



Virginia Board of Education – September 2022 Meeting Update

On September 14 and 15, 2022, the [Virginia Board of Education](#) (Board) met for its scheduled work session and business meeting. The proceedings were live streamed for viewers, and a recording of the meetings can be found [here](#). While we do our best to give you a concise summary of the topics discussed during each meeting, we encourage you and your superintendent to review this information to better understand how it will impact your school division.

Virginia Board of Education Work Session

On the afternoon of September 14, 2022, members of the Virginia Board of Education convened for a [work session](#) and received reports on the following items: [Update on the Process to Review and Revise the History and Social Science Standards of Learning](#), [An Overview of Virginia's School Accreditation Model](#), and [Annual Pass Rates for Virginia's State Assessments \(Annual Pass Rates for Virginia's State Assessments Presentation\)](#). Following robust discussion on each agenda item, the September work session was adjourned.

Virginia Board of Education Business Meeting

Board President Dan Gecker called the meeting to order. The first order of business was Approval of the Minutes from the August meeting of the Board. A motion was made and seconded to approve the August Board Meeting Minutes. The motion carried unanimously.

After a lengthy period of public comment, the Board proceeded to adopt Items B and C on the Consent Agenda. **[Item B- First Review of Guidelines and Criteria for the Award and Distribution of Lab School Start-up and Per-Pupil Funding Grants](#)**, **[Item C- First Review of an Amendment to Virginia's Consolidate State Plan under the Every Student Succeeds Act of 2015 \(ESSA\) – Amendment 5. \(Item C- Presentation\)](#)**.

Having accepted the items on its Consent Agenda, the Board proceeded to hear the following items for Action and Discussion:

[Item A- Final Review to Certify a List of Qualified Persons for the Office of Division Superintendent of Schools](#). A motion was made and seconded to remove Item A from the Board's Consent Agenda. The Board voted unanimously to remove Item A from the Consent Agenda and proceeded to discuss the matter. A motion was made to remove one candidate from the List of Qualified Persons for the Office of Division Superintendent of Schools for additional deliberation by Board members.

Following this procedure, a motion was made and seconded to Certify a List of Qualified Persons for the Office of Division Superintendent minus the candidate removed for further discussion. The motion passed unanimously.

After discussion by Board members, a motion was made and seconded to certify the candidate removed from Item A to the List of Qualified Persons for the Office of Division Superintendent of Schools. The motion passed on a vote of 6-2.

Item D- Final Review of Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes. Ms. Vanessa Wigand, Health, and Physical Education Coordinator, VDOE, presented Item D to the Board. In 2020, the Code of Virginia was amended to include [§ 22.1-271.8](#) directing the Board to develop, biennially update, and distribute to school divisions guidelines on policies to inform and educate coaches, student-athletes, and student-athletes' parents or guardians about the nature and risk of sudden cardiac arrest (SCA). This will guide procedures for removal from and return to play, and the risks of not reporting symptoms. A student-athlete removed from play shall not return to play until they are evaluated by and receive written clearance to return to physical activity from an appropriate licensed health care provider as determined by the Board. The licensed health care provider evaluating student-athletes may be a volunteer.

The purpose of the Virginia Board of Education Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes is to protect student-athletes by providing recommendations that support the development and implementation of effective SCA prevention policies in local school divisions through education, prompt recognition, and appropriate response. SCA is a sudden loss of heart function most frequently caused by an abnormality in the heart's electrical system and is different from a heart attack which involves a blockage in a blood vessel to the heart. While rare, SCA is the leading medical cause of death in young athletes. Hence, raising awareness of warning signs and risk factors, putting a strong cardiac emergency action plan in place, and screening for heart conditions are key as SCA is often prevented when the underlying causes are diagnosed and treated.

The proposed guidelines will help ensure that schools statewide have a healthy and safe environment and support Priority 1 of the Board's Comprehensive Plan. The proposed Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes were developed in consultation with clinicians with subspecialties in pediatric sports medicine, pediatric cardiology, interventional cardiology, emergency medicine, family medicine, and other stakeholders affiliated with the Virginia Chapter of the American Academy of Pediatrics, Virginia College of Emergency Physicians, Virginia Athletic Trainers' Association, Virginia Association of School Nurses, Virginia Association for Health, Physical Education, Recreation and Dance, American Medical Society for Sports Medicine, Virginia Association of Clinical Nurse Specialists, Children's Hospital of the King's Daughters, Virginia Commonwealth University School of Medicine, Virginia High School League



Sports Medicine Advisory Committee, the American Board of Family Medicine, Virginia Department of Health, and the Virginia School Board Association.

The Superintendent of Public Instruction recommended that the Board approve for final review the proposed 2022 Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes and authorize the VDOE to make technical edits.

