

**PRESENTATION TO THE
VIRGINIA BOARD OF
EDUCATION**
JUNE 26, 2013

**EMPLOYMENT OF
INSTRUCTIONAL PERSONNEL,
LICENSURE PROCESS, AND
PART VII-LICENSURE
REGULATIONS FOR SCHOOL
PERSONNEL REGARDING
ACTIONS ON LICENSES**

OVERVIEW OF THE SCHOOL BOARD EMPLOYMENT PROCESS (HIRING AND DISMISSAL)

EMPLOYMENT OF INSTRUCTIONAL PERSONNEL

LOCAL SCHOOL BOARD

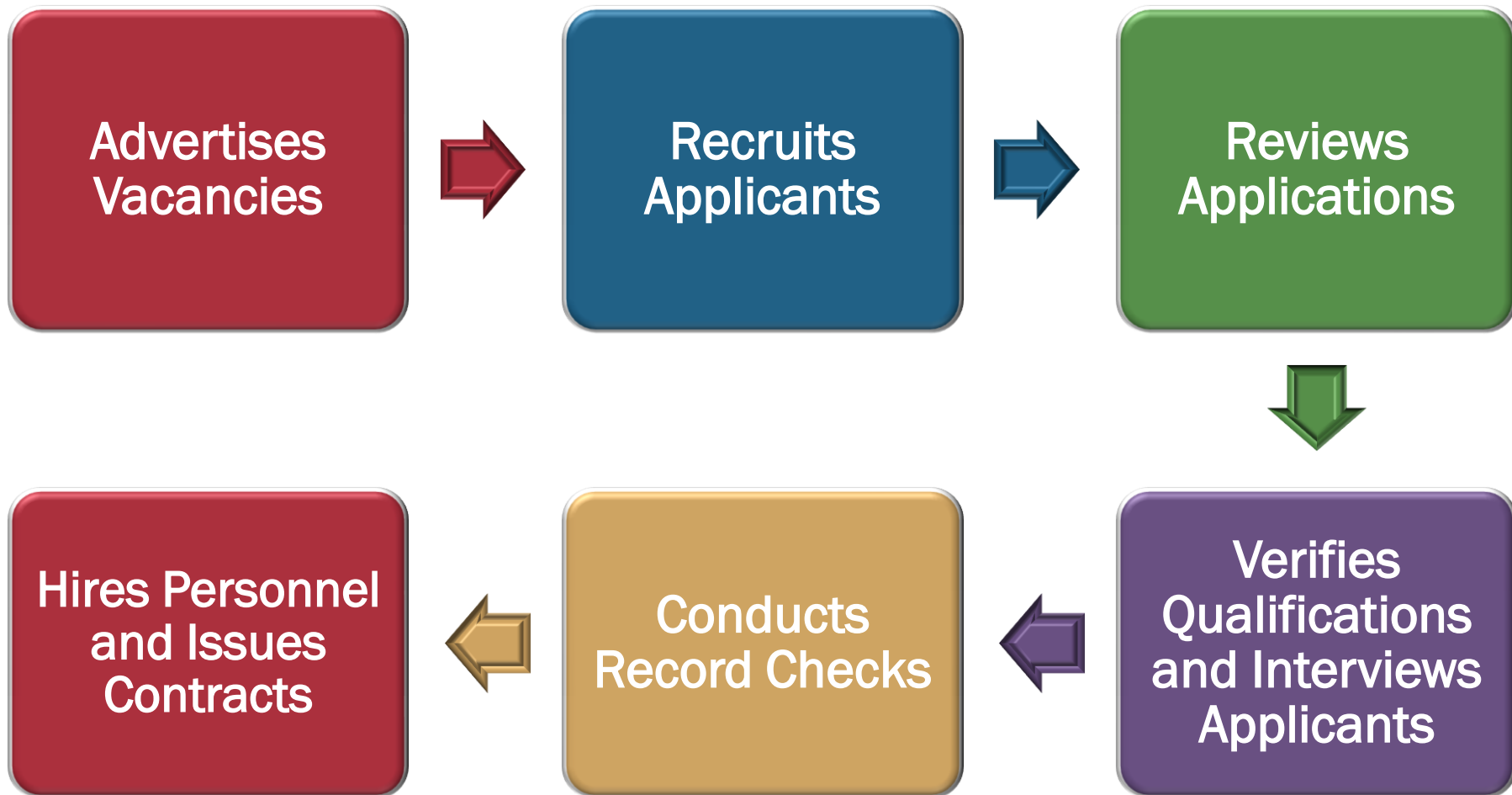
A local school board has the responsibility of the employment of instructional personnel.

