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

## Date: November 19, 2020

### Title: Written Report: State-level Waivers and Relief Measures

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## Purpose of Presentation:

For information only. No action required.

Executive Summary:
On March 23, 2020, Governor Ralph Northam ordered that all K-12 schools close for the remainder of the 2019-2020 academic year in an effort to control the spread of COVID-19. While schools have reopened for the 2020-2021 school year, albeit in new formats, the ongoing effects of the pandemic continue to have a substantive impact on students and schools. These unprecedented conditions have made it difficult for local school divisions to reasonably meet certain statutory and regulatory requirements.

Per Governor Northam’s Executive Order Fifty-One (2020), which declared a state of emergency in response to the COVID-19 pandemic, heads of executive branch agencies are authorized to waive any state requirement or regulation on behalf of its regulatory board. Additionally, Chapters 1283 and 1289 of the 2020 Acts of Assembly gave the Superintendent of Public Instruction the authority to grant temporary flexibility or waivers for certain deadlines and requirements in the *Code of Virginia* and Appropriation Act that cannot be met for the 2019-2020 and 2020-2021 school years due to COVID-19.

With the above privileges, the Superintendent of Public Instruction has provided a number of waivers and relief measures for state-level mandates that could not be resolved through existing pathways or flexibilities and where inaction would have caused irrevocable harm to students, families, and teachers. The attached written report provides a list of those waivers and relief measures in effect as of October 15, 2020.

## Action Requested:

No action requested.

Superintendent’s Recommendation:
The Superintendent of Public Instruction recommends that the Board of Education receive this written report on state-level waivers and relief measures.

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## Previous Review or Action:

No previous review or action.

Background Information and Statutory Authority:
On March 12, 2020, Governor Northam issued Executive Order Fifty-One (EO51) which declared a state of emergency in response to the COVID-19 pandemic and authorized heads of executive branch agencies to waive any state requirement or regulation on behalf of its regulatory board. On May 26, 2020 EO51 was amended to remain in effect until rescinded.

Executive Order Fifty-One (2020)

C. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.

With this authority, the Superintendent of Public Instruction granted several waivers of regulatory language, primarily as it related to graduation requirements for students affected by the extended school closures and ongoing pandemic conditions. Other regulatory waivers include those related to accreditation, instructional time requirements, and student health, among others.

During the April 2020 reconvened session, the General Assembly passed Chapters [1283](https://budget.lis.virginia.gov/item/2020/1/HB29/Chapter/1/134/) and [1289](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/143/) of the 2020 Acts of Assembly, both of which included budget language that provides the Superintendent of Public Instruction with the additional authority to grant temporary flexibility or issue waivers of certain deadlines and requirements set out in Title 22.1 of the *Code of Virginia* and Appropriation Act that could not be met due to COVID-19. This authority is limited to the fiscal year 2020 (school year 2019-2020) or fiscal year 2021 (school year 2020-2021).

Chapters 1289, 2020 Acts of Assembly

Item 143. I. Notwithstanding the provisions set forth in this Act or in § 22.1, Code of Virginia, the Superintendent of Public Instruction may grant temporary flexibility or issue waivers of certain deadlines and requirements that cannot be met due to the state of emergency or school closures resulting from Novel Coronavirus (COVID-19). Such flexibility or waivers may include, but are not limited to, accreditation, testing and assessments, graduation, licensure, including temporary licensure, school calendars, and program applications and reports due to the Department of Education or Board of Education. Such authority only applies to deadlines and requirements for fiscal year 2020 (school year 2019-2020) or fiscal year 2021 (school year 2020-2021). Prior to granting any flexibility or waivers pursuant to this language, the Superintendent of Public Instruction must report to the Secretary of Education and substantiate how the state of emergency or school closures resulting from COVID-19 impacted each deadline or requirement, the proposed alternative, and the affected fiscal and school years. Subsequently, information about waivers or flexibility extended shall be reported to the Board of Education and made available on the agency website.

Per procedural requirements, any waiver or relief measure requested by the Superintendent of Public Instruction must also be reviewed and approved by the Secretary of Education before taking effect. All waivers and relief measures are posted on the Virginia Department of Education website [here](https://www.doe.virginia.gov/support/health_medical/covid-19/covid-19-state-policy-waivers.shtml).