A motion was made and seconded to adopt Item D for Final Review. The motion passed on a 7-1 vote.

Item E- Final Review of Revisions to the Child Care Program Regulations (8VAC20-790) to Comply with Requirements of the 2023-2024 Appropriations Act (Exempt Action).

Ms. Jenna Conway, Deputy Superintendent, Early Childhood Care and Education, VDOE, presented Item E to the Board. New language in [Item 129Q](#) of the 2022-2024 Appropriations Act directs the VDOE to increase access and ensure choice across the public-private early childhood system in order to improve statewide school readiness by taking the following actions after July 1. Specifically, the budget language requires the VDOE to:

- Estimate the actual cost of providing high-quality care and education services in community-based settings and adjusting rates accordingly.
- Pay based on enrollment, setting rates based on cost benchmarks.
- Eliminate or reduce copayments for private childcare options that align with public options; Remove the existing 72-month limit on the duration of time that families may participate
- Set 85% of State Median Income as the income threshold for initial eligibility for families with young children.
- Include employment search as an approved activity for initial eligibility.
- Eliminate the waitlist for the Child Care Subsidy Program (CCSP).

The budget directives conflict with the current Child Care Program ([8VAC 20-790](#)) regulations. Non-discretionary amendments to these regulations are necessary to align with this Appropriations Act directive. Additionally, the public will be better notified of current policy and procedures by amending the regulations.

The Superintendent of Public Instruction recommended that the Board approve for Final Review of Item E.

A motion was made and seconded to approve Item E on Final Review. The motion passed by a unanimous vote of the Board.

Item F- First Review of Comprehensive Revisions to the General Procedures and Information for Licensure, and Background Checks for Child Day Programs and Family Day Systems (Proposed Stage). Ms. Jenna Conway, Deputy Superintendent, Early Childhood Care and Education, VDOE, presented Item F to the Board for First Review. Chapter [860](#) and [861](#) of the Acts of Assembly (2020) transferred oversight of childcare programs and regulations to the Board. Action taken by the Board on April 21, 2021, transferred all childcare regulations from the Board of Social Services to the Board of Education. The Board approved the Notice of Intended Regulatory Action (NOIRA) for the General Procedures and Information for Licensure (“General Procedures”; [8VAC20-820](#)) regulations and Background Checks for Child Day Programs and Family Day Systems (“Background Checks”; [8VAC20-770](#)) regulation at the November 18, 2021, meeting as a comprehensive review of the regulations were necessary to implement the programs in accordance with the Act, and to incorporate substantive policy changes to align with the Code of Virginia and revised program policy and procedures. The NOIRA’s were submitted for executive branch review, pursuant to the requirements of the Administrative Process Act. The 30-day public comment period on these regulatory actions ended on March 2, 2022.

VDOE staff began an initial review of the General Procedures and Background Checks regulations when the Board assumed the authority for these regulations in July 2021. VDOE staff created an internal workgroup to comprehensively review the regulations. The internal workgroup determined that a single regulatory chapter that contained the components of the General Procedures, the Background Checks, and the Fee Requirements for Processing Applications (“Fee Requirements”; [8VAC20-830](#)) regulations was the most prudent and efficient way to proceed. Therefore, a single replacement chapter was submitted to the Early Childhood Advisory Committee (ECAC) for their review and feedback on May 19, 2022, and June 23, 2022. At the May meeting, ECAC reviewed a draft that contained the combined General Procedures and Fee Requirements. The draft submitted to ECAC for the June meeting integrated the proposed changes to Background Checks. Although the full draft was submitted to ECAC at the June 23, 2022, meeting, the committee did not have a quorum present to make a formal endorsement to the Board.

The draft before the Board eliminates informational and redundant language, defers to statutory structures to reduce conflicts and the need to update regulatory text, and streamlines processes for administrative convenience that will ultimately benefit the public. In the process, the draft has achieved a significant reduction and improved clarity without reducing protections for either children or childcare providers. Major areas of revision include the specification of qualifications of licensure, standards of conduct to reduce gaps in enforcement, and a reduction of regulations regarding enforcement proceedings.

It is the recommendation of the Superintendent of Public Instruction that the Board accept Item F for First Review. The Board accepted Item F for First Review.