Authority

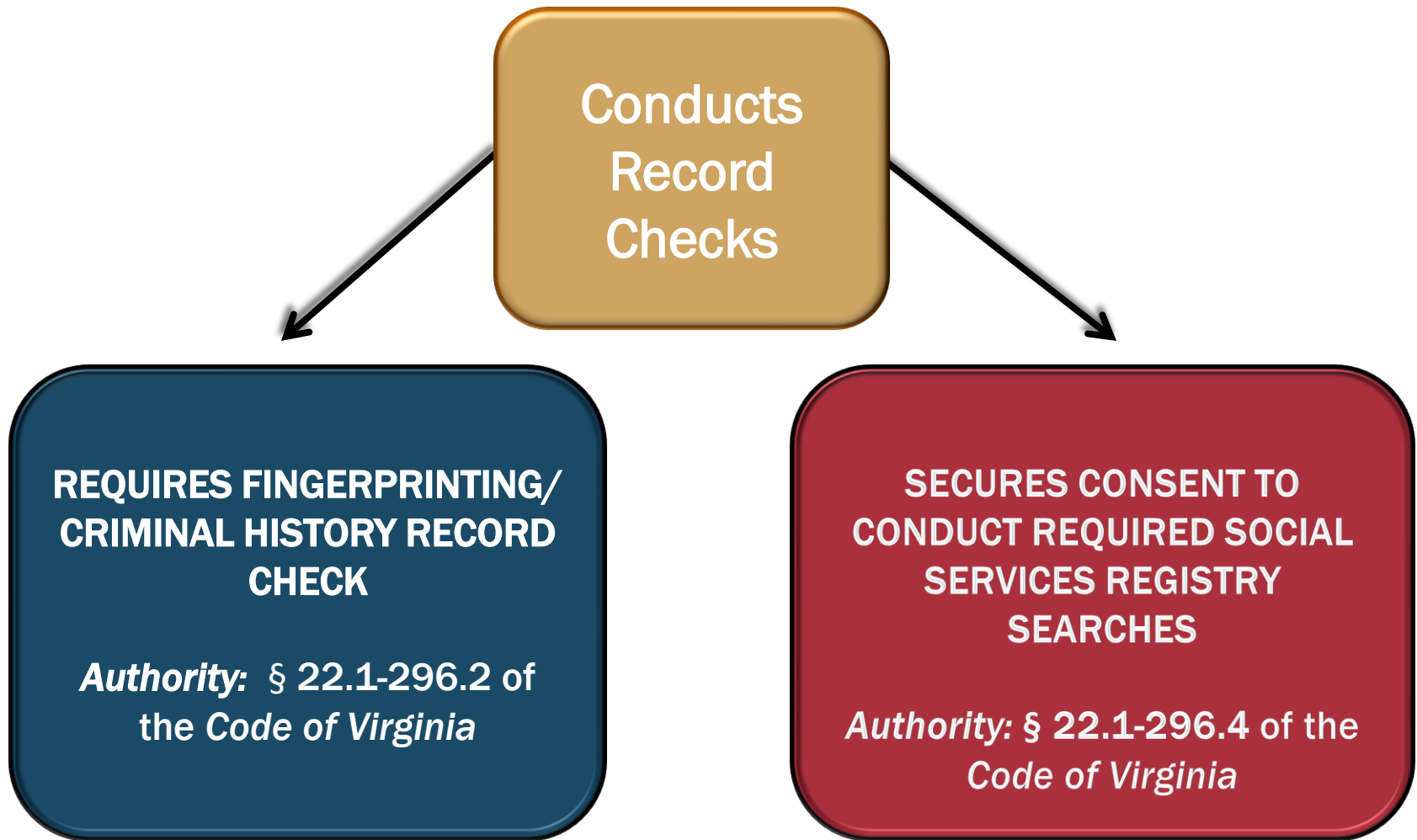
Constitution of Virginia: Article VIII, Section 7 of the Virginia Constitution provides that “the supervision of schools in each school division shall be vested in a school board, to be composed of members selected in the manner, for the term, possessing the qualifications, and to the number provided by law.”

OVERVIEW OF HIRING

HIRING PROCESS



HIRING PROCESS: RECORD CHECKS



HIRING PROCESS: FINGERPRINTING

§ 22.1-296.2. Fingerprinting required; reciprocity permitted.

A. As a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment after July 1, 1989, whether full-time or part-time, permanent, or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant....

HIRING PROCESS: SOCIAL SERVICES REGISTRY SEARCH (VIRGINIA)

§ 22.1-296.4. Child abuse and neglect data required.

A. On and after July 1, 1997, every school board shall require, as a condition of employment, that any applicant who is offered or accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, provide written consent and the necessary personal information for the school board 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....