Since March, the Superintendent of Public Instruction has issued a total of 49 waivers and relief measures on issues ranging from assessments and accreditation, funding flexibilities, graduation requirements, instructional requirements, reporting requirements and other deadlines, student health and services, and teacher education and licensure, among other miscellaneous items. The attached report lists each of these 49 items, organized by topic.

Timetable for Further Review/Action:
No additional review or action required.

## Impact on Fiscal and Human Resources:

No costs associated with waivers or relief measures.

**Attachment A**

# State-Level Waivers and Relief Measures in Effect

## Last updated October 15, 2020

Please note: this document only provides detail for those waivers or relief measures provided at the state level. Any waiver authorized by the federal government or other oversight institutions can be found on Department of Education’s [COVID-19 webpage](http://www.doe.virginia.gov/support/health_medical/office/covid-19.shtml).

Waivers and measures that are new since the written report provided to the Board of Education on June 18, 2020 are denoted with an asterisk.

**Assessments and Accreditation**

1. The Superintendent of Public Instruction will  waive accreditation for each public school for the 2021-2022 school year based on data from 2020-2021. The accreditation label assigned to each public school for 2021-2022 will be "accreditation waived." (§ [22.1-253.13:3](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A3/) and [8VAC20-131](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/))\*
2. A waiver of the requirement in [8VAC20-131-30](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section30/) that students in middle and secondary schools must take all applicable end-of-course SOL tests following course instruction unless they have already earned a verified credit in that subject area. Middle and high school students must still take all end-of-course SOL tests required for federal accountability. Middle and high school students may take any end-of-course SOL test needed for verified credit for graduation. This waiver only applies to the 2020-2021 school year.\*
3. Local school divisions shall be relieved of the end-of-year assessment requirement for any early intervention reading services provided in the 2019-2020 school year. (§ [22.1-253.13:1.D.13](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A1/))
4. Local school divisions shall be relieved of the end-of-year assessment requirement for any algebra readiness intervention services provided in the 2019-2020 school year. (§ [22.1-253.13:1.D.13](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A1/))
5. The Superintendent of Public Instruction will identify a new label for accreditation (“accreditation waived”) and thus waive accreditation for each public school for the 2020-2021 school year based on data from 2019-2020.
6. Local school boards shall be relieved of the requirements to administer Standards of Learning end-of-course and end-of-grade assessments and the alternative assessments for students with significant cognitive disabilities for the 2019-2020 school year. No local school board shall be required to certify it has administered an alternative assessment in 2019-2020 (§ [22.1-253.13:3.C](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A3/)).
7. Divisions shall be relieved from the Virginia Kindergarten Readiness Program spring testing requirements for the 2019-2020 school year ([Item 128.H.a-d](https://budget.lis.virginia.gov/item/2019/1/HB1700/Chapter/1/128/) of the 2019 Appropriation Act).
8. Divisions participating in Phonological Awareness Literacy Screening assessments, as well as divisions with waivers, shall be relieved from the spring assessment requirement for the 2019-2020 school year ([Item 128.C.14](https://budget.lis.virginia.gov/item/2019/1/HB1700/Chapter/1/128/) of the 2019 Appropriation Act).

**Funding Flexibilities**

1. Schools that are eligible to participate in the K-3 Primary Class Size Reduction program may be allowed to exceed either the school ratio OR maximum class size, as currently set out in Item 145.C.10.d, if the reason for needing flexibility is the direct result of reorganizing classrooms to accommodate some virtual instruction for a limited number of students. As an example, a school with 75% or more of students approved eligible for free lunch (based on a three-year average), may have K-3 classes larger than 19 students to accommodate some students in a virtual classroom as long as the school ratio remains 14 to 1. In-person instruction should remain the primary instructional delivery model for K-3 grades in order to be eligible for this flexibility. Schools that are able to maintain either the school ratio OR maximum class size and meet the above conditions will not be subject to a reduction to incentive funding.

Schools that are entirely virtual are still eligible for funding through the K-3 Primary Class Size Reduction program, but the above flexibility would not apply. These schools must maintain the maximum class size AND school ratio in order to receive incentive funding. ([Item 145.C.10](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/) of Chapter 1289)

1. For the 2020-2021 school year, new programs opening prior to or on November 15, 2020 will be eligible to receive the full state share of annual VPI funding for all enrolled students.

