

## 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:

"504 Plan" means a written plan required under § 504 of the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended. A student's 504 Plan details modifications, accommodations, and services that are needed for the student with a disability to participate in and enjoy the benefits of school programs at the same level as his peers without disabilities.

"Applicant" means the person, partnership, corporation, or association that has completed and submitted an application to the department 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.

"Aversive stimuli" means any action used to punish a student or to eliminate, reduce, or discourage the problem behavior by use of any of the following or any other actions that are painful, humiliating, degrading, or abusive:

1. Noxious odors and tastes.
2. Water and other mists or sprays.
3. Blasts of air.
4. Corporal punishment as defined in § 22.1-279.1 of the Code of Virginia.
5. Verbal and mental abuse.
6. Placement of a student alone in a room, where the door is locked or held shut and the student is prevented from leaving the room.
7. Forced exercise where:
  - a. The student's behavior is related to his disability;
  - b. The exercise would have a harmful effect on the student's health; or
  - c. The student's disability prevents participation in activities.

8. Deprivation of necessities, including:

- a. Food or liquid at a time when it is customarily served;
- b. Medication; or
- c. Use of restroom.

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

"Board" means the State Board of Education.

"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 or eligible student 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 or eligible student 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 its agreement.

"Controlled substance" means a drug or other substance identified under Schedules I, II, III, IV, or V 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 regulations. 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.

"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.

"Department" means the Virginia Department of Education.

"Developmental delay" means a disability affecting a child age two by September 30 through six, inclusive:

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).

"Education records" means 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" or "emotional disturbance" 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:

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 or emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance or emotional disability as defined in this section.

"Funding agency" means a community policy and management team under the Children's Services Act, Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia; local school division; or local department of social services.

"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 in Virginia (8VAC20-81).

"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 (8VAC20-81). 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.

"Individualized Instruction Plan" or "IIP" means a written statement 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.

"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 authorizes approval to operate a school for students with disabilities.

"Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel or

utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:

1. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
2. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
3. Restraints for medical immobilization; or
4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

"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.

"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).

"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, and that adversely affects a child's educational performance.

"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:

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 3 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 1 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 8VAC20-81-220.

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 1 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.

"Pat down" means a thorough external body search of a clothed student.

"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.

"Pharmacological restraints" means a drug or medication used on a student to control behavior or restrict freedom of movement that is not (i) prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition and (ii) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority.

"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.

"Placing agency" means the community policy and management team under the Children's Services Act, Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia; the local school division; or the local department of social services.

"Privately placed student" means a student placed in a private school for students with disabilities by the parent.

"Publicly placed student" means a student placed in a private school for students with disabilities by a local school division, family assessment and planning team under the Children's Services Act, or court order.

"Qualified personnel" or "qualified staff" means personnel who have met the state-approved or state-recognized certification, licensing, or other comparable requirement applicable to a specific discipline.

"Regular basis" means more than twice a month.

"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).

"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 " 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, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, an emotional disturbance, a specific learning disability, a speech or language impairment, a traumatic brain injury, or a visual impairment including blindness.

"Seclusion" means the confinement of a student alone in a room from which the student is physically prevented from leaving.

"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.

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:

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.

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 and/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.

"Standard precautions" mean universal precautions designed to prevent transmission of HIV, hepatitis B virus (HBV), and other bloodborne pathogens when providing first aid or health care. Standard precautions 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 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 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.

"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; 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.

"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.

"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.

#### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

#### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## **8VAC20-671-20. Exemptions.**

This chapter shall not apply to any of the following:

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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 department.

C. The department may make exception to the requirements of this chapter for good cause.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-40. Advertising.

The following provisions consistent with § 22.1-325 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-50. Types of licenses.