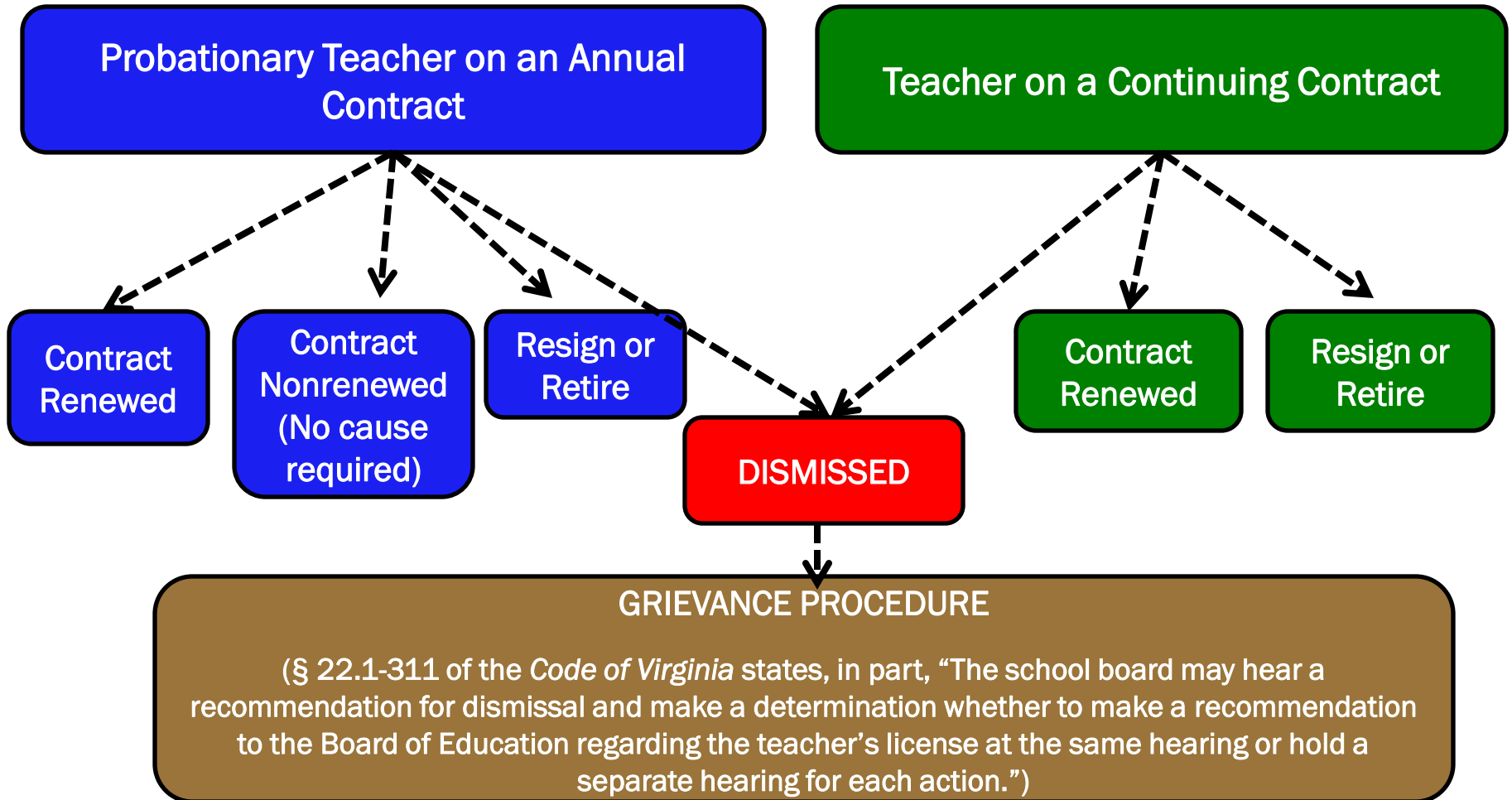
HIRING PROCESS: SOCIAL SERVICES REGISTRY SEARCH (OUT OF STATE)

§ 22.1-296.4. Child abuse and neglect data required.

A. ...In addition, where the applicant has resided in another state within the last five years, the school board shall require as a condition of employment that such applicant provide written consent and the necessary personal information for the school board to obtain information from each relevant state as to whether the applicant was the subject of a founded complaint of child abuse and neglect in such state.... The Department of Social Services shall maintain a database of central child abuse and neglect registries in other states that provide access to out-of-state school boards, for use by local school boards.

OVERVIEW OF DISMISSAL

DISMISSAL OF TEACHER



GRIEVANCE PROCEDURE

(§ 22.1-311 of the *Code of Virginia* states, in part, “The school board may hear a recommendation for dismissal and make a determination whether to make a recommendation to the Board of Education regarding the teacher’s license at the same hearing or hold a separate hearing for each action.”)

Note: If the basis for dismissal is also grounds for revocation or suspension of the license, the process governing actions against licenses would apply.

GROUNDS FOR DISMISSAL OF TEACHER

§ 22.1-307. Dismissal, etc., of teacher; grounds.

- A. Teachers may be dismissed [emphasis added] or placed on probation for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence when in compliance with federal law, conviction of a felony or a crime of moral turpitude or other good and just cause. A teacher shall be dismissed [emphasis added] if such teacher is or becomes the subject of a founded complaint of child abuse and neglect, pursuant to § 63.2-1505, and after all rights to an appeal provided by § 63.2-1526 have been exhausted. The fact of such finding, after all rights to an appeal provided by § 63.2-1526 have been exhausted, shall be grounds for the local school division to recommend that the Board of Education revoke such person's license to teach. No teacher shall be dismissed or placed on probation solely on the basis of the teacher's refusal to submit to a polygraph examination requested by the school board.
- B. For the purposes of this article, "incompetency" may be construed to include, but shall not be limited to, consistent failure to meet the endorsement requirements for the position or performance that is documented through evaluation to be consistently less than satisfactory....

