

Virginia Board of Education Agenda Item



Agenda Item: G

Date: January 26, 2017

Title	First Review of Proposed Revisions to the <i>Regulations Governing the Employment of Professional Personnel</i> (8VAC20-441-10 et seq.) (Final Stage)		
Presenter	Mrs. Patty S. Pitts, Assistant Superintendent for Teacher Education and Licensure		
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Purpose of Presentation:

Action required by state or federal law or regulation.

Previous Review or Action:

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

Date: September 27, 2012

Action: First Review (NOIRA)

Date: October 25, 2012

Action: Final Review (NOIRA)

Date: May 23, 2013

Action: First Review (Proposed Stage)

Date: June 27, 2013

Action: Final Review (Proposed Stage)

Date: February 27, 2014

Action: First Review and Approval (Reconsideration of Proposed Stage)

Date: September 22, 2016

Action: Board of Education Public Hearing

Action Requested:

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

February 23, 2017

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

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

Background Information and Statutory Authority:

Goal 5: The *Regulations Governing the Employment of Professional Personnel* provide policies and procedures regarding contracts for teachers, assistant principals, principals, and supervisors.

The *Constitution of Virginia* grants the Board of Education authority for the general supervision of the public school system, and Section 22.1-16 of the *Code of Virginia* authorizes the Board to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title. Section 22.1-302 references contracts, permitted by the Board of Education’s regulations.

Constitution of Virginia ([Article VIII, Section 4](#)): “The general supervision of the public school system shall be vested in a Board of Education....”

Code of Virginia, Section [22.1-16](#). Bylaws and regulations generally.

The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

Code of Virginia, Section [22.1-302](#). Written contracts required; execution of contracts; qualifications of temporarily employed teachers; rules and requirements.

A. A written contract, in a form permitted by the Board of Education's regulations, shall be made by the school board with each teacher employed by it, except those who are temporarily employed, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties.

The standard 10-month contract shall include 200 days, including (i) a minimum of 180 teaching days or 990 instructional hours and (ii) up to 20 days for activities such as teaching, participating in professional development, planning, evaluating, completing records and reports, participating on committees or in conferences, or such other activities as may be assigned or approved by the local school board.

A temporarily employed teacher, as used in this section, means (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

B. Temporarily employed teachers, as defined in this section, shall be at least 18 years of age and shall hold a high school diploma or have passed a high school equivalency examination approved by the Board of Education.

A temporarily employed teacher is not required to be licensed by the Board of Education, nor is the local school board required to enter into a written contract with a temporarily employed teacher. However, local school boards shall establish employment qualifications for temporarily employed teachers that may exceed these requirements for the employment of such teachers. School boards shall also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes exceed baseline employment qualifications.

C. A separate contract in a form permitted by the Board of Education shall be executed by the school board with a teacher who is receiving a monetary supplement for any athletic coaching or extracurricular activity sponsorship assignment. This contract shall be separate and apart from the contract for teaching.

Termination of a separate contract for any athletic coaching or extracurricular activity sponsorship assignment by either party thereto shall not constitute cause for termination of the separate teaching contract of the coach or teacher.

All such contracts shall require the party intending to terminate the coaching or extracurricular activity sponsorship contract to give reasonable notice to the other party before termination thereof shall become effective.

For the purposes of this section, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

The *Regulations Governing the Employment of Professional Personnel* became effective April 20, 1994, and were amended effective March 28, 2003.

Summary of Important Issues:

The 2012 Virginia General Assembly approved House Bill [76](#) and Senate Bill [278](#) to amend and re-enact § [22.1-304](#) of the *Code of Virginia*, as follows. Senate Bill [278](#) bill is identical to House Bill [76](#). Revisions in the *Code* needed to be incorporated into the *Regulations Governing the Employment of Professional Personnel*.

§ [22.1-304](#). Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.

A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within 15 days of receipt of such notice. Except as provided in § [22.1-305](#) and except in the case of a reduction in force as provided in subsection F, written notice of nonrenewal of the contract must be given by the school board on or before ~~April~~ *June* 15 of each year. If no such notice is given a teacher by ~~April~~ *June* 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

B. Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service and prior to the age at which they are eligible or required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by either party must be given by ~~April~~ *June* 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

C. A teacher may resign after ~~April~~ *June* 15 of any school year with the approval of the local school board or, upon authorization by the school board, with the approval of the division superintendent. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

If the division superintendent has been authorized to approve resignations, a teacher may, within one week, withdraw a request to resign. Upon the expiration of the one-week period, the division superintendent shall notify the school board of his decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the division superintendent.

In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

D. As soon after ~~April~~ *June* 15 as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

E. A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

F. Within two weeks of the approval of the school budget by the appropriating body, but no later than June 1, school boards shall notify all teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

The 2013 Virginia General Assembly approved Senate Bill [1223](#) to amend and re-enact §§ [2.2-507](#), [22.1-79](#), [22.1-253.13:5](#), [22.1-293](#), [22.1-294](#), [22.1-295](#), [22.1-298.1](#), [22.1-299](#), [22.1-302](#), [22.1-303](#), [22.1-304](#), [22.1-305](#), [22.1-305.1](#), [22.1-306](#), [22.1-307](#), [22.1-309](#), [22.1-311](#), [22.1-313](#), and [22.1-314](#) of the *Code of Virginia* and to repeal §§ [22.1-299.3](#), [22.1-310](#), and [22.1-312](#) of the *Code of Virginia*, relating to public schools; evaluation policies and grievance procedures.

§ [22.1-253.13:5](#). Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board of Education shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, ~~administrator~~ *principal*, and superintendent evaluations shall be consistent with the performance ~~objectives~~ *standards* included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, ~~Administrators~~ *Principals*, and Superintendents. *Evaluations shall include student academic progress as a significant component and an overall summative rating.* Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities.

C. The Board of Education shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) ~~administrative and~~

~~supervisory personnel~~ principals, supervisors, and division superintendents in the evaluation and documentation of teacher and ~~administrator~~ principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; *the evaluation of personnel*, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, *including the Standards of Quality, Board of Education regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents*.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and ~~administrators~~ superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board of Education; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for ~~administrative personnel~~ principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and ~~administrator~~ principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in ~~(i)~~ (a) instructional content; ~~(ii)~~ (b) the preparation of tests and other assessment measures; ~~(iii)~~ (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; ~~(iv)~~ (d) instruction and remediation techniques in English, mathematics, science, and history and social science; ~~(v)~~ (e) interpreting test data for instructional purposes; ~~(vi)~~ (f) technology applications to implement the Standards of Learning; and ~~(vii)~~ (g) effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § [22.1-253.13:6](#), high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ [22.1-293](#). School boards authorized to employ principals and assistant principals; license required; powers and duties.