Item G- First Review of Proposed Addition to Board Guidance on the Applied Studies

Diploma. ([Item G- Presentation](#)). Dr. Samantha Hollins, , Assistant Superintendent, Department of Special Education and Student Services, VDOE, presented Item G to the Board for First Review. The Applied Studies Diploma is a state recognized diploma outlined in the Code of Virginia ([§ 22.1-253.13:4](#)) and the Board’s Regulations Establishing Standards for Accrediting Public Schools in Virginia ([8VAC20-131](#)). This option is available to students identified as having a disability who complete the requirements of their Individualized Education Programs (IEPs) and meet certain requirements prescribed by the Board pursuant to regulations, but do not meet the requirements for any named diploma. VDOE has developed an Applied Studies Curriculum Map based upon national research analysis and stakeholder input to meet the needs of students with disabilities more effectively and to align instruction to ensure student success over a variety of skill domains. The flexibility provided by current regulatory language is key as students eligible for this diploma often have unique and individualized needs and goals that are best captured at the individualized education program level. This guidance will ensure the structure for rigorous high-quality instruction and supports while recognizing the unique needs of the student population and the ability to be responsive to changes in research-based practices and development of high-quality supports.

This guidance and accompanying materials have been in use in the field, and the VDOE has supported targeted division-level pilots of the utilization of the materials across multiple school divisions during both the 2020-2021 and 2021-2022 school years. This support includes targeted technical assistance as well as professional development that will continue with the adoption of this Board guidance. The VDOE is aligning actions around the development of the Statewide Strategic Plan for Transition and ongoing studies such as the Virginia General Assembly’s Commission on Youth’s study on the transition process for students with disabilities. Annual data is also reviewed alongside assessment participation for students with significant cognitive disabilities to ensure alignment between early decisions regarding diploma options and corresponding instructional and assessment decisions and to inform federal program monitoring in special education. Adoption of this guidance to support the implementation of statewide requirements for earning an Applied Studies Diploma will encourage high expectations for students with significant disabilities while ensuring maximum flexibility of IEP Teams to support students as they pursue this diploma option.

The Board’s adoption of this guidance will emphasize high expectations for all students with disabilities. The Department will rely on federal guidelines, technical assistance, monitoring and utilization of the Virginia Alternate Assessment Program (VAAP) to ensure that all students with disabilities have access to high-quality instruction, materials, supports and the opportunity to pursue all diploma options available to non-disabled students. The Department will ensure school divisions continue to prioritize the individualized assessment of student needs and monitor school division implementation of this guidance to ensure all students with disabilities have equal access to high-quality educational opportunities. The Department will work with school divisions and

partners to ensure that parents are involved, well-informed, and included in all decision-making related to diploma options for students with disabilities.

It was the recommendation of the Superintendent of Public Instruction that the Board accept Item G for First Review. The Board accepted Item G for First Review.

Item H- First Review of Guidelines for Implementing New Appropriation Act Provisions for Literary Fund School Construction Loans for the 2022-2024 Biennium. Mr. Kent C. Dickey, Deputy Superintendent of Budget, Finance, and Operations, VDOE, presented Item H to the Board for First Review. The 2022 Appropriation Act (i.e., Chapter 2 budget) enacted for the 2022-2024 biennium includes substantial support for local school construction and renovation through two grant programs as well as authorization to issue school construction loans from the state's Literary Fund. The 2022-2024 appropriation act also includes several new budget language provisions impacting the application process and award of Literary Fund school construction loans. Item 137, Paragraph C.11 of the 2022 Appropriation Act for the 2022-2024 biennium, includes the following provisions related to Literary Fund school construction loans:

- Language authorizing the Board to offer up to \$200,000,000 in fiscal year (FY) 2023 and up to \$200,000,000 in FY 2024 from the Literary Fund for school construction loans, subject to the availability of funds. Amounts designated for school construction loans that are not obligated in FY 2023 may be obligated in FY 2024.
- Establishing an annual open enrollment process by which localities and school boards apply to the Literary Fund for school construction loans, in lieu of the First Priority and Second Priority waiting list process for awarding loans. Priority for loan funding is based on the local composite index of ability-to-pay (but the Board may consider other critical projects for priority).
- Establishing a maximum Literary Fund loan amount per project of \$25.0 million (from \$7.5 million currently authorized in the Code of Virginia).
- In consultation with the Department of the Treasury, establishing loan interest rates that are benchmarked to a market index interest rate on an annual basis, not to exceed 2.0 percent for the tier of localities with a school division local composite index of ability-to-pay between 0.0000 and 0.2999.
- Language authorizing the Board to offer a loan add-on amount not to exceed \$5.0 million per loan for projects that will result in school consolidation and the net reduction of at least one existing school.

Senate Bill 471, which was signed by the Governor on August 4th, includes similar provisions for Literary Fund loans as the 2022 Appropriation Act provisions listed above. However, there is a delayed enactment of SB471 of four months following the adjournment of 2022 Special Session I, which is still in session. SB471 also requires the Board to amend its Literary Fund regulations to implement the provisions of the bill. As the Board is responsible for management of the Literary

Fund and awarding of school construction loans from the Fund, these proposed guidelines are intended to facilitate implementation of the new appropriation act provisions (and eventually the similar provisions in SB471) impacting the application for and awarding of Literary Fund school construction loans during the 2022-2024 biennium.