LICENSURE PROCESS

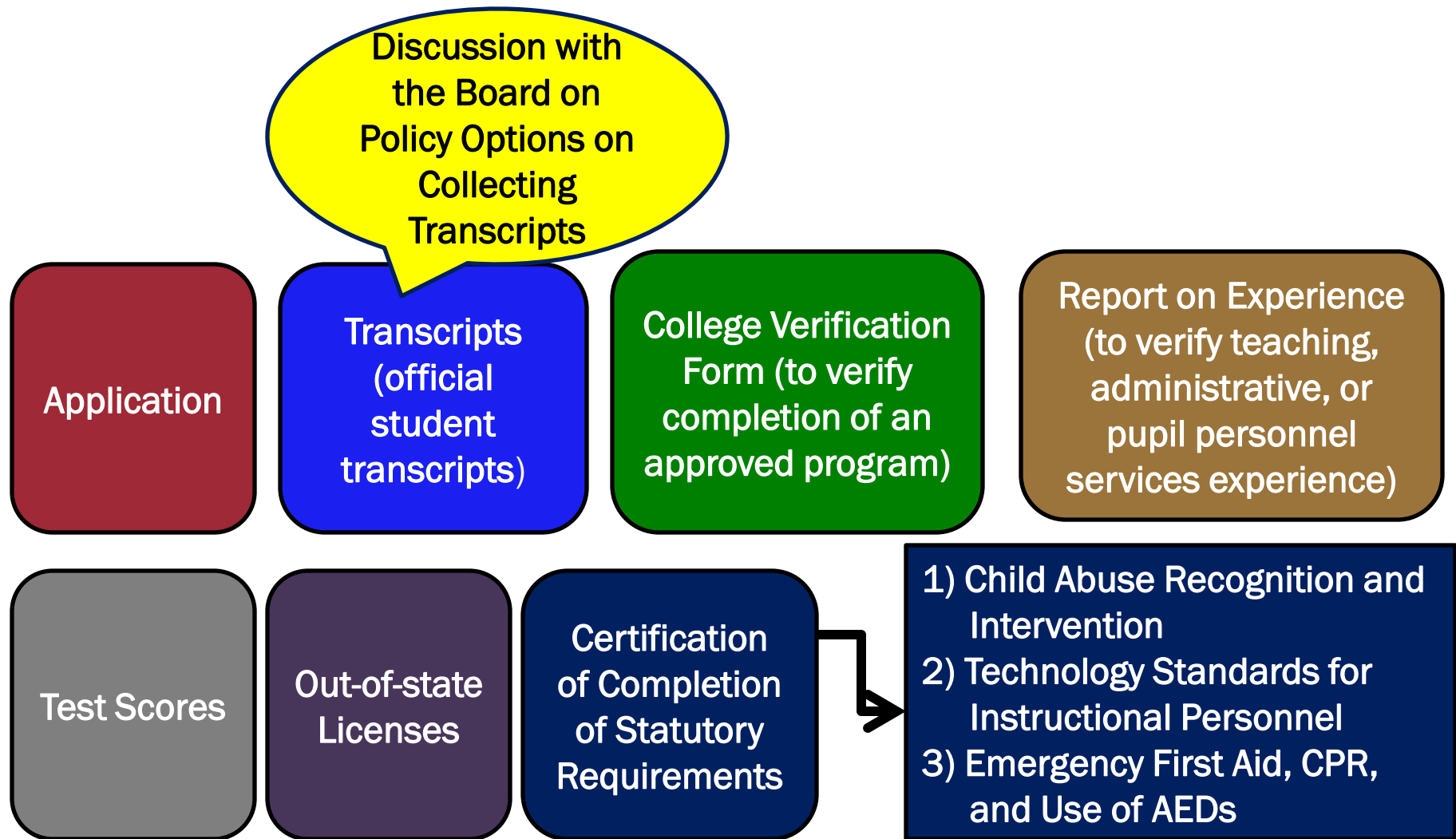
LICENSING SCHOOL PERSONNEL

§ 22.1-299 License required of teachers. (Code of Virginia)

No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education or a three-year local eligibility license issued by a local school board pursuant to § 22.1-299.3....

LICENSURE PROCESS: APPLICATION

COMPONENTS OF THE APPLICATION FOR A VIRGINIA LICENSE



LICENSE APPLICATION: NEW AND REVISED QUESTIONS ON APPLICATION AND RENEWAL FORMS (JULY 1, 2013)

1. Have you ever been convicted of, or entered a plea of guilty or no contest to, a felony anywhere in the United States?
2. Have you ever been convicted of, or entered a plea of guilty or no contest to, a criminal offense in another country or a U.S. territory?
3. Have you ever been convicted of, or entered a plea of guilty or no contest to, a misdemeanor involving a child (minor)?
4. Have you ever been convicted of, or entered a plea of guilty or no contest to, a misdemeanor involving drugs (not alcohol)?