A. A school board, upon recommendation of the division superintendent, may employ principals and assistant principals. Persons employed in these positions shall hold licenses as prescribed by the Board of Education.

B. A principal shall provide instructional leadership in, shall be responsible for the administration of, and shall supervise the operation and management of the school or schools and property to which he has been assigned, in accordance with the rules and regulations of the school board and under the supervision of the division superintendent.

C. A principal may submit recommendations to the division superintendent for the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to his supervision. ~~Beginning September 1, 2000, (i) principals~~ *Principals* must have received training, provided pursuant to § [22.1-253.13:5](#), in the evaluation and documentation of employee performance, which evaluation and documentation shall include, but shall not be limited to, employee skills and knowledge and student academic progress, prior to submitting such recommendations; ~~and (ii) assistant~~ *Assistant* principals and ~~other administrative supervisory~~ *other administrative supervisory* personnel participating in the evaluation and documentation of employee performance must also have received such training in the evaluation and documentation of employee performance.

D. A principal shall perform such other duties as may be assigned by the division superintendent pursuant to the rules and regulations of the school board.

§ [22.1-294](#). Probationary terms of service for principals, assistant principals, and supervisors; evaluation; reassigning principal, assistant principal, or supervisor to teaching position.

A. A person employed as a principal, assistant principal, or supervisor, including a person who has previously achieved continuing contract status as a teacher, shall serve *a probationary term of three years* in such position in the same school division before acquiring continuing contract status as principal, assistant principal, or supervisor. *With such funds as may be appropriated by the General Assembly for such purpose, school boards shall provide each probationary principal, except probationary principals who have prior successful experience as principals, as determined by the local school board in a school division, a mentor, as described in guidelines developed by the Board, during the first year of the probationary period, to assist such probationary principal in achieving excellence in administration.*

B. Each local school board shall adopt for use by the division superintendent clearly defined criteria for a performance evaluation process for principals, assistant principals, and supervisors that are consistent with the performance ~~objectives~~ *standards* set forth in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, ~~Administrators~~ *Principals*, and Superintendents as provided in § [22.1-253.13:5](#) and that includes, among other things, an assessment of such administrators' skills and knowledge; student academic progress and school gains in student learning; and effectiveness

in addressing school safety and enforcing student discipline. The division superintendent shall implement such performance evaluation process in making employment recommendations to the school board pursuant to § [22.1-293](#). *Principals and assistant principals who have achieved continuing contract status shall be formally evaluated at least once every three years and evaluated informally at least once each year that they are not formally evaluated. Probationary principals and assistant principals shall be evaluated each school year. The division superintendent shall consider such evaluations, among other things, in making recommendations to the school board regarding the nonrenewal of the probationary contract of any principal or assistant principal.*

C. Continuing contract status acquired by a principal, assistant principal, or supervisor shall not be construed (i) as prohibiting a school board from reassigning such principal, assistant principal, or supervisor to a teaching position if notice of reassignment is given by the school board by ~~April~~ June 15 of any year or (ii) as entitling any such principal, assistant principal, or supervisor to the salary paid him as principal, assistant principal, or supervisor in the case of any such reassignment to a teaching position.

D. No such salary reduction and reassignment, however, shall be made without first providing such principal, assistant principal, or supervisor with written notice of the reason for such reduction and reassignment and an opportunity to present his or her position at an informal meeting with the division superintendent, the division superintendent's designee or the school board. *Before recommending such reassignment, the division superintendent shall consider, among other things, the performance evaluations for such principal, assistant principal, or supervisor.* The principal, assistant principal, or supervisor shall elect whether such meeting shall be with the division superintendent, the division superintendent's designee, or the school board. The school board, division superintendent, or the division superintendent's designee shall determine what processes are to be followed at the meeting. The decision to reassign and reduce salary shall be at the sole discretion of the school board.

The intent of this section is to provide an opportunity for a principal, assistant principal, or supervisor to discuss the reasons for such salary reduction and reassignment with the division superintendent, his designee, or the school board, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause, as defined in § [22.1-307](#), for the salary reduction and reassignment of a principal, assistant principal, or supervisor.

E. As used in this section, "supervisor" means a person who holds ~~a~~ *an instructional* supervisory position as specified in the regulations of the Board of Education and who is required to hold a license as prescribed by the Board of Education.

§ [22.1-295](#). Employment of teachers.

A. The teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel qualified in the relevant subject areas.

B. School boards shall adopt employment policies and practices designed to promote the employment and retention of highly qualified teachers and to effectively serve the educational needs of students. Such policies shall include, but need not be limited to, incentives for excellence in teaching, including

financial support for teachers attending professional development seminars or those seeking and obtaining national certification.

C. School boards shall develop a procedure for use by division superintendents and principals in evaluating ~~instructional personnel~~ *teachers* that is appropriate to the tasks performed and addresses, among other things, student academic progress and the skills and knowledge of instructional personnel, including, but not limited to, instructional methodology, classroom management, and subject matter knowledge.

~~Instructional personnel~~ *Teachers* employed by local school boards who have achieved continuing contract status shall be *formally* evaluated ~~not less than~~ *at least* once every three years *and more often as deemed necessary by the principal, and they shall be evaluated informally during each year in which they are not formally evaluated.* Any ~~instructional personnel,~~ *teacher* who has achieved continuing contract status, ~~receiving~~ *who receives* an unsatisfactory formal evaluation *and* who continues to be employed by the local school board shall be *formally* evaluated ~~no later than one year after receiving such unsatisfactory evaluation~~ *in the following year.* The evaluation shall be maintained in the employee's personnel file.

Each local superintendent shall annually certify divisionwide compliance with the provisions of this section to the Department.

§ [22.1-302](#). Written contracts required; execution of contracts; qualifications of temporarily employed teachers; rules and regulations.

A. A written contract, in a form ~~prescribed~~ *permitted* by the Board of ~~Education~~ *Education's regulations,* shall be made by the school board with each teacher employed by it, except those who are temporarily employed, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties.

The standard 10-month contract shall include 200 days, including (i) a minimum of 180 teaching days or 990 instructional hours and (ii) up to 20 days for activities such as teaching, participating in professional development, planning, evaluating, completing records and reports, participating on committees or in conferences, or such other activities as may be assigned or approved by the local school board.