For the 2020-2021 school year, new programs opening between November 16, 2020 and January 8 2021 will be eligible to receive 75% of the state share of annual VPI funding for all enrolled students.

Additionally, existing programs may continue enrollment through November 15, 2020 and receive the full state share of annual VPI funding for all enrolled students.

Existing programs may continue enrollment from November 16, 2020 through January 8, 2021 and receive 75% of the state share of annual VPI funding for all enrolled students. Existing programs seeking to access this flexibility and incentive will report preschool enrollment as of January 15, 2021 through a method prescribed by the Department of Education.

Students enrolled after October 1 may be exempt from any required fall assessments. Students enrolled after October 1 will not be eligible for any community provider add-on funds, regardless of location served.

Existing programs unable to meet 180 days or 990 hours due to COVID-19 will also be eligible to receive state funds on a fractional basis determined by the pro-rata portion of a school year program provided. ([Item 145.C.14.d](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/))\*

1. School divisions eligible for After-the-Bell breakfast program incentive funds are able to apply for reimbursement for eligible meals served in the current traditional school breakfast program, or the Summer Food Service Program, or the Seamless Summer Option program for the 2020-2021 school year. School divisions must still apply for reimbursement through the Department of Education’s application process. ([Item 145.C.29.c.1](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/))\*
2. For FY21, school divisions that are unable to provide remedial programs during the summer school session, or during intersession in the case of year round school, due to COVID-19 are eligible to use remedial summer school funds towards remedial programming provided to students through November 1, 2020.

School divisions should continue to report any students participating in a remedial summer school program as part of the Remedial Summer School data collected via the Summer Student Record Collection. For this one year only, the Summer Student Record Collection will be due in November of 2020 so that any students receiving remedial services during the 2020 summer or fall terms can be reported.

The instructional time minimums and staffing ratios set out in the Board of Education’s *Standards for State-Funded Remedial Programs* at [8VAC20-630-60](https://law.lis.virginia.gov/admincode/title8/agency20/chapter630/section60/) remain in effect. However, school divisions offering state-funded remedial summer school programs shall have maximum flexibility with respect to the use of these funds and the types of remediation, intervention, and recovery programs offered, including the use of virtual learning, distance learning, or remote learning in meeting its instructional time requirements. However, in exercising this flexibility, students attending these programs shall not be charged tuition.

Any remedial services provided in the 2020 fall term must be offered outside of the regular instructional day. Regular school year expenses for the 2020 fall term are not eligible for reimbursement under this flexibility.

To accommodate those students that were affected by the extended school closures, high school credit may be awarded only to those students who are receiving remediation for a course in which the student was enrolled in the spring 2020 term and was unable to earn a standard unit of credit. In no other instances may high school credit be awarded to students who participate in a remedial program that is funded through this provision, whether in the summer or fall of 2020, as this was an existing restriction as the time of school closure.

Remedial summer school funds may be used in conjunction with other sources of state funding for remediation, or intervention as well as state and federal funding to support recovery efforts. ([Item 145.C.9.G](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/) of the 2020 Appropriation Act)

**Graduation Requirements**

1. A waiver of the career and technical education credential requirement for any student who is graduating in 2020-2021 and seeking a Standard Diploma under the graduation requirements in [8VAC20-131-50](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section50/).\*
2. A waiver of the student selected test for any student who:
* Is graduating in 2020-2021 and seeking either a Standard or Advanced Diploma under the graduation requirements in 8VAC20-131-50;
* Is a career and technical education program completer as of the summer 2020 term; and
* Intended to use a career and technical education credentialing test to meet their student selected test requirement.

In order to be eligible for such waiver, an administrator or school counselor must verify that the student is a program completer and had intended to use a career and technical education credentialing test to meet their student selected test requirement. ([8VAC20-131-50](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section50/))\*

1. A waiver of the first additional requirement for graduation (Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential) for any student who:
* Is graduating in 2020-2021 but under the graduation requirements in 8VAC20-131-51;
* Is a career and technical education program completer as of summer 2020 term; and
* Intended to use a career and technical education credentialing test to meet the additional requirement for graduation.

