

Guidelines for Considering and Approving Requests for Pre-Labor Day Openings

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Section [22.1-79.1](#) of the *Code of Virginia* governs the conditions under which the Board of Education may grant a waiver to a local school board to open school before Labor Day.

§ [22.1-79.1](#). Opening of the school year; approvals for certain alternative schedules.

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be after Labor Day. The Board of Education may waive this requirement based on a school board certifying that it meets one of the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means:

1. A school division has been closed an average of eight days per year during any five of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations;

2. A school division is providing, in the school year for which the waiver is sought, an instructional program or programs in one or more of its elementary or middle or high schools, excluding *Virtual Virginia*, which are dependent on and provided in one or more elementary or middle or high schools of another school division that qualifies for such waiver. However, any waiver granted by the Board of Education pursuant to this subdivision shall only apply to the opening date for those schools where such dependent programs are provided;

3. A school division is providing its students, in the school year for which the waiver is sought, with an experimental or innovative program which requires an earlier opening date than that established in subsection A of this section and which has been approved by the Department of Education pursuant to the regulations of the Board of Education establishing standards for accrediting public schools. However, any waiver or extension of the school year granted by the Board of Education pursuant to this subdivision or its standards for accrediting public schools for such an experimental or innovative program shall only apply to the opening date for those schools where such experimental or innovative programs are offered generally to the student body of the school. For the purposes of this subdivision, experimental or innovative programs shall include instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools; or

4. A school division is entirely surrounded by a school division that has an opening date prior to Labor Day in the school year for which the waiver is sought. Such school division may open schools on the same opening date as the surrounding school division....

The guidelines for waiving the requirement that local school divisions open after Labor Day are as follows:

1. The initial request for a waiver to approve an experimental or innovative program, including a year-round school program, shall be submitted to the Board of Education for approval. Once the

initial approval is granted by the Board of Education, the Superintendent of Public Instruction is hereby delegated authority to continue to approve the waiver in subsequent years unless the Board places conditions or time limits on its approval, or unless the conditions under which the approval was granted to the local school board are changed.

2. The Superintendent of Public Instruction is hereby delegated the authority by the Board of Education to waive, on its behalf, all other requests from local school boards to begin school prior to Labor Day where “good cause” requirements have been certified by the school division to the satisfaction of the Superintendent.
3. The local school board shall submit annually to the Superintendent of Public Instruction certification of eligibility for a waiver of the “good cause” requirements of §[22.1-79.1](#), *Code of Virginia*. Such certification shall be made in a manner prescribed by the Superintendent of Public Instruction. School divisions must maintain evidence that such “good cause” conditions have been met.
4. To request approval of a waiver for weather-related or other emergency conditions, the local school board shall submit information annually indicating that the school division has been closed for an average of eight days per year in any five of the past ten years because of severe weather conditions, energy shortages, power failures, or other emergency conditions.
5. To request approval of a waiver for a dependent program, the local school board shall submit information annually indicating that each school for which a waiver is requested provides an instructional program, excluding Virtual Virginia, which is dependent upon a school in another division that qualifies for a waiver.
6. To request initial approval of a waiver for a pre-Labor Day opening for an experimental or innovative program, the local school division shall submit such request to the Board of Education on a form prescribed by the Superintendent of Public Instruction. Such request shall set forth a thorough explanation of the experimental or innovative program and the specific reasons that compel a pre-Labor Day opening. The following procedures apply to applications for experimental or innovative programs:
 - a. The experimental or innovative program must be approved by the Board pursuant to its Regulations Establishing Standards for Accrediting Public Schools in Virginia 8 VAC 20-131-290, which specifies that the request must include:
 - 1) Purpose and objectives of the experimental/innovative programs;
 - 2) Description and duration of the programs;
 - 3) Anticipated outcomes;
 - 4) Number of students affected;
 - 5) Evaluation procedures; and
 - 6) Mechanisms for measuring goals, objectives, and student academic achievement.
 - b. Any waiver or extension of the school year granted by the Board pursuant to the experimental or innovative program provisions contained in § [22.1-79.1](#) of the *Code*, or the Board’s *Regulations Establishing Standards for Accrediting Public Schools in*

Virginia shall apply only to the opening date for those schools where such experimental or innovative programs are offered generally to the student body of the school.

- c. In accordance with § [22.1-79.1](#), of the *Code*, experimental or innovative programs shall include instructional programs which are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools.
 - d. To request approval of a waiver for a pre-Labor Day opening for an experimental or innovative program subsequent to the Board of Education's initial approval, unless the Board of Education has specified conditions under which the waiver request must go back to the Board for approval, the local school board shall submit information annually to the Superintendent of Public Instruction indicating that each school for which a waiver was granted is continuing to operate under the conditions for which the waiver was granted.
7. To request initial approval of a waiver to open before Labor Day by a school division that is completely surrounded by another school division that has been approved for a waiver, the school division shall submit the request to the Superintendent of Public Instruction by letter signed by the superintendent and the chairman of the local school board. The Superintendent of Public Instruction shall determine that the school division is completely surrounded by another school division, and that the other school division has been granted a waiver to open before Labor Day. Once the initial waiver is granted, the local school board shall submit information annually to the Superintendent of Public Instruction indicating that the conditions under which a waiver was granted have not changed.
 8. The Board of Education may request the Superintendent of Public Instruction to provide a report to the Board regarding the status of certifications submitted and waivers granted under the above-stated policies. Such report shall be provided in a manner and at a time as agreed to by the Superintendent and the President of the Board and shall include information deemed pertinent by the Superintendent of Public Instruction.