A temporarily employed teacher, as used in this section, ~~shall mean~~ *means* (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence; or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

B. The Board of Education shall promulgate regulations regarding temporarily employed teachers, as defined in this section, which shall provide that such teachers be at least ~~eighteen~~ *18* years of age and that they hold a high school diploma or a general educational development (GED) certificate.

A temporarily employed teacher is not required to be licensed by the Board of Education, nor is the local school board required to enter into a written contract with a temporarily employed teacher. However, local school boards shall establish employment qualifications for temporarily employed

teachers which may exceed the Board's regulations for the employment of such teachers. School boards shall also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes shall exceed baseline employment qualifications.

C. A separate contract in a form ~~prescribed~~ *permitted* by the Board of Education shall be executed by the school board with ~~such employee~~ *a teacher* who is receiving a monetary supplement for any athletic coaching or extracurricular activity sponsorship assignment. This contract shall be separate and apart from the contract for teaching.

Termination of a separate contract for any athletic coaching or extracurricular activity sponsorship assignment by either party thereto shall not constitute cause for termination of the separate teaching contract of the coach or teacher.

All such contracts shall require the party intending to terminate the coaching or extracurricular activity sponsorship contract to give reasonable notice to the other party before termination thereof shall become effective.

For the purposes of this section, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

§ [22.1-303](#). Probationary terms of service for teachers.

A. A probationary term of service ~~for three~~ *of at least three years and, at the option of the local school board, up to five years* in the same school division shall be required before a teacher is issued a continuing contract. School boards shall provide each probationary teacher except probationary teachers who have prior successful teaching experience, as determined by the local school board in a school division, a mentor teacher, as described by Board guidelines developed pursuant to § [22.1-305.1](#), during the first year of the probationary period, to assist such probationary teacher in achieving excellence in instruction. During the probationary period, such probationary teacher shall be evaluated annually based upon the evaluation procedures developed by the employing school board for use by the division superintendent and principals in evaluating ~~instructional personnel~~ *teachers* as required by subsection C of § [22.1-295](#). *A teacher in his first year of the probationary period shall be evaluated informally at least once during the first semester of the school year.* The division superintendent shall consider such evaluations, among other things, in making any recommendations to the school board regarding the nonrenewal of such probationary teacher's contract as provided in § [22.1-305](#).

If the teacher's performance evaluation during the probationary period is not satisfactory, the school board shall not reemploy the teacher; however, nothing contained in this subsection shall be construed to require cause, as defined in § [22.1-307](#), for the nonrenewal of the contract of a teacher who has not achieved continuing contract status.

Any teacher hired on or after July 1, 2001, shall be required, as a condition of achieving continuing contract status, to have successfully completed training in instructional strategies and techniques for intervention for or remediation of students who fail or are at risk of failing the Standards of Learning

assessments. Local school divisions shall be required to provide said training at no cost to teachers employed in their division. In the event a local school division fails to offer said training in a timely manner, no teacher will be denied continuing contract status for failure to obtain such training.

B. Once a continuing contract status has been attained in a school division in the Commonwealth, another probationary period need not be served in any other school division unless such probationary period, not to exceed ~~one year~~ *two years*, is made a part of the contract of employment. Further, when a teacher has attained continuing contract status in a school division in the Commonwealth, and separates from and returns to teaching service in a school division in Virginia by the beginning of the third year, such teacher shall be required to serve a probationary period not to exceed ~~one year~~ *two years*, if made a part of the contract for employment.

C. For the purpose of calculating the ~~three~~ years of service required to attain continuing contract status, at least 160 contractual teaching days during the school year shall be deemed the equivalent of one year in the first year of service by a teacher.

D. Teachers holding three-year local eligibility licenses pursuant to § 22.1-299.3 issued prior to July 1, 2013, shall not be eligible for continuing contract status while teaching under the authority of such license. Upon attainment of a collegiate professional or postgraduate professional license issued by the Department of Education, such teachers shall serve ~~the three-year~~ *a probationary period term of service of at least three years and, at the option of the local school board, up to five years* prior to being eligible for continuing contract status pursuant to this section.

§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.

A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within 15 days of receipt of such notice. Except as provided in § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of nonrenewal of the *probationary* contract must be given by the school board on or before June 15 of each year. If no such notice is given a teacher by June 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

B. Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service ~~and prior to the age at which they are eligible or required to retire except as hereinafter provided~~. Written notice of noncontinuation of the contract by either party must be given by June 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

C. A teacher may resign after June 15 of any school year with the approval of the local school board or, upon authorization by the school board, with the approval of the division superintendent. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

If the division superintendent has been authorized to approve resignations, a teacher may, within one week, withdraw a request to resign. Upon the expiration of the one-week period, the division

superintendent shall notify the school board of his decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the division superintendent.

In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

D. As soon after June 15 as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

E. A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

F. Within two weeks of the approval of the school budget by the appropriating body, but no later than ~~June~~ July 1, school boards shall notify all teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

G. If a school board implements a reduction in workforce pursuant to this section, such reduction shall not be made solely on the basis of seniority but must include consideration of, among other things, the performance evaluations of the teachers potentially affected by the reduction in workforce.

§ [22.1-305](#). Nonrenewal of contract of probationary teacher.

A. Before a division superintendent recommends to the school board nonrenewal of the contract of a teacher who has not achieved continuing contract status, the division superintendent shall consider, among other things, the performance evaluations for such teacher required by § [22.1-303](#) and shall notify the teacher of the proposed recommendation. Upon written request of the teacher within five working days after receipt of such notice, the division superintendent or his designee shall orally provide the specific reasons, if any, for such recommendation, along with supporting documentation, including such performance evaluations, to the teacher and, if requested by the teacher, to his or her representative. Within ~~ten~~ 10 days after receiving such reasons, the teacher may request, by notification in writing to the division superintendent, a conference before the division superintendent. Upon such request, the division superintendent shall set a date for the conference, which shall be within ~~thirty~~ 30 days of the request, and shall give the teacher at least ~~fifteen~~ 15 days' notice of the time and place of the conference.

B. The conference shall be before the division superintendent or his designee. No such designee shall have recommended to the division superintendent the nonrenewal of the teacher's contract. The teacher and the person or persons who recommended the nonrenewal of the teacher's contract to the division superintendent, or a representative of either or both, shall be allowed to participate in the conference, but no such representative shall be an attorney.

