintained in [fireproof fire resistant] cabinets. [~~and protected from unauthorized disclosure.~~]

C. Each student's education record shall contain information pertinent to the educational growth and development to include a completed enrollment sheet; a current IEP, 504 Plan, or IIP; student transcript; course of studies; and progress reports. Other information should include disciplinary records, health records, and achievement and test data.

D. [~~A school shall obtain written~~] Written consent from the child's parent [~~shall be obtained~~] before disclosure of information from a student's education record to unauthorized parties. Authorized parties shall be limited to school employees including contracted employees, and representatives of [~~placing school divisions, accrediting parties agencies and,~~] state licensing agencies who need access to the ~~student's~~ [student's] records to carry out their work responsibilities.

E. [~~A school may disclose information~~] [Information may be disclosed] in an emergency to any person who needs that particular information for the purpose of preventing injury to a student or staff. The school shall not disclose any information that is not needed for this specific purpose. [~~The school may disclose any records if they are properly subpoenaed, if a court orders them to be produced, to the school's own legal counsel, or to anyone working on behalf of legal counsel in providing representation to the school.~~]

F. The school shall permit a parent [~~or parents~~] to inspect and review any education records relating to their child that are collected, maintained, or used by the school. The school shall comply with a request without unnecessary delay and before any meeting regarding an IEP or 504 Plan. [~~or in no case more than 14 calendar days after the request has been made.~~] The right to inspect and review education records under this section includes:

1. The right to a response from the school to reasonable requests for explanations and interpretations of the records;

2. The right to request that the school provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records;

3. The right to have a representative of the parent inspect and review the records; and

4. A school may presume that a parent has authority to inspect and review records relating to his child unless the school has been advised that the parent does not have the authority under applicable Virginia law governing such matters as guardianship, separation, and divorce.

G. Each school shall keep a record of parties, except parents and authorized employees of the school, obtaining access to education records collected or maintained, including the name of the party, the date of access, and the purpose of the access.

H. If any education record includes information on more than one child, the parent(s) of those children have the right to inspect and review only the information relating to their child or to be informed of the specific information requested.

I. Schools may charge a fee for copies of records that are made for a parent(s) under this chapter if the fee does not effectively prevent the parent(s) from exercising their right to inspect and review those records. A school may not charge a fee to search for or to retrieve information under this section.

J. A parent(s) who believes that information in the education records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the child may request the school that maintains the information to amend the information.

1. The school shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

2. If the school decides to refuse to amend the information in accordance with the request, it shall inform the parent(s) of the refusal and inform the parent of the right to place in the child's education records a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school.

3. Any explanation placed in the records of the child under this section must:

a. Be maintained by the school as part of the records of the child as long as the record or contested portion is maintained by the school; and

b. If the records of the child or the contested portion is disclosed by the school to any party, the explanation must also be disclosed to the party.

K. ~~Records retention~~ Transfer of records.]

When a privately placed student graduates or leaves school, ~~[the school shall offer all [education] records [shall be offered]~~ to the eligible student or parent. The records of a publicly placed student who graduates or leaves school shall be transferred to the child's ~~[public home] school.~~

~~[L. Records retention.]~~

~~[1. Each school shall maintain all education records, including discipline and medical records for as long as the student continues enrollment at the school.]~~

~~[2. When a student transfers to another school, the student's complete education record shall be transferred within five business days from the date of request and notification of the transfer to the parent, guardian, and placing agency.]~~

~~[3. When a privately placed student graduates or leaves school, the school shall offer all [education] records [shall be offered] to the eligible student or parent. The records of a publicly placed student who graduates or leaves school shall be transferred to the child's public school.]~~

[L. Permanent record of attendance]

[4.] Each school shall maintain a permanent record of attendance to include the following:

~~fa. 1.] Name and address of school;~~

~~fb. 2.] Name, address, and birth date of student;~~

[3.] Name and address of the home school division for publicly placed students;]

~~fc. 4.] Name and address of [the] parent or parents;~~

~~fd. 5.] Student ID [number];~~

~~fe. 6.] Dates of attendance; [and]~~

~~ff. 7. Verification of immunizations; Academic transcript.]~~

~~fg. 8. Scholastic work completed; and~~

~~h. Academic transcript~~

[8VAC20-671-770. 8VAC20-671-760.] Participation of students in human research.

A. No human research involving students shall be conducted or authorized by any school unless in compliance with the Board of Education's regulation, 8VAC20-565, or other applicable law, including 45 CFR Part 46.

B. No such research shall be conducted or authorized unless the student and the student's legally authorized representative give their informed consent. Such informed consent shall be by a signed and witnessed informed consent form. Such form shall comply with § 32.1-162 of the [Code of Virginia.]

C. Any such research shall be approved and conducted under the review of a human research committee, which shall be established by the school conducting or authorizing the research. Any such committee shall comply with the provisions of § 32.1-162.19 of the [Code of Virginia]. The committee shall submit to the Governor, the General Assembly, and the Superintendent of Public Instruction or designee at least annually a report on the student projects reviewed and approved by the committee, which shall state significant deviations from the proposals as approved.

D. There shall be excluded from the operation of this chapter those categories of research in § 32.1-162.17 of the Code of Virginia that exempt research or student learning outcomes as conducted in educational settings involving regular or special education instructional strategies; the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subjects.

[8VAC20-671-780. 8VAC20-671-770.] Procedures for [permanent] school closing.

A. A school that ceases operation shall provide written notice as early as possible to all enrolled students, the parent(s), the student's public school, and licensing agencies.

B. All advertisements of the school's operation shall cease immediately, and the current license to operate shall be returned promptly to the licensing agency.

C. If privately placed students are unable to complete the academic year due to the school's closing, the school's guaranty instrument shall be used for tuition reimbursement to the fullest extent allowable.

D. All education records of privately placed students shall be provided to the parent or student who has reached 18 years of age and acknowledgement of such to the licensing agency.

E. All education records of publicly placed students shall be returned to the school division of the parent's residence and acknowledgement of such to the parent or student who has reached 18 years of age, and the licensing agency.