The following shall apply consistent with §§ 22.1-323, 22.1-323.1, and 22.1-323.2 of the Code of Virginia:

1. A conditional license may be issued upon approval of an application to operate a school for students with disabilities not to exceed a period of six months. A conditional license may be renewed for a period of six months when a new school demonstrates compliance with administrative and policy requirements but has not fully demonstrated substantial compliance with requirements of this chapter.
2. An annual license may be issued under the following conditions and may be extended for a period not to exceed 36 successive months:
  - a. A school provides notice for continued licensure while holding a conditional or provisional license.
  - b. When a school holds a provisional license and substantially meets the requirements of this chapter.
  - c. When a school makes significant changes in its operation.
3. A triennial license shall be issued when a school holds an annual or triennial license and substantially meets the requirements of this chapter.
4. The term of a school's license may be reduced to provisional when the school has demonstrated an inability to achieve or 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 successive months.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 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, 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 department.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 department 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 department 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

Operating a school for students with disabilities without a license 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 shall be guilty of a Class 2 misdemeanor.
2. Each day such person who permits the school to be open and operate without a license shall incur a separate offense.
3. The department shall refer any person who opens, operates, or conducts a school for students with disabilities without a license to the appropriate Commonwealth's attorney.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

The department shall maintain a list of schools holding valid licenses to operate that shall be available to the public. The list may include additional information to inform the public about

the school's operation.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 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 assessed the community's need for a new school;
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 drawings 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 or levels, 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 transportation services if the school provides transportation for students;
20. Statement regarding provision of student lunches;
21. Description of the behavior management program; and
22. Any other information necessary to complete the application process.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## **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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-120. Assessment of application.

- A. The department 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 department may grant an extension for a reasonable period of time.
- C. The department shall conduct a review of the character, reputation, and status with other licensing agencies, and the responsibility of the applicant before issuing a license.
- D. The department may require the applicant to meet with department staff before final approval of the application.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

Before a license can be issued to an applicant, the department shall conduct an on-site inspection or review photographs or videos of the school building and grounds to determine its suitability for the operation of a school for students with disabilities.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-140. Renewal of licenses.

- A. The license of each school that continues to operate as such shall be renewed on or before the anniversary date set by the department.
- B. Each license that has not been renewed in accordance with this chapter shall expire.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-150. Monitoring.

The department shall:

1. Make at least one 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;
4. Cooperate with other state licensing agencies in fulfilling licensing responsibilities; and
5. Re-examine findings of noncompliance in consultation with the school administrator when there is disagreement and amend any written report as appropriate in seven business days.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-160. Complaint resolution procedures.**

- A. A complaint may be filed with the department 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 department.
- 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 department 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 department shall provide written notification to each complainant and the private school. The notification sent to the school shall include:
    - a. A copy of the complaint;
    - b. An offer of technical assistance in resolving the complaint;
    - c. A statement that the school has the opportunity to propose a resolution of the complaint;
    - d. A request that the school submit within 10 business days of receipt of the letter of notification either:
      - (1) Written documentation that the complaint has been resolved; or
      - (2) If the complaint was not resolved, a written response including all requested documentation.
  2. The department shall review the complaint and the school's response and determine the need for any further investigation or corrections.

3. The department shall notify appropriate agencies of serious violations.

4. During the course of the investigation, the department 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 department has 60 calendar days after the written complaint is received to carry out the investigation and to issue a letter of finding. 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.

D. Parties to the complaint procedures shall have the right to appeal the final decision to the department within 30 calendar days of the issuance of the decision.

E. 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 proposed changes and shall be subject to approval of the department.

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

#### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

#### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

A. The board 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:

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.

B. 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

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.

#### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

#### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

### **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 a school.

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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-200. Governing body.**

A. Each school shall use its complete name as printed 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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, volunteers on a regular basis and will be alone with a student in the performance of his duties, or anyone who provides contractual services, including services of a student intern, on a regular basis and will be alone with a student in the performance of his duties shall 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.

Anyone who is hired or is approved to provide volunteer services, contractual services, or services of a student-intern on a regular basis and will be alone with students cannot begin working with children until the criminal history background check has been received by the school.

