| **Virginia Board of Education Agenda Item** | **Seal of the Commonwealth of Virginia** |
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# Agenda Item: K

## Date: March 18, 2021

### Title: First Review of Child Care Regulations Transferring from the Board of Social Services to the Board of Education (*Exempt Action*)

#### Presenter: Ms. Jenna Conway, Chief School Readiness Officer

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## Purpose of Presentation:

Action required by state or federal law or regulation.

Executive Summary:   
Effective July 1, 2021, the Board of Education is responsible for establishing a unified public-private system for early childhood care and education (ECCE) in the Commonwealth, to be implemented by the Virginia Department of Education (VDOE). Chapters [860](https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0860) and [861](https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0861) of the 2020 Acts of the General Assembly require regulations governing the implementation and oversight of ECCE programs to be transferred from the Board of Social Services to the Board of Education. These regulations are to be adopted as written, with minor modifications as needed to be incorporated into the Education administrative code section. The Board’s initial actions to adopt these regulations with “necessary amendments” are exempt from Article 2 (§2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the *Code of Virginia*. Necessary amendments for the purposes of such exempt action include:

* Renumbering;
* Changing references from the Board of Social Services to the Board of Education;
* Changing code references and descriptions;
* Striking regulations specific to adult care programs and child welfare programs; and
* Striking regulations related to child support enforcement pursuant to [§ 63.2-1911](https://law.lis.virginia.gov/vacode/title63.2/chapter19/section63.2-1911/).

VDOE will conduct a comprehensive review of these regulations in partnership with the new Early Childhood Advisory Council to identify and recommend substantive policy changes to the Board later this year.

This item supports Priority 1 of the Board’s Comprehensive Plan to provide high-quality learning environments for all students.

## Action Requested:

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

## April 22, 2021

## Superintendent’s Recommendation: The Superintendent of Public Instruction recommends the Board of Education receive for first review the Child Care Regulations Transferring from the Board of Social Services to the Board of Education (*Exempt Action*).

## Previous Review or Action:

No previous review or action.

Background Information and Statutory Authority:  
Pursuant to [§ 22.1-289.03 of the Code of Virginia](https://law.lis.virginia.gov/vacode/title22.1/chapter14.1/section22.1-289.03/), the Board of Education (Board) is responsible for establishing “a statewide unified public-private system for early childhood care and education system in the Commonwealth to ensure that every child has the opportunity to enter kindergarten healthy and ready to learn.” The system will be “implemented by the Board, the Superintendent [of Public Instruction] and the Department [of Education (VDOE)]” effective July 1, 2021. Funding and oversight of early childhood care and education (ECCE) programs and policies—including the Child Care Subsidy Program and child care licensing and monitoring—will transition to VDOE from the Virginia Department of Social Services on July 1 accordingly.

Chapters [860](https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0860) and [861](https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0861) of the 2020 Acts of the General Assembly require that the regulations governing the implementation and oversight of ECCE programs be transferred from the Board of Social Services to the Board and state that such transferred regulations “remain in full force and effect until altered, amended, or rescinded by the Board of Education.” The Board’s initial actions to adopt these regulations with “necessary amendments” are exempt from Article 2 (ง [2.2-4006 et seq](https://law.lis.virginia.gov/vacode/2.2-4006/).) of Chapter 40 of Title 2.2 of the Code of Virginia. Necessary amendments for the purposes of such exempt action include:

* Renumbering;
* Changing references from the Board of Social Services to the Board of Education;
* Changing code references and descriptions;
* Striking regulations specific to adult care programs and child welfare programs; and
* Striking regulations related to child support enforcement pursuant to [§ 63.2-1911](https://law.lis.virginia.gov/vacode/title63.2/chapter19/section63.2-1911/).

VDOE will conduct a comprehensive review of these regulations in partnership with the new Early Childhood Advisory Council to identify and recommend substantive policy changes to the Board later this year.

The attachments includes partially marked-up copies of the following sections of Social Services code, which are set to transfer to the Board. Administrative code numbers that will change during the formal transfer process are highlighted in yellow.

* 22VAC40-80: General Procedures and Information for Licensure (Attachment A)
* 22VAC60-160: Fees (Attachment B)
* 22VAC40-191: Background Checks for Child Welfare Agencies (Attachment C)
* 22VAC40-185: Standards for Licensed Child Day Centers (Attachment D)
* 22VAC40-111: Standards for Licensed Family Day Homes (Attachment E)
* 22VAC40-180: Voluntary Registration of Family Day Homes—Requirements for Providers (Attachment F)
* 22VAC40-120: Minimum Standards for Family Day Systems (Attachment G)
* 22VAC40-665: Child Care Program (Attachment H)
* 22VAC40-690: Virginia Child Care Provider Scholarship Program (Attachment I)

Timetable for Further Review/Action:

Upon Board approval, Department staff will work with the Registrar’s office to initiate the process of transferring the identified regulations into Board’s Administrative Code.

## Impact on Fiscal and Human Resources:

There is no fiscal impact of this action. Existing Department staff will support the Registrar’s office to complete the transfer.