In order to be eligible for such waiver, an administrator or school counselor must verify that the student is a program completer and had intended to use a career and technical education credentialing test to meet the additional requirement for graduation. (§[22.1-253.13:4.D.6](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A4/) and [8VAC20-131-51](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section51/))\*

1. Students graduating in 2020-2021 shall be relieved of the requirement to complete training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. (§ [22.1-253.13:4.D.7](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A4/))\*
2. A waiver on the cap of locally-awarded verified credits that can be earned by the following students:
	1. Students graduating in 2020-2021 or beyond who were enrolled in a high-school credit bearing course that was eligible for a verified credit in the spring or summer of 2020.
	2. Students graduating in 2020-2021 or beyond who earned a standard credit prior to the spring 2020 semester seeking **ONE** verified credit and who meet the following conditions:
		1. previously failed the corresponding SOL end-of-course test needed for verified credit with any scaled score;
		2. were scheduled to take the SOL end-of-course test in the spring 2020 test administration; and
		3. in spring or summer 2020 were provided with targeted and sustained remediation or enrolled in a course intended to prepare them for taking the previously failed SOL end-of-course test.

Such students, whether subject to graduation requirements in [8VAC20-131-50](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section50/) or [8VAC20-131-51](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section51/), can apply locally-awarded verified credits earned via this waiver to either a Standard or Advanced Diploma.

Locally-awarded verified credits can be awarded in accordance with the Board of Education’s revised [*Emergency Guidelines: Locally-Awarded Verified Credits*](http://www.doe.virginia.gov/boe/meetings/2020/06-jun/item-f-attachment-a-b.docx). This waiver is supplemented by VDOE’s guidance on [Guidance on Graduation Requirements, Awarding of Credits, and Continuity of Learning](http://www.doe.virginia.gov/support/health_medical/office/covid-19-grad-credits.shtml). \*Revised since last report

1. A waiver of the requirement to attempt the associated SOL end-of-course test twice and score within the 375-399 scaled score range in order to earn the locally awarded verified for the following students:
	1. Students graduating in 2020-2021 or beyond who were enrolled in a high-school credit bearing course that was eligible for a verified credit in the spring or summer of 2020.
	2. Students graduating in 2020-2021 or beyond who earned a standard credit prior to the spring 2020 semester seeking **ONE** verified credit and who meet the following conditions:
		1. previously failed the corresponding SOL end-of-course test needed for verified credit with any scaled score;
		2. were scheduled to take the SOL end-of-course test in the spring 2020 test administration; and
		3. in spring or summer 2020 were provided with targeted and sustained remediation or enrolled in a course intended to prepare them for taking the previously failed SOL end-of-course test.

Locally-awarded verified credits can be awarded in accordance with the Board of Education’s revised [*Emergency Guidelines: Locally-Awarded Verified Credits*](http://www.doe.virginia.gov/boe/meetings/2020/06-jun/item-f-attachment-a-b.docx). This waiver is supplemented by VDOE’s guidance on [Guidance on Graduation Requirements, Awarding of Credits, and Continuity of Learning](http://www.doe.virginia.gov/support/health_medical/office/covid-19-grad-credits.shtml). \*Revised since last report

1. A waiver of requirements for all state-level diploma seals as provided in [8VAC20-131-50](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section50/) for ONLY those students graduating with the 2019-2020 cohort. Diploma seals for 2019-2020 should be awarded based on new requirements as approved below.
2. For only those students graduating with the 2019-2020 cohort, diploma seals may be awarded based on revised eligibility criteria as set out below. These new requirements are designed to maintain existing pathways to the diploma seal as well as academic rigor, but recognize that some final seal requirements may be unattainable due to the extended school closures. Please note the bolded items reflect changes from original seal requirements.

*Board of Education's Career and Technical Education Seal*

The Board of Education's Career and Technical Education Seal is awarded to students who:

Earn a Standard or Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses. **If a Pass/Fail grade option is used, school divisions are provided the discretion to determine if a student has met the qualification**;

* OR pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade or professional association;
* OR acquire a professional license in that career and technical education field from the Commonwealth of Virginia.