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, volunteers on a regular basis and will be alone with a student in the performance of his duties; or anyone who provides contractual services, including services of a student intern on a regular basis and will be alone with a student in the performance of his duties, shall 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. 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.

a. Anyone who has not submitted to a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services shall not be permitted to work alone with children.

b. The results of the search of the registry must be received prior to permitting an applicant to work alone with children.

10. Notify the department 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 department 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 any 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 school related complaints from students, parents, and employees. Schools are required to provide written

notification of the right to file a complaint with the department's private school licensure office.

14. The school shall have a written policy and procedure that the school does not discriminate according to state and federal law.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 department 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 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 department.

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 department for exemption from the guaranty requirements.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-240. Insurance.**

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

B. The licensee shall maintain 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 student funds shall be bonded or indemnified against employee dishonesty.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-250. Fundraising.**

A. Written consent of the parent shall be obtained before allowing a student to participate in any school fundraising activity.

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

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-260. Relationship to the department.

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

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 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, supervision, evaluation, dispute resolution, 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, 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.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 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.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 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, 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-300. School administrators.**

A. The licensee shall designate an individual(s) who is a graduate of an accredited college or university and is responsible for the administrative operation of the school. This individual may also serve as the instructional leader.

B. The school administrator shall:

1. Protect the academic instructional time from unnecessary interruptions;
2. Seek to maintain a safe and secure school environment;
3. Involve the school staff in identifying staff development needs to improve student achievement and ensure staff participation;
4. Analyze classroom practices and methods for improvement of instruction;
5. Ensure student education records are maintained confidentially; and
6. Monitor and evaluate the quality of instruction and provide supports as needed 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-310. Teachers and staffing.**

A. Each teacher shall meet the requirements of the Board of Education's 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 levels 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).

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 Development (GED) certificate, and have two years of full-time postsecondary education or two years of work experience with children.

C. A substitute teacher employed to fill a teacher vacancy shall receive orientation to the school's policies and procedures.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 General Educational Development (GED) certificate, have two years of work experience with children or completed two years of coursework in a related field, or upon employment complete within 60 calendar days of hire training specific to the assigned student population and job duties as they relate to the academic and behavioral progress of students. Such training shall include individualized instruction and student behavior management, including principles and strategies to reduce interfering behavior, build positive skills, and enhance communication of students with autism spectrum disorders.

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 they meet required credentials.

E. Paraprofessionals shall work under the supervision of qualified professional staff.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-340. Staff supervision.**

The licensee shall develop and implement written policies and procedures regarding the supervision of employees, full-time and part-time, and all other staff including volunteers and student interns working in the school building or on school grounds.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-350. Staff development.**

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

E. All staff shall receive annual professional development and refresher 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; using, maintaining, and operating emergency equipment; and accessing emergency information for students and staff including medical

information and utilizing community supports.

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

G. Each staff who works directly with students shall annually receive 15 hours of professional development related to student progress and academic achievement that is applicable to the population served and to their job duties.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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. Records 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 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 Department of Motor Vehicles and a current copy of the driver's license for 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

A. Each school shall be maintained in compliance with the Virginia Uniform Statewide Building Code(13VAC5-63).

B. Each school shall maintain a physical plant that is accessible, barrier free, safe, and clean.

C. Each school 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 classrooms added to existing buildings shall provide at least 50 square feet of classroom or instructional area per student excluding classroom fixtures.

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.

E. Each school shall provide space for safe storage of items such as first aid equipment, medication, household supplies, school supplies, and equipment.

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.

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 department for approval.

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

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

J. There shall be a written policy concerning the provision of safeguards for water-related activities and a provision that a certified lifeguard supervises all swimming activities.

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

L. There shall be a communication system available to staff at all times in the classroom and during school-sponsored activities.

M. Schools shall have safeguards to be able to identify any visitor in the school building and on the premises during the school day.