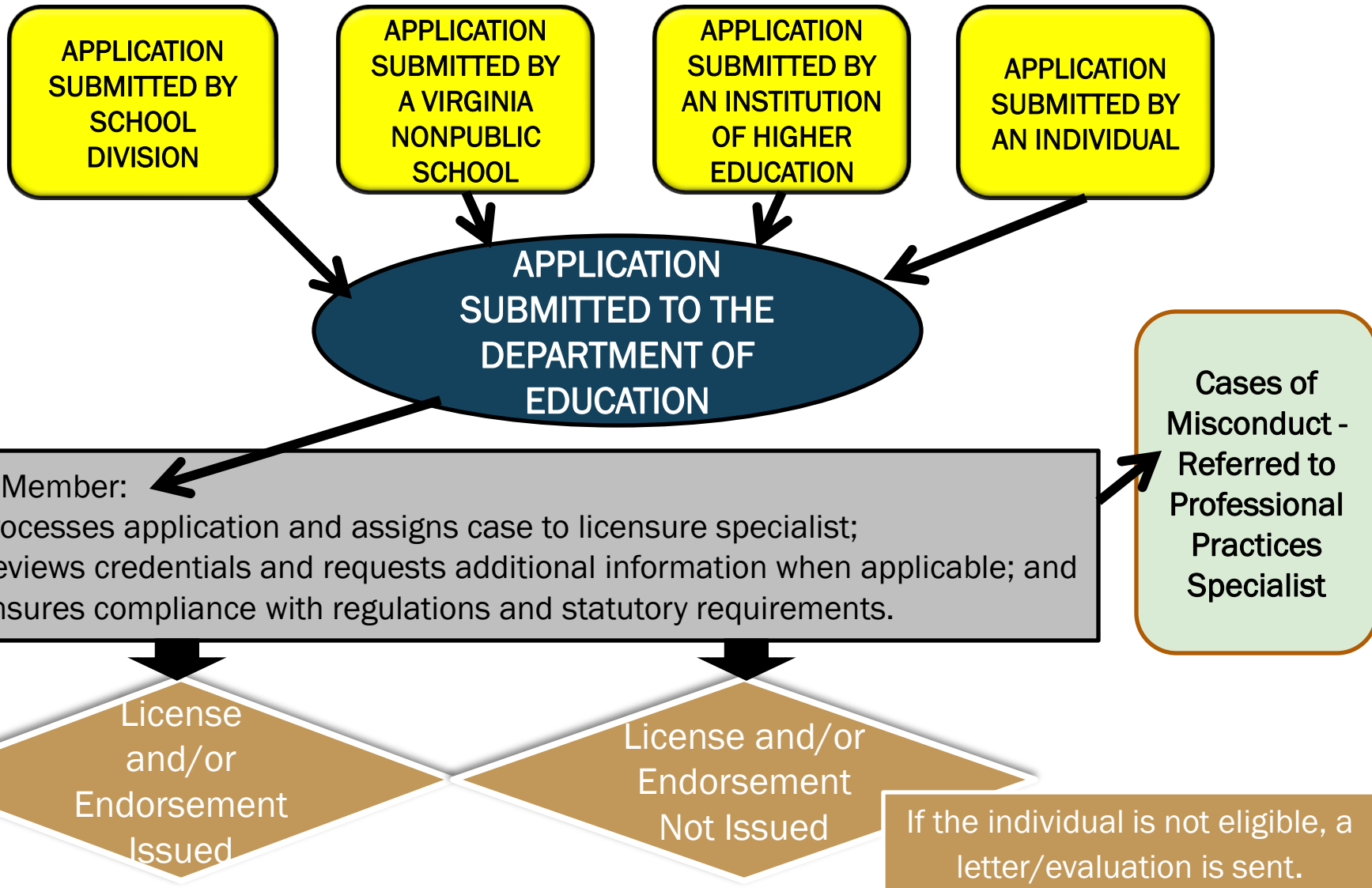
LICENSE APPLICATION: NEW AND REVISED QUESTIONS ON APPLICATION AND RENEWAL FORMS (JULY 1, 2013)

5. Have you ever had a teaching, administrator, pupil personnel services, or other education-related certificate or license revoked, suspended, invalidated, cancelled, or denied by another state, territory, or country; surrendered such a license; or had any other adverse action taken against such a license?
6. Have you ever been the subject of a founded complaint of child abuse or neglect by a child protection agency?

LICENSE APPLICATION: NEW AND REVISED QUESTIONS ON APPLICATION AND RENEWAL FORMS (JULY 1, 2013)