- C. If the conference is before a designee of the division superintendent, the designee shall communicate his recommendations to the division superintendent and to the teacher.
- D. The division superintendent shall notify the teacher, in writing, of his intention with respect to the recommendation within ~~ten~~ 10 days after the conference.
- E. In any case in which a teacher requests ~~a conference~~ *reasons for the recommendation* as provided in this section, written notice of nonrenewal of the contract by the school board must be given *either within 10 days after the time for requesting a conference has expired and the teacher has not made a timely request for a conference or, if a conference is requested, within ~~thirty~~ 30 days* after the division superintendent notifies the teacher of his intention with respect to the recommendation and the provisions of § [22.1-304](#) requiring such notice on or before ~~April~~ *June 15* shall not be applicable.
- F. The conference shall be confidential and no written or oral communication of such conference shall be made to anyone other than the school board, in executive session, and employees of the school division having an interest therein; however, both the teacher and the division superintendent, upon request, may provide the reasons for the nonrenewal to a potential employer of the teacher.
- G. The provisions of this section shall be inapplicable when a decrease in enrollment or the abolition of a particular subject or reduction in the number of classes offered in a particular subject causes a reduction in the number of teachers; however, a statement to that effect shall be placed in the personnel file of each teacher whose contract is nonrenewed for any such reason.
- H. The intent of this section is to provide an opportunity for a probationary teacher to discuss the reasons for nonrenewal with the division superintendent or his designee, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause, as defined in § [22.1-307](#), for the nonrenewal of the contract of a teacher who has not achieved continuing contract status nor shall the failure of the school board or the division superintendent to comply with any time requirement herein constitute a basis for continued employment of the teacher.

On October 25, 2012, the Board of Education approved the Notice of Intended Regulatory Action (NOIRA), which is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA) and Executive Order 14 (2010). The *Regulations Governing the Employment of Personnel* (8VAC20-440) were requested to be repealed and new regulations (8VAC20-441) promulgated. The NOIRA was filed with the Virginia Registrar, and the public comment period for the NOIRA concluded on January 30, 2013. No comments were received during the NOIRA public comment period.

After the Board of Education approved the proposed *Regulations Governing the Employment of Personnel* (Proposed Stage) on June 27, 2013, the executive review process commenced. During this review, Part II Uniform Hiring of Teachers of the *Regulations Governing the Employment of Personnel* was stricken from the text because the *Constitution of Virginia* (Article VIII, Section 7) provides that “The supervision of schools in each school division shall be vested in a school board, to be composed of members selected in the manner, for the term, possessing the qualifications, and to the number provided by law.” The employment of teachers is the responsibility of a school board.

The proposed regulatory action replaces the existing regulation numbered 8VAC20-440 with a new regulation numbered 8VAC20-441. Proposed amendments reflect changes in the *Code of Virginia* based on Chapters 106 and 687 of the 2012 Acts of Assembly and Chapters 588 and 650 of the 2013 Acts of Assembly. The proposed amendments include: defining assistant principals; clarifying the definitions of teachers and supervisors; defining the probationary terms for teachers, which, at local option, can be three years and up to five years; defining the standard 10-month contract; and adding the list of essential contract elements in the regulations. Additional amendments repeal the provisions on the uniform hiring of teachers.

A Board of Education public hearing was held September 22, 2016, in the James Monroe Building, 101 North 14th Street, 22nd Floor Conference Room, Richmond, Virginia 23219. The public hearing was scheduled immediately following the Board of Education meeting. No comments were received during the public comment period that concluded on October 21, 2016. Attached are proposed *Regulations Governing the Employment of Professional Personnel* reflecting the changes in the *Code of Virginia* and Form TH-03: Final Regulation Agency Background Document.

Impact on Fiscal and Human Resources:

The impact of the new regulations will be absorbed within existing resources.

Timetable for Further Review/Action:

The proposed regulations (Final Stage) will be presented to the Board of Education for final review on February 23, 2017. Following approval by the Board, the regulations will continue through the procedures of the Administrative Process Act.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education receive for first review the proposed *Regulations Governing the Employment of Professional Personnel*, 8VAC20-441, (Final Stage).

ATTACHMENTS

PROPOSED REGULATIONS

CHAPTER 441

REGULATIONS GOVERNING THE EMPLOYMENT OF PROFESSIONAL PERSONNEL

FORM TH-03:

FINAL REGULATION AGENCY BACKGROUND DOCUMENT

ATTACHMENT 1

PROPOSED REGULATIONS

CHAPTER 441

REGULATIONS GOVERNING THE EMPLOYMENT OF PROFESSIONAL PERSONNEL

CHAPTER 441

REGULATIONS GOVERNING THE EMPLOYMENT OF PROFESSIONAL PERSONNEL

8VAC20-441-10. Definitions.

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

"Annual contract" means a contract between a probationary teacher, assistant principal, principal, or supervisor and the local school board that sets forth the terms and conditions of employment for one school year.

"Assistant principal" means a person (i) who is regularly employed full time as an assistant principal and (ii) who holds a valid license issued by the Board of Education necessary to be an assistant principal.

"Board" means the Virginia Board of Education, which has general supervision of the public school system.

"Breach of contract" means, for the purpose of this chapter, a teacher failing to honor a contract for the current or next school year without formal release from that contract from the local school board. "Breach of contract" does not include dismissal for cause.

"Coaching contract" means a separate contract between the employee and the local school board that includes responsibilities for an athletic coaching assignment.

"Continuing contract" means a contract between a teacher, assistant principal, principal, or supervisor who has satisfied the probationary term of service and the local school board.

"Current employer" means the local school board with which the employee is currently under contract.

"Extracurricular activity sponsorship contract" means a separate contract between the employee and the local school board that includes responsibilities, for which a monetary supplement is received, for sponsorship of any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

"Next school year" means the school year immediately following the current contract year.

"Principal" means a person (i) who is regularly employed full time as a principal and (ii) who holds a valid license issued by the Board of Education necessary to be a principal.

"Prospective employer" means the division in which application for employment is made.

"Supervisor" means a person (i) who is regularly employed full time in an instructional supervisory position as specified in this chapter and (ii) who is required by the board to hold a license prescribed in this chapter to be employed in that position. An instructional supervisory position has authority to direct or evaluate teachers, assistant principals, principals, or other instructional personnel.

"Teacher" means a person (i) who is regularly employed full time as a teacher, guidance counselor, or librarian and (ii) who holds a valid teaching license.

8VAC20-441-20. (Reserved.)

8VAC20-441-30. Contractual period defined.

The local school board shall define the length of the contract period for each employee. A standard 10-month contract for a teacher shall include 200 days, including:

1. 180 teaching days or 990 instructional hours (minimum required by law); and
2. Up to 20 days for activities such as teaching, participating in professional development, planning, evaluating, completing records and reports, participating on committees or in conferences, or such other activities as may be assigned or approved by the local school board.

8VAC20-441-40. Annual and continuing contract to be in writing.