The Virginia Department of the Treasury, which serves as accountant for the Literary Fund, was consulted in the development of the proposed guidelines. Treasury and VDOE staff collaborated on the overall content of the proposed guidelines, with Treasury staff providing specific recommendations for implementing a market index interest rate as a benchmark for establishing Literary Fund loan interest rates. Notwithstanding the forthcoming enactment of SB471, if subsequent legislative action on the state budget during the 2022-2024 biennium results in substantive revisions to language provisions affecting Literary Fund loans, the guidelines will be updated accordingly and presented to the Board for review and approval. These guidelines will remain in effect initially for the 2022-2024 biennium, and then for future biennium if the new budget language provisions affecting Literary Fund school construction loans are continued in future biennial budgets.

The Superintendent of Public Instruction recommends that the Board of Education waive First Review and approve Item H for Final Review.

A motion was made and seconded to waive First Review and approve Item H for Final Review. The motion passed unanimously.

Item I- First Review of Preliminary Unified Regulatory Plan for Compliance for Executive Order 19. *Item I was removed from the Board's September agenda to be brought before the Board at a future meeting.*

Item J- First Review of Proposed Technical Revisions to the Bylaws of the Virginia Board of Education to Comply with Statutory Changes. ([Item J- Attachment A](#)). Mr. Jim Chapman, Regulatory and Legal Coordinator, VDOE, presented Item J to the Board for First Review. The Bylaws of the Virginia Board of Education ("Bylaws") are the rules governing the Virginia Board of Education (Board). The Bylaws were first adopted by the Board in 2000 and were subsequently amended in 2001, 2004, and 2016.

VDOE staff has made proposed revisions to the Bylaws in two areas in order to ensure compliance with applicable state laws. The first area of revision concerns electronic participation (Article Four, Section 11). A new section of the Virginia Freedom of Information Act ("FOIA"), § [2.2-3708.3](#), went into effect on September 1, 2022.

The new section alters the requirements for electronic participation in situations other than declared states of emergency, and the proposed revisions ensure compliance with FOIA. The



second area of revision concerns the directions for executive sections (Article Five). In order to hold a closed meeting, the Board must comply with the requirements of FOIA found in §§ [2.2-3711](#) and [2.2-3712](#). The suggested revisions add additional language and directions from state law to ensure compliance.

The suggested revisions are being presented by the Board for consideration and general discussion. VDOE staff will take note of additional changes requested by members of the Board to bring for final review in October.

It is the recommendation of the Superintendent of Public Instruction that the Board accept Item J for First Review. The Board accepted Item J for First Review.

[Item K](#)- **First Review of the Proposed 2023 Board of Education Meeting Dates.** Ms. Emily V. Webb, Director of Board Relations, VDOE, presented Item K to the Board for First Review. Beginning in 2018, the Board of Education meeting schedule has included eight business meeting dates and eight standing committee meeting dates. The proposed 2023 meeting schedule continues with eight meeting dates. The Board will not hold a meeting in the months of February, May, August or December. The April meeting dates includes an additional day for an off-site retreat.

In addition to the monthly meetings, the President may call special meetings of the full Board of Education and its committees, as deemed necessary. Unless otherwise announced, Board of Education meetings will be held in the Board Room on the 22nd floor of the James Monroe Building, 101 N. 14th Street, Richmond, VA 23219.

The proposed business meeting dates for 2023 are as follows: Thursday, January 26, Thursday, March 16, Thursday, April 20, Thursday, June 15, Thursday, July 20, Thursday, September 14, Thursday, October 19, and Thursday, November 16.

The proposed work session and committee meeting dates for 2023 are as follows: Wednesday, January 25, Wednesday, March 15, Tuesday and Wednesday, April 18-19, Wednesday, June 14, Wednesday, July 19, Wednesday, September 13, Wednesday, October 18, Wednesday, and November 15.

The current term of office for the President and Vice-President of the Board is July 2021 – July 2023. The next term of office for the President and Vice-President of the Board will be July 2023- July 2025. An election of a new President and Vice-President will occur in July 2023.

The Superintendent of Public Instruction recommends the Board accept Item K for First Review. The Board accepted Item K for First Review.



With all action items resolved, the Board accepted the following written report submitted for review:

[Item L](#)- Update on Data Trends Used to Inform Virginia's Strategic Plans for Educator Recruitment and Retention. ([Item L- Presentation](#)).

Following the presentation of Item L, the Board engaged in discussion of Current Issues which included an update from Superintendent Jillian Balow. Following this discussion, the September Board meeting was adjourned.

The next meeting of the Virginia Board of Education will be **October 19 and 20, 2022**.