The Board of Education shall approve all professional licenses and examinations used to satisfy these requirements. See [The Path to Industry Certification](http://www.doe.virginia.gov/instruction/career_technical/path_industry_certification/index.shtml) for the current approved licenses and examinations.

*Board of Education’s STEM Seal*

The Board of Education’s STEM Seal shall be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and satisfy all Math and Science requirements for the Advanced Studies diploma with a “B” average or better in all course work. **If a Pass/Fail grade option is used, school divisions are provided the discretion to determine if a student has met the qualification**;

* AND successfully complete a **25** hour or more work-based learning opportunity in a STEM area;
* AND satisfy all requirements for a Career and Technical Education concentration. A concentration is a coherent sequence of two or more state-approved courses as identified in the course listing within the CTE Administrative Planning Guide.
* **[The requirement that the student must also pass either a CTE STEM-H credential or examination approved by the Board that confers a college level-credit in a STEM field is stricken.]**

The Board of Education shall approve all professional licenses and examinations used to satisfy these requirements. See [The Path to Industry Certification](http://www.doe.virginia.gov/instruction/career_technical/path_industry_certification/index.shtml) for the current approved licenses and examinations.

*Board of Education's Advanced Mathematics and Technology Seal*

The Board of Education's Advanced Mathematics and Technology Seal is awarded to students who earn either a Standard or Advanced Studies Diploma and satisfy all of the mathematics requirements for the Advanced Studies Diploma (four units of credit including Algebra II; two verified units of credit) with a "B" average or better. **If a Pass/Fail grade option is used, school divisions are provided the discretion to determine if a student has met the qualification**; and either

* pass an examination in a career and technical education field that confers certification from a recognized industry, or trade or professional association;
* OR **successfully complete all courses necessary to earn a professional license and in lieu of the examination, submit a portfolio of student work which is signed by the division superintendent or designee;**
* OR **pass a course associated with an examination that is approved by the Board of Education and which may confer college-level credit or a dual enrollment/concurrently enrolled course in a technology or computer science area**.

The Board of Education shall approve all professional licenses and examinations used to satisfy these requirements. See [The Path to Industry Certification](http://www.doe.virginia.gov/instruction/career_technical/path_industry_certification/index.shtml) for the current approved licenses and examinations.

*Board of Education's Excellence in Civics Education Seal*

The Board of Education's Excellence in Civics Education Seal is awarded to students who meet each of the following four criteria:

* Satisfy the requirement to earn a Modified Standard Diploma, a Standard Diploma or an Advanced Studies Diploma;
* Complete Virginia & United States History and Virginia & United States Government courses with a grade of "B" or higher. **If a Pass/Fail grade option is used, school divisions are provided the discretion to determine if a student has met the qualification**;
* Complete **25** hours of voluntary participation in community service or extracurricular activities, such as volunteering for a charitable or religious organization that provides services to the poor, sick or less fortunate; participating in Boy Scouts, Girl Scouts or similar youth organizations; participating in Junior Reserve Officer Training Corps (JROTC); participating in political campaigns, government internships, Boys State, Girls State or Model General Assembly; and participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation will be deemed to have met this community service requirement; and
* Have good attendance and no disciplinary infractions as determined by local school board policies.

*Board of Education’s Seal of Biliteracy*

The Board of Education’s Seal of Biliteracy is awarded to students who earn a Board of Education-approved diploma and:

* Pass all required End-of-Course Assessments in English reading and writing at the proficient or higher level **or pass all required English courses;**
* **AND** demonstrate proficiency at the intermediate-mid level or higher in one or more languages other than English as demonstrated through an assessment from a list approved by the Superintendent of Public Instruction. **For students who have not completed an assessment as of the time of school closing, school divisions should:**
* **Accept student evidence submitted through the Virginia LinguaFolio® Online language portfolio system or the traditional LinguaFolio® paper portfolio, with teacher verification of meeting the intermediate-mid level requirements; or**
* **Accept assessments completed with one of the remote proctoring options offered by the assessment providers; or**
* **Award the Seal up to one year after graduation at such time as the candidate is able to complete and submit the required evidence.**

American Sign Language qualifies as a language other than English.

The following seals remain in effect without revision, but please note the added guidance on grading.