Annual and continuing contracts with teachers, assistant principals, principals, and supervisors must be in writing. The local school board may utilize prototypes of contract forms provided by the board or may choose to develop its own contracts, but in so doing must ensure that the essential elements set forth in 8VAC20-441-140 are included.

8VAC20-441-50. Length of the probationary term for teacher.

A probationary term of full-time employment under an annual contract for at least three years and, at the option of the local school board, up to five consecutive years in the same school division is required before a teacher is issued a continuing contract. Once continuing contract status has been attained in a school

division in the Commonwealth, another probationary period as a teacher need not be served in any other school division unless a probationary period not exceeding two years is made a part of the contract of employment.

8VAC20-441-60. Calculating term for first year of teaching.

For the purpose of calculating the years of service required to attain continuing contract status, at least 160 contractual teaching days during the school year shall be deemed the equivalent of one year in the first year of service by the teacher.

8VAC20-441-70. Probationary period for principal or supervisor.

A person employed as a principal, assistant principal, or supervisor, including a person who has previously achieved continuing contract status as a teacher, shall serve a probationary term of three consecutive years in such position in the same school division before acquiring continuing contract status as a principal, assistant principal, or supervisor.

8VAC20-441-80. Probationary period when employee separates from service.

If a teacher, principal, assistant principal, or supervisor separates from service during his probationary period and does not return to service in the same school division by the beginning of the year following the year of separation, such person shall be required to begin a new probationary period.

8VAC20-441-90. Effect of service outside the Virginia system.

Teaching service outside of the Virginia public school system shall not be counted as meeting in whole or in part the required probationary term.

8VAC20-441-100. Eligibility for continuing contract.

A. Only persons regularly employed full time by a school board who hold a valid license as teachers, assistant principals, principals, or supervisors shall be eligible for continuing contract status.

B. Any teacher hired on or after July 1, 2001, shall be required, as a condition of achieving continuing contract status, to have successfully completed training in instructional strategies and techniques for intervention for or remediation of students who fail or are at risk of failing the Standards of Learning assessments. Local school divisions shall be required to provide such training at no cost to teachers

employed in their division. In the event a local school division fails to offer such training in a timely manner, no teacher will be denied continuing contract status for failure to obtain such training.

8VAC20-441-110. Continuing contract status when employee separates from service.

When a teacher has attained continuing contract status in a school division in the Commonwealth, and separates from and returns to teaching service in a school division in Virginia by the beginning of the third year, such teacher shall be required to serve a probationary period not to exceed two years if such probationary period is made part of the contract for employment. If a teacher who has attained continuing contract status separates from service and does not return to teaching in Virginia public schools by the beginning of the third year, such teacher shall be required to begin a new probationary period.

8VAC20-441-120. Contract to be separate and apart from annual or continuing contract.

The coaching contract or extracurricular activity sponsorship contract with a teacher shall be separate and apart from the teacher's annual or continuing contract, and termination of the coaching or extracurricular activity sponsorship contract shall not constitute cause for the termination of the annual or continuing contract.

For the purposes of this chapter, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

8VAC20-441-130. Termination notice required.

The coaching contract or extracurricular activity sponsorship contract shall require the party intending to terminate the contract to give reasonable notice to the other party prior to the effective date of the termination.

8VAC20-441-140. Listing of essential contract elements.

A. The list of essential contract elements can be used by certain local school divisions who prefer to develop contracts specific to their circumstances or situations. This list of essential elements is provided as an alternative to the formal prototypes available.

B. Annual contracts. Any annual contract for professional personnel shall, to the maximum extent possible, be written in clear and concise language easily understood by all parties, and include, at a minimum, the following provisions:

1. A statement identifying the names and titles of the parties to the contract.
2. A statement of the licensure requirements for the position or options thereto.
3. A statement of the beginning date of service, the term, and the effective date of the contract.
4. A statement of the duties to be performed under the contract.
5. A statement of expectations of the employee with regard to compliance with local, state, or federal statutes, regulations and constitutional provisions.
6. A statement of the provisions concerning assignment, reassignment, termination, suspension, probation, or resignation of the employee, and mutual termination of the contract.
7. A statement of the penalties for the employee's failure to comply with the terms of the contract.
8. A statement identifying the school term.
9. A statement of the conditions under which the school term and/or contract may be extended.
10. A statement of the amount of compensation due the Employee and the method of payment.
11. A statement of special covenants mutually agreed upon by the employer and employee which form a basis for the contract.

C. Continuing contracts. Any continuing contract for professional personnel shall, to the maximum extent possible, be written in clear and concise language easily understood by all parties, and include, at a minimum the following provisions:

1. All of the provisions required for the annual contract.
2. A statement explaining the continuing nature of the contract.

D. Coaching and extracurricular. Any athletic coaching contract with school personnel shall, to the maximum extent possible, be written in clear and concise language easily understood by all parties, and include the following provisions:

1. A statement identifying the names and titles of the parties to the contract.

2. A statement of the duties to be performed under the contract.

3. A statement of the amount of compensation due the employee and the method of payment.

4. A statement of expectations of the employee with regard to compliance with local, state, or federal statutes, regulations and constitutional provisions.

5. A statement setting forth conditions for termination of the contract.

6. A statement identifying the limitations on the use of the experience toward length of service, substitution for teaching experience and rights in favor of the employee.

7. A statement of the beginning date of service, the term, and the effective date of the contract.

8. A statement of special covenants mutually agreed upon by the employer and employee that form a basis for the contract.

FORMS (8VAC20-441)

[Annual Form - Contract with Professional Personnel](#)

[Continuing Form Contract with Professional Personnel](#)

[Athletic Coaching Contract with School Personnel](#)

[Extracurricular Activity Sponsorship Contract with School Personnel](#)

ANNUAL FORM -- CONTRACT WITH PROFESSIONAL PERSONNEL

THIS AGREEMENT, between the SCHOOL BOARD OF _____ Commonwealth of Virginia, ("School Board") and _____ ("Employee"). The School Board agrees to employ and the Employee agrees to accept such employment in the position of _____ (teacher, assistant principal, principal, or supervisor) subject to the authority of the School Board, under the supervision and direction of the division superintendent of schools, and agrees to the following conditions:

1. The Employee: (check one)

___ holds a valid Virginia license issued by the Board of Education

___ has completed the requirements and has filed a complete application for a Virginia license

___ is eligible for a Virginia license and will file a complete application immediately upon employment.

2. The services to be performed hereunder shall begin on _____, 20___, and continue thereafter as prescribed by the school board.