## **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

## **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## **8VAC20-671-380. Contingency plans.**

A. A school shall have contingency plans for medical emergencies that include staff certification in cardiopulmonary resuscitation (CPR), emergency first aid, and medication administration.

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 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 annually have at least one tornado drill, at least one earthquake drill, and at least two lockdown drills, one in September and one in January.

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, hostage 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, volunteers, student interns, 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 shall be conducted in each building occupied by students at least once per week for the first 20 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 department as soon as possible, but no later than 24 hours after the incident occurs.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-390. Weapons.**

The licensee shall develop written policies and procedures governing prohibition of weapons on school property mandated in § 18.2-308.1 of the Code of Virginia. The staff and students shall be annually informed of the policies and procedures regarding the prohibition of weapons.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-400. Searches.**

A. A school that does not conduct pat downs shall have a written policy prohibiting them.

B. 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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. The school's admissions policy, course offerings, 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 parents access to, or a copy of upon request, the school's policies and procedures, including those governing the management of student behavior, the school's curriculum, and the school's promotion and retention policies.

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

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

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 the school 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.

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, all other charges, and any scholarship amount applied to the cost of tuition; and
3. The school's contingency, cancellation, and refund policies.

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

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

A. Each school shall have a standard school year of at least 180 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 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.

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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-430. Community relationships.

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

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 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 serve as a basis for an annual self-evaluation of the school.
2. Goals and objectives shall be written in plain language so as to be understandable to noneducators, including parents.

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

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-450. Student achievement expectations.

A. Schools shall develop strategies to address the learning, behavior, and communication needs of individual students in collaboration with the parent.

B. Participation in the Virginia assessment program by students with disabilities shall be prescribed by provisions of their IEPs or 504 Plans.

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.

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.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-460. Individualized Education Program (IEP).**

- A. 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 including individual or conference telephone calls.
- B. 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.
- D. A parent 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 family assessment and planning team in a private school, all rights and protections under state and federal regulations shall be extended to the child.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-470. Individualized Instruction Program (IIP).**

- A. Students not determined eligible for special education and those placed by 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.
- B. Each school shall request with written consent of the parent 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.
- E. Student progress reports shall be provided to the parent at least quarterly.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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, IIP, or 504 Plan.
- C. Services shall be delivered in accordance with the student's IEP, IIP, or 504 Plan.
- D. Children of preschool ages (two years to five years, inclusive) shall receive services determined by the child's IEP, IIP, or 504 Plan.
- E. Students 14 years of age and older shall be provided opportunities to gain knowledge and occupational readiness skills necessary for successful transition to postsecondary education, training, employment, and independent living, as appropriate.
- 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).
- 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 school shall equitably serve the needs and interests of all students, taking into consideration age appropriateness, cultural norms, physical abilities, and cognitive abilities.
- K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

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

1. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program.
2. 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 instruction in reading.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

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

1. 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.
2. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading.
3. Each school shall provide students with opportunities for career and technical exploration.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

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

1. 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, English, mathematics,

science, and history/social science.

2. Each school shall provide a course of study that leads to graduation and postsecondary education, training, employment, and independent living, as appropriate.
3. Each school shall provide instruction in economics and personal finance and occupational readiness.
4. A curriculum that includes functional living skills training, including community-based instruction, shall be available for students as the need is determined by the IEP or IIP.
5. 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.
6. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading.
7. Staff shall provide guidance and counseling to assist students in meeting graduation requirements.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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. Implementation of the ISAEP program requires submission of an application and approval by the department.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-550. Extracurricular and other school activities, and recess.**

A. School-sponsored extracurricular activities shall be under the direct supervision of staff and organized to avoid interrupting the instructional program.