*The Governor’s Seal*

The Governor's Seal is awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better, and successfully complete college-level coursework that will earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses. **If a Pass/Fail grade option is used, school divisions are provided the discretion to determine if a student has met the qualification**.

*Board of Education Seal*

The Board of Education Seal is awarded to students who complete the requirements for a Standard Diploma or Advanced Studies Diploma with an average grade of "A" beginning with the ninth-grade class of 2006-2007 and beyond. **If a Pass/Fail grade option is used, school divisions are provided the discretion to determine if a student has met the qualification**.

1. A waiver of any verified credit requirement, as set out in [8VAC20-131-50](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section50/), that is a barrier to graduation for students who were enrolled in the Virginia public schools in spring 2020 and scheduled to graduate with the 2019-2020 cohort.
2. A waiver for those students who were enrolled in a course as of March 13, 2020, or have previously completed a course leading to a CTE credential necessary for a Standard Diploma but have not yet earned the credential.
3. Students graduating with the 2019-2020 cohort, including terms in spring and summer 2020, shall be relieved of the requirement to complete training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation (§ [22.1-253.13:4.D.7](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A4/)).
4. Students graduating with the 2019-2020 cohort, including terms in spring and summer 2020, shall be relieved of the requirement to complete a virtual course (§ [22.1-253.13:4.D.9](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A4/)).

**Instructional Requirements**

1. For the 2020-2021 school year only, schools or local school divisions unable to offer 180 teaching days or 990 teaching hours to each student in a brick-and-mortar setting will be able to meet the length of school term requirement by demonstrating and certifying “completion” as described in the modified 2020-2021 Length of School Term Waiver Process in the forthcoming Superintendent’s Memo (§[22.1-98](https://law.lis.virginia.gov/vacode/title22.1/chapter8/section22.1-98/)subsections C through E and [8VAC20-131-5](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section5/), definition of “standard school year”)

Any school divisions exercising the flexibility provided for the 180-day or 990-hour requirement will still be subject to a waiver approval process. Local schools boards will need to submit a waiver request to the Board of Education and approval will be contingent on the school board providing certain evidence or documentation, as determined by the Superintendent of Public Instruction.

To align regulatory requirements with the modified waiver process, the Superintendent of Public Instruction will also issue a waiver of [8VAC20-521-40](https://law.lis.virginia.gov/admincode/title8/agency20/chapter521/section40/) subsections C and D of the Board of Education’s Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours related to the length of school term waiver process.\*

1. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person, including an option of synchronous delivery via video conferencing. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. (§ [22.1-205](https://law.lis.virginia.gov/vacode/title22.1/chapter13/section22.1-205/))\*
2. A waiver of seven of the fourteen periods of in-car instruction required per [8VAC20-340-10](https://law.lis.virginia.gov/admincode/title8/agency20/chapter340/section10/). The seven waived periods are those designated for observation (refer to Module Eleven).\*
3. Local school divisions must provide a program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per in-person instructional day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year.

Local school divisions are still required to provide a program of physical activity and should consider opportunities to encourage student engagement through physical activity, whether in-person or virtually. (§[22.1-253.13:1.D.15](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13%3A1/) and [8VAC20-131-200.D](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section200/))\*

**Reporting Requirements and Other Deadlines**

1. A waiver of the reporting requirement set out in [Item 145.C.14.h.3](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/) due to the impact of COVID-19 on the market conditions for child care in fall 2020.

Assuming the market stabilizes in the first half of 2021, the Department of Education shall analyze the gap between regional prevailing child care market rates and the Virginia Preschool Initiative per pupil amount and report on a schedule designating the amount of the add-on grants for each school division by June 30, 2021.\*