3. The Employee shall perform such pertinent duties during the period of this contract as are deemed necessary by the School Board and superintendent for the efficient and successful operation of the school system.

4. The Employee shall comply with all school laws, Board of Education regulations, and all regulations made by the School Board in accordance with law and Board of Education regulations, and shall make promptly and accurately all reports required by the division superintendent of schools.

5. The Employee agrees to abide by the provisions of the Constitution of Virginia and the Constitution of the United States.

6. The division superintendent shall have authority to assign employees to their respective positions in the school wherein they have been placed by the School Board and may, with the approval of the School Board, reassign any employee to any school within the division during the term of this contract; provided no change or reassignment shall adversely affect the salary of the employee under this contract.

7. Before the superintendent recommends to the School Board the nonrenewal of the contract of a teacher who has not achieved continuing contract status, the superintendent shall notify the teacher of the proposed recommendation in accordance with Section 22.1-304 of the *Code*.

8. The School Board, upon recommendation of the division superintendent, reserves the right to dismiss, suspend, or place on probation the Employee, paying for services rendered in accordance with this agreement to date of dismissal.

9. In case schools are closed temporarily as a result of an epidemic or for other necessary cause, the said board may require such loss of time to be made up within the school term or may extend the school term.

10. This contract shall not operate to prevent discontinuance of employment as provided or allowed by law.

11. The Employee may request that the School Board release the Employee from the terms of this contract by giving the School Board two weeks' notice in writing and setting

forth therein the reason considered just cause for resignation. In the event the School Board declines to grant the request for release from the contract on the grounds of insufficient or unjustifiable cause, and the Employee breaches the contract, the School Board may pursue remedies prescribed by the Board of Education or other remedies consistent with law or contract.

12. The School Board agrees to pay Employee for the duration of this contract _____, payable:

(a) in ___ installments for services rendered, payable by the first day of each calendar month or as soon thereafter as possible.

or

(b) in accordance with schedule under "Special Covenants."

13. The School Board shall not be obligated to the salary terms above unless and until sufficient funds are provided to fulfill the obligations of the School Board by the appropriating body.

14. In the event this contract is terminated by mutual consent prior to the end of the contract period, payment will be made for service rendered on a daily rate basis to be determined by dividing the salary stipulated in this contract by the number of days officially covered under the provisions of this contract.

15. The School Board shall deduct monthly from the salary due the Employee the computed amount due the Virginia Retirement System (including State-supported group insurance), and applicable state and federal statutes.

16. SPECIAL COVENANTS:

This contract shall at all times be subject to any and all laws, regulations, and policies now existing or enacted during the term of the contract relating to conditions of employment, including, but not limited to, leave, salaries, and length of school terms. Failure of the Employee to fulfill this contract shall constitute sufficient grounds for the termination of the contract by the School Board.

The parties agree to the terms of this contract effective this _____ day of _____ 20__

_____(Signature)

Chairman of the Board

_____(Signature)

Clerk of the Board

_____(Signature)

Division Superintendent

_____(Signature)

Employee

CONTINUING FORM CONTRACT WITH PROFESSIONAL PERSONNEL

State law provides for continuing contracts with local school boards for members of the instructional staff who are qualified by the terms of said law, and/or regulations of the Board of Education; therefore, this article of agreement, between the School Board of _____ (county, city, or town) Commonwealth of Virginia, (the "School Board"), and _____ ("Employee").

The School Board agrees to employ and the Employee agrees to accept such employment in the position of _____ (teacher, assistant principal, principal, or supervisor) subject to the authority of the School Board, under the supervision and direction of the division superintendent of schools, and agrees to the following conditions:

1. The Employee agrees to abide by the provisions of the Constitution of Virginia and the Constitution of the United States.
2. The services to be performed hereunder shall begin on _____, 20____, and continue thereafter as prescribed by the School Board.
3. During the term of this contract, the School Board agrees to pay the Employee an annual salary consistent with provisions of state law, plus any additional salary, but not less than the local scale, as may be determined by the School Board in the local salary schedule as duly adopted from time to time; provided, however, that the School Board shall not be obligated hereunder unless and until sufficient funds to meet the obligations of the School Board hereunder have been approved by the appropriating body.
4. The Employee accepts this appointment and agrees to perform such pertinent duties during the period of this contract as are deemed necessary by the School Board and superintendent for the efficient and successful operation of the school system.
5. The division superintendent shall have authority to assign Employees to their respective positions in the school wherein they have been placed by the School Board, and may, with the approval of the School Board, reassign any Employee to any school within the division during the term of this contract; provided no change or reassignment shall adversely affect the salary of the Employee under this contract.
6. The reassignments of a continuing contract assistant principal, principal, or supervisor to a teaching position shall be in accordance with Section 22.1-294 of the *Code of Virginia* (1950), as amended.
7. The Employee shall comply with all school laws, Board of Education regulations, and all rules and regulations made by the School Board in accordance with law and Board of Education regulations, and shall make promptly and accurately all reports required by the division superintendent of schools.
8. The length of the school term and the annual period of service shall be fixed by the School Board in accordance with law.
9. This contract of employment shall remain in full force and effect from year to year, subject to all the provisions herein set forth, unless modified by mutual consent in writing by the parties to this contract. The Employee may be dismissed, suspended, or placed on probation as provided by law. The School Board, upon recommendation of the division superintendent, reserves the right to dismiss, suspend, or place on probation the Employee, paying for service rendered in accordance with this agreement to date of dismissal. In case schools are closed temporarily as a result of an epidemic or for other necessary cause, the School Board may require such loss of time to be made up within

the school term or may extend the school term. In the event this contract is terminated, payment will be made for services actually rendered on a daily rate basis.

10. This contract shall not operate to prevent discontinuance of a position as provided by law.

11. The Employee may request that the School Board release the Employee from the terms of this contract by giving the School Board two weeks' notice in writing and setting forth therein the reason considered just cause for resignation. In the event the School Board declines to grant the request for release from the contract on the grounds of insufficient or unjustifiable cause and the Employee breaches the contract, the School Board may pursue remedies prescribed by the Board of Education or other remedies consistent with law or contract.

12. This contract shall be null and void and of no further force or effect and be terminated if, at any point during the term of this contract, the Employee does not hold a valid license, as defined in regulations of the Board of Education.

13. The Employee may be granted a leave of absence as provided by law, Board of Education regulations, and/or the policies of the School Board.

14. The School Board, shall deduct monthly from the salary due the Employee the computed amount due the Virginia Retirement System (including State-supported group insurance), and other applicable state and federal statutes.