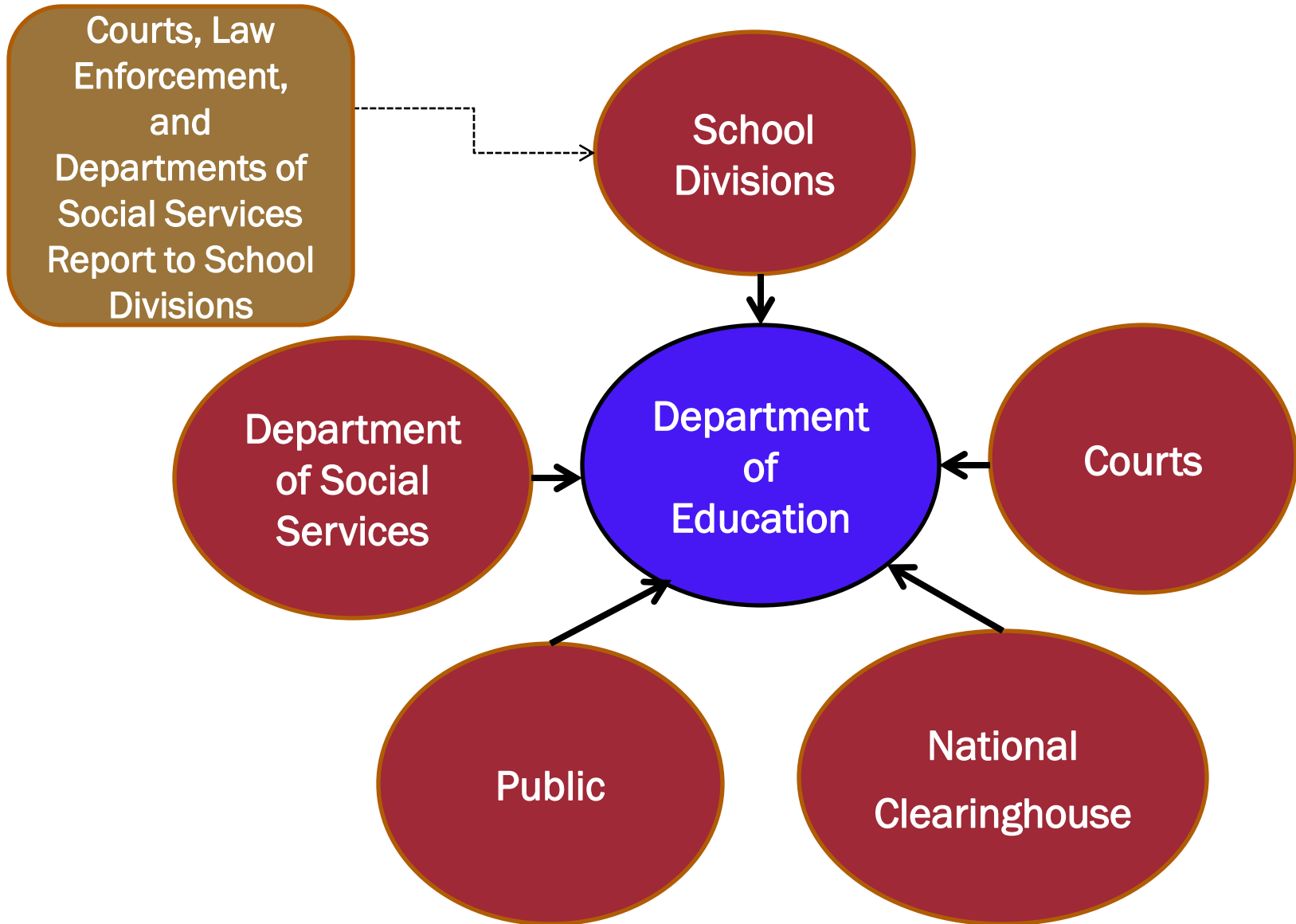
7. Have you ever left any education or school-related employment, voluntarily or involuntarily, while the subject of an investigation, inquiry, or review of alleged misconduct or when you had reason to believe an investigation of alleged misconduct was under way or imminent?
8. To your knowledge, are you currently the subject of any investigation, inquiry, or review of alleged misconduct that could warrant discipline or termination by a school division or other education-related employer or an adverse action against a teaching, administrator, pupil personnel services, or other education-related license or certificate?

LICENSURE PROCESS



REPORTS OF MISCONDUCT

REPORTS OF MISCONDUCT



REPORTING REQUIREMENTS: SCHOOL DIVISIONS

Duty to Notify the Board of Education of Teacher Dismissal or Resignation in Certain Cases (within 10 days)

§ 22.1-313 (Code of Virginia)

F. In those instances when licensed personnel are dismissed or resign due to a conviction of any felony, any offense involving the sexual molestation, physical or sexual abuse or rape of a child, any offense involving drugs, or due to having become the subject of a founded case of child abuse or neglect, the local school board shall notify the Board of Education within 10 business days of such dismissal or the acceptance of such resignation.

REPORTING REQUIREMENTS: SOCIAL SERVICES

Local Departments of Social Services: Reporting Founded Cases To Superintendent of Public Instruction

§ 63.2-1503P of the Code of Virginia:

- P. The local department shall notify the Superintendent of Public Instruction when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual if the local department knows the person holds a license issued by the Board of Education and after all rights to any appeal provided by § 63.2-1526 have been exhausted....

REPORTING REQUIREMENTS: LAW ENFORCEMENT

Law Enforcement: Reporting Arrests of School Personnel to Division Superintendent

§ 19.2-83.1 A of the *Code of Virginia* requires every “state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state” to file a report of such arrest “with the division superintendent of the employing division as soon as practicable....”