B. CPR and first aid certified staff shall accompany students on school-sponsored activities.

C. Schools that take students on outdoor adventure activities and offer programs such as canoeing, skiing, camping, and rock climbing shall develop policies and procedures to ensure supervision, health and safety, and medical management.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-560. Family life.**

A. Schools may use the Standards of Learning for the family life education program or other education program, 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 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 for the child's participation.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 or employment, including rates of pay, shall be approved by the school administrator with the consent of the parent.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-580. Virtual learning.**

A. Virtual courses may only be offered through accredited providers as outlined in §§ 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. The teacher or paraprofessional shall be available to the student.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

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. Each school shall establish written policy on the use of computers, including the use of the Internet and email.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 documentation of each student's grades and credits earned.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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 policies 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

### **8VAC20-671-620. Student conduct.**

A. Each school shall provide a schoolwide environment that reinforces appropriate behaviors and assists students in becoming actively engaged in their own learning, academic, and behavioral success.

B. 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.

C. The parent shall be notified on the date on which the decision is made to suspend or expel a student because of a violation of a code of student conduct. When a publicly placed student is suspended or expelled, the student's home school division shall be notified within 24 hours.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

### **8VAC20-671-630. Behavior intervention.**

A. Each school shall develop and implement written policies and procedures that emphasize positive behavior interventions.

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 department prior to implementation.

E. The parent shall be provided access to the school's behavior management policy and procedures upon enrollment and at the beginning of each school year, and provided a written copy upon request.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-640. Time-out.**

Policies and procedures shall be written that govern the conditions under which a student may 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 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. A door to a time-out room shall not be locked nor 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 at least every 15 minutes and more often depending on the nature of the student's disability, condition, or behavior.
5. 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-650. Prohibitions.**

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;
2. Prone "face down" restraints, mechanical restraints, pharmacological restraints, and any other restraint that restricts breathing or harms the child or interferes with the child's ability to communicate;
3. Deprivation of drinking water or food;

4. Limitation on contacts and visits from the student's probation officer, social worker, placing agency representative, or other service provider as appropriate;
5. Any action that is humiliating, degrading, or abusive;
6. Corporal punishment;
7. Deprivation of approved prescription medication or other necessary services;
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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

A. Each school shall have written policies and procedures made available annually to students, parents, and placing agencies 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 statement that corporal punishment and abusive techniques and interventions are not authorized, permitted, or condoned.
3. A statement that behavior management techniques are applied in order of their degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained personnel.

B. Physical restraint or seclusion is allowed only in an emergency situation and only when it is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.

1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.
2. In cases where a student has a history of dangerous behavior for which restraint or

seclusion was considered or used, a school shall have a plan developed in consultation with the parent for (i) teaching and supporting more appropriate behavior and (ii) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.

3. Physical restraint or seclusion shall not be used for disciplinary reasons, as a punishment, or retaliation, or for staff's convenience.
4. Each student is entitled to be completely free from any unnecessary use of physical restraint or seclusion.
5. Staff shall continuously monitor the use of physical restraint and seclusion and shall not rely on an electronic surveillance device.
6. Physical restraint may only be implemented, monitored, or discontinued by staff who have received proper training.
7. 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.
8. Schools shall permit parents to inspect any area used during an emergency for the purpose of seclusion.
9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.
10. 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, behavior antecedents, 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. The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.
11. Schools shall collect and annually report to the department the number of times restraint and seclusion were used during the school year. The data shall be disaggregated by students and number of occurrences.

#### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

#### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

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

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-680. Referral for evaluation.

When a student is suspected of having a disability, the private school 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.

### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 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. Reporting immediately, but under no circumstance later than 24 hours after having a suspicion of a reportable offense of child abuse and neglect to the child protective services unit of the local department of social services of the county or city wherein the abuse or neglect was believed to have occurred or to the Department of Social Services toll-free child abuse and neglect hotline 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 and the department. For publically placed students, the home school division and the placing agency shall also be notified.

C. Suspected child abuse or neglect shall be immediately documented to include 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-700. Serious incident reports.**

A. Any serious incident, accident, or injury to a student that occurs at the school or a school-sponsored activity shall be reported to the parent immediately, but no later than the end of the school day. A publically placed student's home school division and the placing agency shall be notified as soon as possible, but not later than 24 hours of the occurrence.