15. SPECIAL COVENANTS:

This contract shall at all times be subject to any and all laws, regulations, and policies now existing or enacted during the term of the contract relating to conditions of employment, including, but not limited to, leave, salaries, and length of school terms. Failure of the Employee to fulfill this contract shall constitute sufficient grounds for the termination of the contract by the School Board.

The parties agree to the terms of this contract effective this _____ day of _____ 20____

_____(Signature)

Chairman of the Board

_____(Signature)

Clerk of the Board

_____(Signature)

Division Superintendent

_____(Signature)

Employee

ATHLETIC COACHING CONTRACT WITH SCHOOL PERSONNEL

AGREEMENT, dated this ____ day of _____, 20__, between the SCHOOL BOARD OF _____ (county, city, or town) ("School Board") and _____ ("Coach").

The School Board and the Coach agree that the Coach will perform the following athletic coaching assignment _____ (football, basketball, baseball, track, or other specified athletic activity) subject to the authority of the School Board, under the supervision and direction of the superintendent or designee, subject to the *Code of Virginia* and subject to the following conditions:

- 1. The Coach shall perform such pertinent duties during the period of this assignment as are deemed necessary by the School Board and the superintendent or designee for the successful and efficient operation of the school system.
- 2. The Coach shall comply with all applicable law, Virginia Board of Education regulations, School Board policies, and regulations of the superintendent now or hereafter in effect.
- 3. This agreement may be terminated by either party with or without cause by providing reasonable notice in writing to the other party. Such reasonable notice may be set forth in the Special Covenants below.
- 4. The School Board agrees to pay the Coach \$_____ as compensation for the duration of this agreement, payable in accordance with established payroll procedures. The Coach agrees and acknowledges that this employment does not qualify as service toward continuing contract eligibility, does not constitute teaching experience, and does not create any rights of any type in favor of the Coach other than the compensation referred to herein.
- 5. This agreement is for an athletic coaching assignment from _____ (month/day), 20__ to _____ (month/day), 20__, commencing _____ (month/day), 20__.
- 6. The School Board shall deduct from the compensation all deductions required by law.
- 7. Termination of this agreement by either party shall not, in itself, constitutes cause for termination of any separate teaching contract between the Coach and the School Board.

8. SPECIAL COVENANTS:

The parties agree that ____ days' notice is reasonable for termination of this agreement.

The parties agree to the terms of this contract effective this _____ day of _____, 20__.

_____(Signature)

Chairman of the Board

_____(Signature)

Clerk of the Board

_____(Signature)

Division Superintendent

_____(Signature)

Coach

EXTRACURRICULAR ACTIVITY SPONSORSHIP CONTRACT WITH SCHOOL PERSONNEL

AGREEMENT, between the SCHOOL BOARD OF _____ (county, city, or town) ("School Board") and _____ ("Employee").

The School Board and the Employee agree that the Employee will perform the following extracurricular activity sponsorship assignment subject to the authority of the School Board, under the supervision and direction of the superintendent or designee, subject to the *Code of Virginia* and subject to the following conditions:

1. "Extracurricular sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.
2. The Employee shall perform such pertinent duties during the period of this assignment as are deemed necessary by the School Board and the superintendent or designee for the successful and efficient operation of the school system.
3. The Employee shall comply with all applicable law, Virginia Board of Education regulations, School Board policies, and regulations of the superintendent now or hereafter in effect.
4. This agreement may be terminated by either party with or without cause by providing reasonable notice in writing to the other party. Such reasonable notice may be set forth in the Special Covenants below.
5. The School Board agrees to pay the Employee \$_____ as compensation for the duration of this agreement, payable in accordance with established payroll procedures. The Employee agrees and acknowledges that this employment does not qualify as service toward continuing contract eligibility, does not constitute teaching experience, and does not create any rights of any type in favor of the Employee other than the compensation referred to herein.
6. This agreement is for an extracurricular activity sponsorship assignment from _____ (month/day), 20__ to _____ (month/day), 20__, commencing _____ (month/day), 20__.
7. The School Board shall deduct from the monetary compensation all deductions required by law.
8. Termination of this agreement by either party shall not in itself constitute cause for termination of any separate teaching contract between the Employee and the School Board.

9. SPECIAL COVENANTS:

The parties agree that ___ days' notice is reasonable for termination of this agreement.

The parties agree to the terms of this contract effective this _____ day of _____, 20__.

_____ (Signature)

Chairman of the Board

_____ (Signature)

Clerk of the Board

_____ (Signature)

Division Superintendent

_____ (Signature)

Employee

ATTACHMENT 2

FORM TH-03:

FINAL REGULATION AGENCY BACKGROUND DOCUMENT



townhall.virginia.gov

Final Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation(s)	8VAC20-441
Regulation title(s)	<i>Regulations Governing the Employment of Professional Personnel</i>
Action title	Repeal 8VAC20-440 and Promulgate 8VAC20-441 <i>Regulations Governing the Employment of Professional Personnel</i> to Comport with the <i>Code of Virginia</i> .
Date this document prepared	January 12, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed regulatory action replaces the existing regulation numbered 8VAC20-440 with a new regulation numbered 8VAC20-441. Proposed amendments reflect changes in the *Code of Virginia* based on Chapters 106 and 687 of the 2012 Acts of Assembly and Chapters 588 and 650 of the 2013 Acts of Assembly. The proposed amendments include: defining assistant principals; clarifying the definitions of teachers and supervisors; defining the probationary terms for teachers, which, at local option, can be three years and up to five years; defining the standard 10-month contract; and adding the list of essential contract elements in the regulations. Additional amendments repeal the provisions on the uniform hiring of teachers.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

The proposed regulations define technical terms.

Statement of final agency action

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

- 1) the date the action was taken: anticipated on February 23, 2017
- 2) the name of the agency taking the action: Virginia Board of Education
- 3) the title of the regulation: Regulations Governing the Employment of Professional Personnel

Legal basis

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

Virginia Board of Education

The *Constitution of Virginia* grants the Board of Education authority for the general supervision of the public school system, and Section 22.1-16 of the *Code of Virginia* authorizes the Board to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title. Section 22.1-302 references contracts, permitted by the Board of Education's regulations.