1. For 2020 only, the Department will provide its annual report on the Public School Security Equipment Grant to the General Assembly no later than October 30. This extension provides school divisions additional time to submit their reimbursement requests for qualifying purchases that were delayed due to COVID-19. (§ [22.1-280.2:2](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-280.2%3A2/))\*
2. An extension of an existing flexibility that any local school division participating in an After-the-Bell breakfast program shall be relieved of the requirement to include tardy arrivals, office discipline referrals, student achievement measures, teachers' and administrators' responses to the impact of the program on student hunger, student attentiveness, and overall classroom learning environment before and after implementation, and the financial impact on the division's school food program in its annual program report, due on August 31, 2021 to the Department of Education. No funded school division shall be excluded from funding eligibility in the 2021-2022 school year based on unavailability of data from the 2020-2021 school year. ([Item 145.C.30.c.3](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/))\*
3. The deadline for submitting Virginia Preschool Initiative applications remains set for May 15, but those divisions in need of flexibility can email earlychildhood@doe.virginia.gov ([Item 145.14.a-b](https://budget.lis.virginia.gov/item/2020/1/HB30/Enrolled/1/145/) of the 2020 Appropriation Act).
4. Any school division or consortium of divisions applying for the School Program Innovation Grant for the 2020-2021 school year may have until July 2, 2020 to submit their grant application to the Department of Education ([Item 144.T](https://budget.lis.virginia.gov/item/2020/1/HB30/Enrolled/1/144/) of the 2020 Appropriation Act).
5. Any local school division participating in an After-the-Bell breakfast program shall be relieved of the requirement to include tardy arrivals, office discipline referrals, student achievement measures, teachers' and administrators' responses to the impact of the program on student hunger, student attentiveness, and overall classroom learning environment before and after implementation, and the financial impact on the division's school food program in its annual program report, due on August 31, 2020 to the Department of Education. No funded school division shall be excluded from funding eligibility in the 2020-2021 school year based on unavailability of data from the 2019-2020 school year. ([Item 136.C.30.c.3](https://budget.lis.virginia.gov/item/2020/1/hb29/reenrolled/1/136/))

**Student Health and Services**

1. A waiver of the requirement in § [22.1-273](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-273/) and [8VAC20-250-10](file:///C%3A%5CUsers%5Clesliemsale%5CDropbox%5CVirginia%20Deparment%20of%20Education%5CCOVID-19%5CSecretary%20of%20Education%20Waivers%5C8VAC20-250-10) that the principal of each public school shall cause the hearing and vision of students in grades K, 3, 7, and 10 to be screened in the 2020-2021 school year if a student is entirely virtual and a parent provides a written declination of screening services. Prior to declination, the parent must be informed of the benefits of vision and hearing screens for a student’s health and wellbeing.\*
2. A waiver of the requirement in [8VAC20-250-10](https://law.lis.virginia.gov/admincode/title8/agency20/chapter250/section10/) that the hearing of pupils in grades K, 3, 7, and 10 be screened within 60 administrative working days of the opening of school for those schools that will still provide hearing screenings in the 2020-2021 school year and that the scheduling of such screenings shall be completed no later than the 60th administrative working day of the school year.

Vision screenings shall still be scheduled no later than the 60th working day of the school year and conducted at any time during the school year, per the requirement in § [22.1-273](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-273/).\*

1. In an instance where the date of school reopening has been delayed for the 2020-2021 school year, a first-time public kindergarten or elementary school pupil shall be admitted if such student can furnish, prior to admission (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the originally scheduled school reopening date such pupil would have first entered such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report. (§ [22.1-270](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-270/))\*

**Teacher Education and Licensure**

1. A waiver of the provision in § [22.1-302](https://law.lis.virginia.gov/vacode/title22.1/chapter15/section22.1-302/) that a temporarily employed teacher may only be employed to fill a teacher vacancy for up to 90 teaching days. For the 2020-2021 school year only, a school board may use a temporarily employed teacher to fill a vacancy for a period longer than 90 days without approval from the Superintendent of Public Instruction so long as the school division actively recruits and seeks to fill the vacant position.

Local school divisions exercising this flexibility must ensure that any temporarily employed teacher placed in a vacancy for longer than 90 days has the knowledge, skills, and abilities to provide instruction in the relevant grade/subject/assignment/endorsement area; must be mentored by a licensed teacher in their assigned grade/subject/assignment/endorsement area; and must receive a satisfactory evaluation during the initial 90 days.

Alternatively, a school board may still seek approval for an extended placement from the Superintendent of Public Instruction on a case-by-case basis during one school year.