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 department shall review reports of serious incidents and investigate as appropriate.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**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.

C. Any student or staff with a medical condition that is contagious or infectious shall take leave from school while in that condition unless attendance is approved by a qualified health care 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 the child. The use of all prescriptive medication must be authorized in writing by a licensed prescriber.

F. All medication and medical paraphernalia shall be properly labeled and securely locked or stored in accordance with the Virginia School Health Guidelines.

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. 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.

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

J. Medication training.

1. All staff responsible for medication administration shall have successfully completed 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 staff in medication procedures and effects and infection control measures, including the use of standard precautions.
3. Staff certified in first aid and CPR shall be 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.

**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 unless directed otherwise by the student's health care plan.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-720. School nutrition.**

A. Schools with food service shall ensure a 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 minimum requirements of the Dietary Guidelines for Americans, 2010, U.S. Department of Agriculture and U.S. Department of Health and Human Services, 7th Edition, December 2010.

1. All food safety and sanitation procedures shall be followed in accordance with state and federal regulations.
2. Records of menus for all meals served shall be kept on file for six months.
3. Provisions shall be made for special diets when prescribed by a physician or requested by the student or parent because of the student's established religion.

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

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-730. Transportation.**

A. Transportation provided for or used by students shall comply with local, state, and federal laws relating to:

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;
5. Vehicle liability insurance; and
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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-740. (Reserved.)

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

## 8VAC20-671-750. 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.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

## 8VAC20-671-760. Maintenance of student records.

- A. The school shall have written policy and procedures for the management of all records, print and nonprint, regarding confidentiality, accessibility, security, retention, and disposition.
- B. Student education records shall be maintained in fire resistant cabinets.
- 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. 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 agencies, and state licensing agencies who need access to the student's records to carry out their work responsibilities.
- E. 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.
- F. The school shall permit a parent to inspect and review any education records relating to the 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. 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 has the right to inspect and review only the information relating to his 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 under this chapter if the fee does not effectively prevent the parent from exercising his 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 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.
2. If the school decides to refuse to amend the information in accordance with the request, it shall inform the parent 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. When a privately placed student graduates or leaves school, the student's education record shall be offered to the eligible student or parent. The records of a publically placed student who graduates or leaves school shall be transferred to the child's home school.

L. Each school shall maintain a permanent record of attendance to include the following:

1. Name and address of school;
2. Name, address, and birth date of student;
3. Name and address of the home school division for publically placed students;
4. Name and address of the parent;
5. Student ID number;
6. Dates of attendance; and
7. Academic transcript.

**Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

**8VAC20-671-770. Participation of students in human research.**

A. No human research involving students shall be conducted or authorized by any school unless in compliance with §§ 32.1-162.16 through 32.1-162.20 of the Code of Virginia and 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 § 32.1-162.18 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.

#### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

#### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

### **8VAC20-671-780. 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 department.

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 acknowledgment of such to the department.

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

#### **Statutory Authority**

§§ 22.1-16 and 22.1-321 of the Code of Virginia.

#### **Historical Notes**

Derived from Virginia Register Volume 31, Issue 24, eff. August 26, 2015.

### **Forms (8VAC20-671)**

2015 -2016 Application to Operate a Private School for Students with Disabilities (rev. 7/15)  
School Entrance Health Form, MCH 213G (rev. 3/14)

## **Documents Incorporated by Reference (8VAC20-671)**

Virginia School Health Guidelines - General Guidelines for Administering Medication in School (pages 253-256), May 1999, published by the Virginia Department of Health and printed by the Virginia Department of Education

Dietary Guidelines for Americans 2010, 7th Edition, December 2010, U.S. Department of Agriculture and U.S. Department of Health and Human Services, Washington, D.C.: U.S. Government Printing Office, [www.dietaryguidelines.gov](http://www.dietaryguidelines.gov)