The 2012 Virginia General Assembly approved House Bill [76](#) and Senate Bill [278](#) to amend and re-enact § [22.1-304](#) of the *Code of Virginia*, as follows. Senate Bill [278](#) bill is identical to House Bill [76](#). The 2013 Virginia General Assembly approved Senate Bill [1223](#) to amend and re-enact §§ [2.2-507](#), [22.1-79](#), [22.1-253.13:5](#), [22.1-293](#), [22.1-294](#), [22.1-295](#), [22.1-298.1](#), [22.1-299](#), [22.1-302](#), [22.1-303](#), [22.1-304](#), [22.1-305](#), [22.1-305.1](#), [22.1-306](#), [22.1-307](#), [22.1-309](#), [22.1-311](#), [22.1-313](#), and [22.1-314](#) of the *Code of Virginia* and to repeal §§ [22.1-299.3](#), [22.1-310](#), and [22.1-312](#) of the *Code of Virginia*, relating to public schools; evaluation policies and grievance procedures.

Statutory Authority: Sections 22.1-16, 22.1-253.13:5, 22.1-293, 22.1-294, 22.1-295, 22.-302, 22.1-303, 22.1-304, and 22.1-305 of the *Code of Virginia*

Purpose

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

The regulations provide the requirements for contracts, probationary periods of teachers, assistant principals, and principals. The goals of the proposal are to provide clarity to the regulations and align the regulations with the *Code of Virginia*.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

The proposed regulatory action replaces the existing regulation numbered 8VAC20-440 with a new regulation numbered 8VAC20-441. Proposed amendments reflect changes in the *Code of Virginia* based on Chapters 106 and 687 of the 2012 Acts of Assembly and Chapters 588 and 650 of the 2013 Acts of Assembly. The proposed amendments include: defining assistant principals; clarifying the definitions of teachers and supervisors; defining the probationary terms for teachers, which, at local option, can be three years and up to five years; defining the standard 10-month contract; and adding the list of essential contract elements in the regulations. Additional amendments repeal the provisions on the uniform hiring of teachers.

Issues

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

The revisions to the *Regulations Governing the Employment of Professional Personnel* conform to statute; therefore, the advantage is that the regulations provide clarity to the policies and procedures regarding contracts. The regulations do not pose any major disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements as contracts are issued by Virginia school boards.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The proposed regulations do not disproportionately affect particular localities.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulations do not pose any major impact on families.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
8VAC20-440-20	*8VAC20-440-20. Conditions of Employment (Fingerprinting, Department of Social Services Registry Search, Licensure) A. Section 22.1-296.2 of the <i>Code of Virginia</i> , requires as a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment after July 1, 1989, whether full-time or part-time,	The section was removed.	The revision was made during the review for publication in the <i>Virginia Register of Regulations</i> . This section (now entitled "Reserved") was

Section number	Requirement at proposed stage	What has changed	Rationale for change
	<p>permanent, or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.</p> <p>B. As required by Section 22.1-296.4 of the <i>Code of Virginia</i>, on and after July 1, 1997, every school board shall require, as a condition of employment, that any applicant who is offered or accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, provide written consent and the necessary personal information for the school board to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to Section 63.2-1515 of the <i>Code</i>.</p> <p>C. Section 22.1-299 of the <i>Code of Virginia</i> requires that no teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education. Notwithstanding the provision in Section 22.1-298.1 that the provisional license is limited to three years, if a teacher employed in Virginia under a provisional license is activated or deployed for military service within a school year (July 1-June 30), an additional year will be added to the teacher's provisional license for each school year or portion thereof the teacher is activated or deployed. The additional year or years shall be granted the following year or years after the return of the teacher from deployment or activation. <i>Code</i> Section 22.1-295 states that the teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel qualified in the relevant subject areas.</p> <p>D. Section 22.1-293 of the <i>Code of Virginia</i> states a school board, upon recommendation of the division superintendent, may employ principals and assistant principals. Persons employed in these positions shall</p>		<p>deleted since this text was from the <i>Code of Virginia</i> and did not need to be repeated in regulations.</p>

Section number	Requirement at proposed stage	What has changed	Rationale for change
	hold licenses as prescribed by the Board of Education.		
8VAC20-440-130.	*Part II, Uniform Hiring of Teachers was deleted.	This section was removed.	After the Board of Education approved the proposed
8VAC20-440-140.			<i>Regulations</i>
8VAC20-440-150.			<i>Governing the</i>
8VAC20-440-160.			<i>Employment of</i>
			<i>Personnel</i>
			(Proposed Stage) on
			June 27, 2013, the
			executive review
			process
			commenced. During
			this review, Part II
			Uniform Hiring of
			Teachers of the
			<i>Regulations</i>
			<i>Governing the</i>
			<i>Employment of</i>
			<i>Personnel</i> was
			stricken from the text
			because the
			<i>Constitution of</i>
			<i>Virginia</i> (Article VIII,
			Section 7) provides
			that "The supervision
			of schools in each
			school division shall
			be vested in a
			school board, to be
			composed of
			members selected in
			the manner, for the
			term, possessing the
			qualifications, and to
			the number provided
			by law." The
			employment of
			teachers is the
			responsibility of a
			school board.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
	NONE	

No comment was received.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	8VAC20-441-20 (Reserved)	The statutory text was added in the proposed stage, but was removed during review.	*removing additional sections proposed that mirror Code of Virginia text The revision was made during the review for publication in the <i>Virginia Register of Regulations</i> .
	8VAC-441-10	Assistant principals were not defined.	*defining assistant principals; The definition was added to comport with state statute.
8VAC-440-10	8VAC-441-10	Current definitions may be reviewed at 8VAC-440-10 .	*clarifying the definitions of teachers and supervisors; The clarification was made to comport with state statute.
8VAC20-440-140 . 8VAC20-440-150. 8VAC20-440-160.		The notification dates were referenced in Part II-Uniform Hiring of Teachers.	*removing notification dates – changed by statute from April 15 to June 15; The section of the current regulations that included notification dates (Part II) was deleted.
8VAC-440-40	8VAC-441-50	Current regulations are not aligned with the <i>Code of Virginia</i> . The current regulations state that a	defining the probationary terms for teachers, which, at local option, can be three years and up to five years;

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
		probationary term for teachers is three years.	The revision is to comport with state stature.
8VAC-440-20	8VAC-20-441-30	Reference the following link for the current text of 8VAC-440-20 .	defining the standard 10-month contract The revision is to comport with state stature.
8VAC20-440-130. 8VAC20-440-140 . 8VAC20-440-150. 8VAC20-440-160.		Current regulations include the section, Uniform Hiring of Teachers .	repealing the provisions on the uniform hiring of teachers This section was removed because the employment of teachers is the responsibility of a school board.
Forms	8VAC20-441-140. Listing of essential contract elements.	The list of essential contract elements is an attachment.	adding the list of essential contract elements (as requested during the review for publication in the <i>Virginia Register of Regulations</i>) This change was to make clear the essential contract elements in the regulation.