This waiver does not apply to restrictions for temporarily employed teachers for driver education classes.\*

1. For the 2020-2021 school year only, the requirement in § [22.1-299](https://law.lis.virginia.gov/vacode/title22.1/chapter15/section22.1-299/)(B)(2) and (3) that the teacher must have a satisfactory performance evaluation *each year* of the original three-year provisional license is waived.  Satisfactory performance evaluations will still be required for such teachers for the year(s) employed during the original three-year provisional license. The extended provisional license will be effective from July 1, 2020 to June 30, 2021.\*
2. An extension to the existing waiver that any individual seeking an initial license or renewal of licensure and who has completed all other components of training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillator shall be relieved of the requirement to have hands-on practice of the skills necessary to perform cardiopulmonary resuscitation for the purpose of their licensure application until June 30, 2021. (§ [22.1-298.1.D](https://law.lis.virginia.gov/vacode/title22.1/chapter15/section22.1-298.1/))\*
3. An individual seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall have until January 1, 2021, to provide documentation of the completion of instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion. (§ [22.1-298.1.D.8](https://law.lis.virginia.gov/vacode/title22.1/chapter15/section22.1-298.1/))\*
4. A waiver of the requirement that any teacher eligible for and seeking a STEM incentive award, as provided for in [Item 135.G.2](https://budget.lis.virginia.gov/item/2020/1/HB29/Chapter/1/135/) of the 2019 Appropriation Act, have a signed contract in the same school division for the 2020-2021 school year. Instead, eligible teachers can provide evidence from the division superintendent that the same school division intends to offer a contract for the following school year.
5. Any individual seeking an initial license or renewal of licensure and who has completed all other components of training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillator shall be relieved of the requirement to have hands-on practice of the skills necessary to perform cardiopulmonary resuscitation for the purpose of their licensure application until January 1, 2021 (§ [22.1-298.1.D](https://law.lis.virginia.gov/vacode/title22.1/chapter15/section22.1-298.1/)).
6. Upon request, the Board of Education shall issue a One-Year License, effective July 1, 2020 to June 30, 2021, to individuals who have deficiencies for full licensure, including licensure assessments, but have not completed such licensure requirements due to the COVID-19 pandemic. VDOE will follow up in subsequent communication on the process for obtaining such a license and with details about allowable deficiencies. This license is intended to be nonrenewable and shall not be extended unless the declared state of emergency due to COVID-19 continues well into 2021. An application fee shall not be required for the One-Year License; however, the individual must pay applicable fees for any subsequent license.

**Miscellaneous**

1. A waiver of §§ [22.1-137.1](https://law.lis.virginia.gov/vacode/title22.1/chapter9/section22.1-137.1/), [22.1-137.2](https://law.lis.virginia.gov/vacode/title22.1/chapter9/section22.1-137.2/) and [8VAC20-131-260](https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section260/) as well as § [22.1-184](https://law.lis.virginia.gov/vacode/title22.1/chapter12/section22.1-184/) so that a  school board may delay the implementation of the following: (1) Mandatory lock-down and tornado safety drills until such time as it is logistically feasible to conduct such drills; and (2) Mandatory school bus emergency drills until such time that any transportation services have resumed at which point, school boards shall have 90 calendar days to conduct such drills.\*
2. A waiver of [8VAC20-110-40](https://law.lis.virginia.gov/admincode/title8/agency20/chapter110/section40/) which requires that a pupil shall be counted present only when he is present for roll calls or is in attendance for approved participation at approved school-sponsored field trips or other approved activities or events. A pupil reporting after roll call will be recorded present and tardy.\*
3. A waiver of the requirement that a pupil be withdrawn from the roll after 15 consecutive absences, as found at [8VAC20-110-130](https://law.lis.virginia.gov/admincode/title8/agency20/chapter110/section130/), if such student is known to be absent **due to illness or quarantine due to COVID-19**.\*
4. For the 2020-2021 school year only, good cause waivers, pursuant to § [22.1-79.1](https://law.lis.virginia.gov/vacode/title22.1/chapter7/section22.1-79.1/), shall include any division seeking additional instructional days prior to the allowable school start date for students for lost teaching time in the 2019-2020 school year due to extended closures required by COVID-19.
5. Parents electing to provide home instruction during the 2019-2020 school year shall be relieved of the requirement to provide evidence of student progress to the local school division superintendent ([§ 22.1-254.1](https://law.lis.virginia.gov/vacode/title22.1/chapter7/section22.1-254.1/)).