REPORTING REQUIREMENTS: COURTS

Courts: Reporting Certain Convictions to Superintendent of Public Instruction and Division Superintendent

§ 19.2-291.1 of the *Code of Virginia* requires the “clerk of any circuit court or any district court in the Commonwealth” to report to the Superintendent of Public Instruction and the division superintendent of any employing school division “the conviction of any person, known by such clerk to hold a license issued by the Board of Education, for any felony involving the sexual molestation, physical or sexual abuse, or rape of a child or involving drugs pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.”

OVERVIEW OF THE PROCESS FOR TAKING ACTION AGAINST A LICENSE

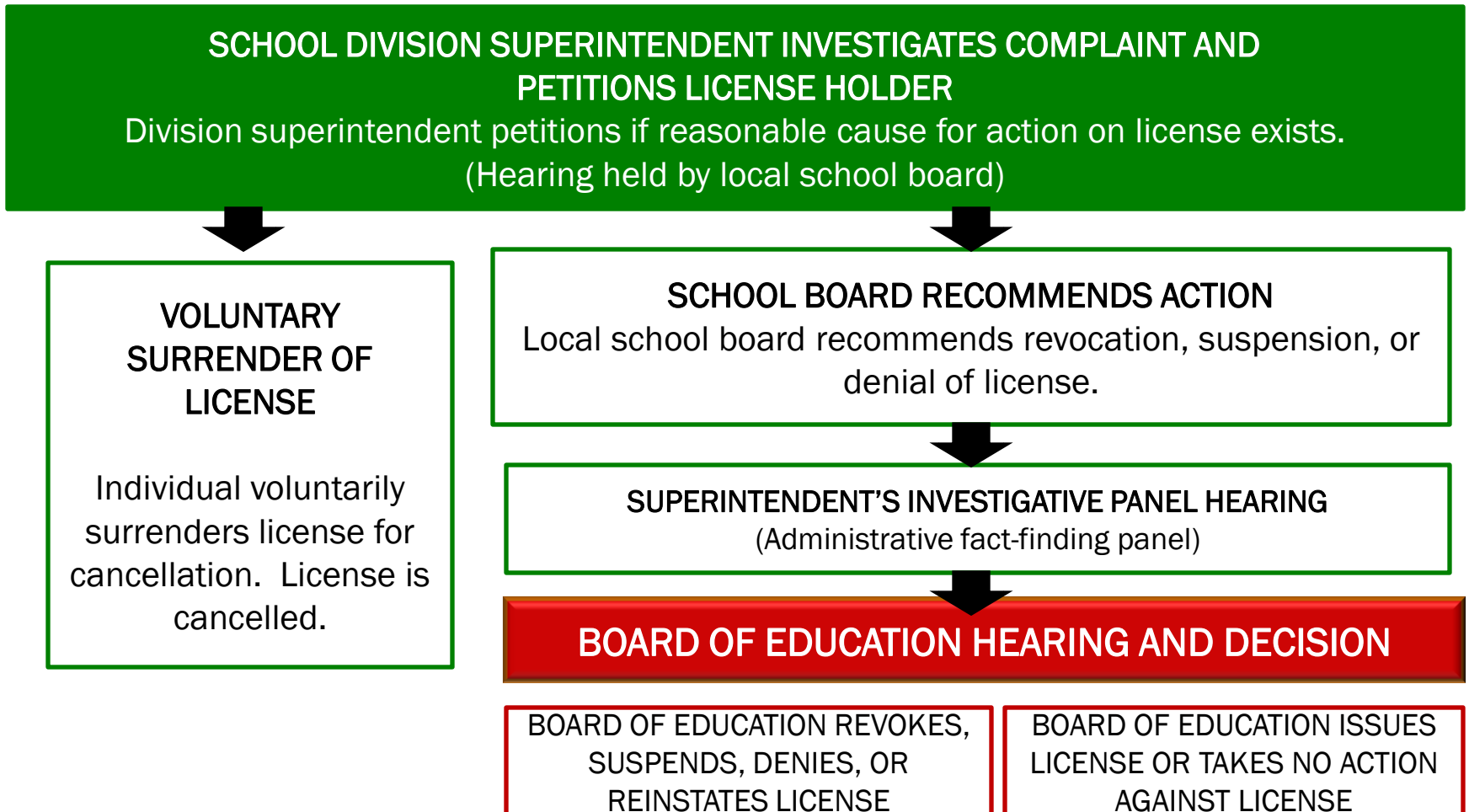
OVERVIEW OF THE PROCESS FOR THE REVOCATION, CANCELLATION, SUSPENSION, DENIAL, AND REINSTATEMENT OF LICENSES

COMPLAINT/NOTICE OF CAUSE FOR ACTION AGAINST LICENSE

A complaint/notice may be received from anyone, including the Department of Social Services, the courts, law enforcement, or the National Clearinghouse. Reasonable cause for the denial of a license also may be disclosed on a license application.

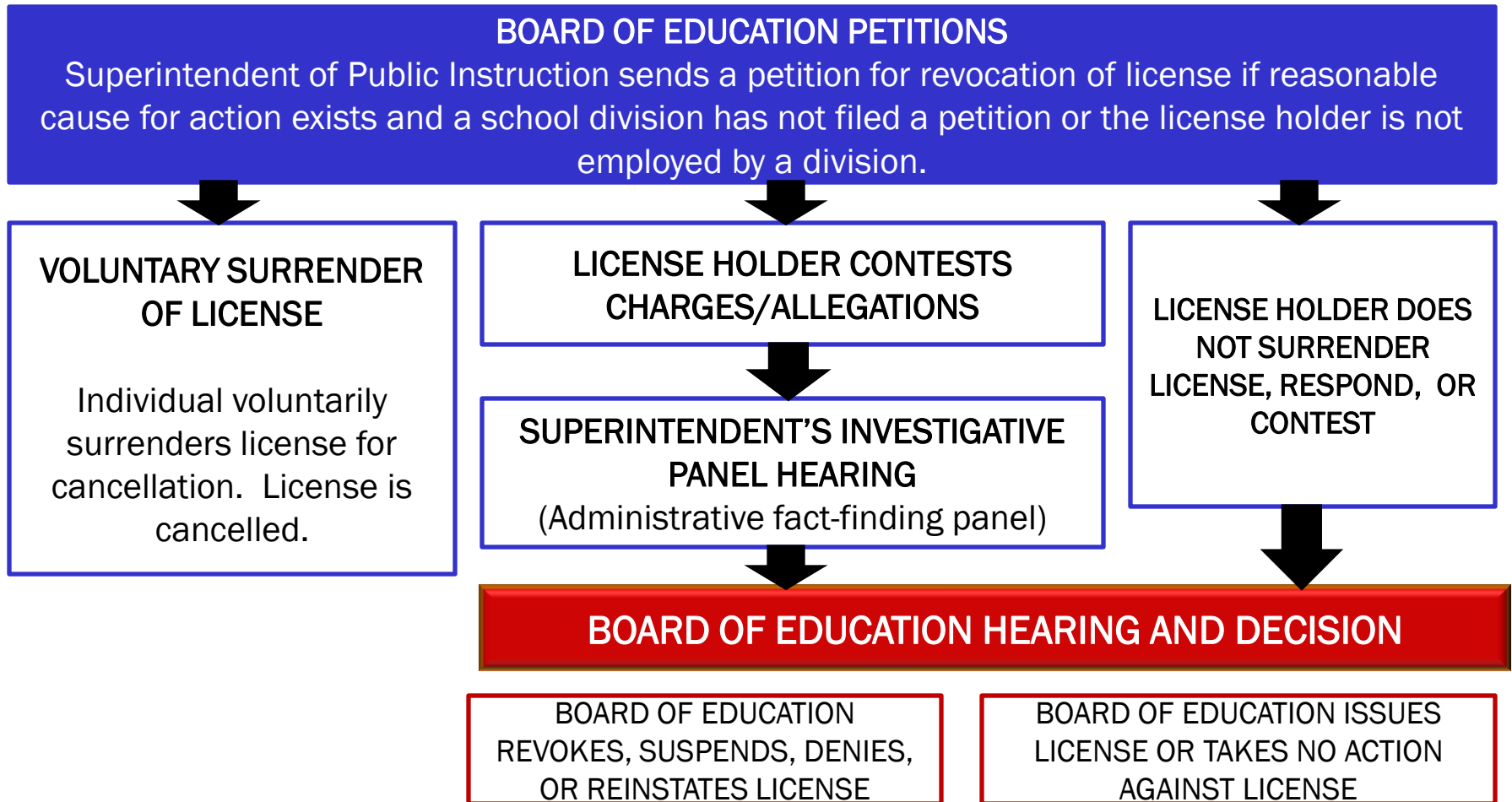
A complaint/notice may proceed through one of three processes.

OVERVIEW OF THE PROCESS FOR ACTION AGAINST A LICENSE INITIATED BY A SCHOOL DIVISION/BOARD



Note: Cancellations and Board actions on licenses are reported to Virginia school divisions and the National Clearinghouse, as well as posted on the Department of Education's Web site.

OVERVIEW OF THE PROCESS FOR ACTION AGAINST A LICENSE INITIATED BY A BOARD OF EDUCATION PETITION



Note: Cancellations and Board actions on licenses are reported to Virginia school divisions and the National Clearinghouse, as well as posted on the Department of Education's Web site.

OVERVIEW OF THE PROCESS FOR ACTION AGAINST A LICENSE BASED ON APPLICATION FOR A LICENSE OR LICENSE RENEWAL

DEPARTMENT OF EDUCATION INVESTIGATES REASON FOR POSSIBLE DENIAL OF A LICENSE
(Application for a License or License Renewal)

Reasonable cause exists for possible denial of a license. [These cases are investigated typically as a result of an individual's response to background questions on the application or a National Clearinghouse notice.]

SUPERINTENDENT'S INVESTIGATIVE
PANEL HEARING

(Administrative fact-finding panel)

BOARD OF EDUCATION HEARING AND DECISION

BOARD OF EDUCATION DENIES
LICENSE

BOARD OF EDUCATION ISSUES
LICENSE OR TAKES NO ACTION
AGAINST LICENSE

Note: Board actions on licenses are reported to Virginia school divisions and the National Clearinghouse, as well as posted on the Department of Education's Web site.

CONTACT FOR ADDITIONAL INFORMATION

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