# Attachment B: Pending *Licensure Regulations for School Personnel*\*

**\*Governor’s office review in progress.**

**Part VII
Revocation, Cancellation, Suspension, Denial, and Reinstatement of [ ~~Teaching~~ ] Licenses**

## 8VAC20-23-720. Revocation.

A. A license issued by the Virginia Board of Education may be revoked for the following reasons:

1. Obtaining or attempting to obtain [ ~~such~~ a ] license by fraudulent means or through misrepresentation of material facts;

2. Falsification of school records, documents, statistics, or reports;

3. Conviction of any felony;

4. Conviction of any misdemeanor involving moral turpitude;

5. Conviction of any misdemeanor involving a [ student or ] minor [ ~~child or drugs, not including alcohol~~ ];

 [ 6. Conviction of any misdemeanor involving drugs (not alcohol); ]

 [ ~~6~~ 7 ]. Conduct with direct and detrimental effect on the health, welfare, discipline, or morale of[ ~~students~~ a student or minor ];

 [ ~~7~~ 8 ]. Misapplication of or failure to account for school funds or other school properties with which the licensee has been entrusted;

 [ ~~8~~ 9 ]. Acts related to secure mandatory tests as specified in subsection A of § 22.1-292.1 of the Code of Virginia;

 [ ~~9~~ 10 ]. Knowingly and willfully with the intent to compromise the outcome of an athletic competition procure, sell, or administer anabolic steroids or cause such drugs to be procured, sold, or administered to a student who is a member of a school athletic team, or fail to report the use of such drugs by a student to the school principal and division superintendent as required by clause (iii) of subsection A of § 22.1-279.3:1 of the Code of Virginia. Any person whose license is suspended or revoked by the board pursuant to this section shall be ineligible for three school years for employment in the public schools of the Commonwealth;

 [ ~~10~~ 11 ]. Revocation, suspension, surrender, cancellation, invalidation, or denial of, or other adverse action against, a teaching, administrator, pupil personnel services, or other education-related certificate or license by another state, territory, or country; [ or denial of an application for any such certificate or license; ]

 [ ~~11~~ 12 ]. Founded case of child abuse or neglect after all [ ~~appeal rights~~ administrative appeals ] have been exhausted;

 [ ~~12~~ 13 ]. Notification of dismissal or resignation pursuant to subsection F of § 22.1-313 of the Code of Virginia; or

 [ ~~13~~ 14 ]. Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.

B. Procedures.

1. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal, or other responsible school employee to file a complaint in any case in which he has knowledge that a[ ~~holder of a license is guilty of any offense~~ basis for the revocation of a license exists, as ] set forth in subsection A of this section. The person making the complaint shall submit the complaint in writing to the appropriate division superintendent. [ If the subject of the complaint is the division superintendent, the person making the complaint may submit the complaint to the chair of the local school board. ]

2. Upon receipt of the complaint against the holder of a license, a division superintendent or his duly authorized representative shall [ immediately and thoroughly ] investigate the complaint. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board, on its own motion, votes to proceed to a hearing on the complaint.

C. Petition for revocation. Should the division superintendent or local school board conclude that there is reasonable cause to believe that a [ ~~complaint against the holder of a license is well founded~~ basis for revocation of the license exists ], the license holder shall be notified of the complaint by a written petition for revocation of a license signed by the division superintendent. A copy of such petition shall be sent by certified mail, return receipt requested, to the license holder's last known address.

D. Form of petition. The petition for the revocation of a license shall set forth:

1. The name and last known address of the person against whom the petition is being filed;

2. The type of license and the license number held by the person against whom the petition is being filed;

3. The [ ~~offenses alleged~~ basis for revocation ] and the specific [ underlying alleged ] actions [ ~~that comprise the alleged offenses~~ ];

4. A statement of rights of the person [ ~~charged under this chapter~~ against whom the petition is being filed ]. The statement of rights shall [ notify the person that any adverse action against a license, including revocation, will be reported to the division superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States. The statement also shall ] include notification to the person of the right to cancel the license if he chooses not to contest the allegations in the petition. The statement [ ~~must~~ shall ] notify the individual that he shall receive a notice of cancellation that will include the statement: "The license holder voluntarily returned the license in response to a petition for revocation." The individual also shall be notified that the cancellation of the license will be reported to division superintendents in Virginia and [ , through a national clearinghouse, ] to chief state school officers of the other states and territories of the United States; and

5. Any other pertinent information.

E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is or was last employed.

F. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days of delivery or attempted delivery of the petition as certified by the United States Postal Service.

1. If the license holder does not wish to contest the allegations in the petition, he may [ ~~cancel~~ request cancellation of ] the license by  [ r~~eturning the license to the division superintendent with~~ submitting ] a written, signed statement requesting cancellation in response to a petition for revocation. The division superintendent shall forward the request for cancellation along with the petition for revocation to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 days of receipt of the request for cancellation.

2. If the license holder files a written answer admitting or denying the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [ , ] as certified by the United States Postal Service, the local school board shall [ ~~promptly~~ ] proceed to a hearing [ within 90 days of mailing the petition to the license holder and provide the Superintendent of Public Instruction a copy of the petition and investigative file at the time the local school board hearing is scheduled ]. The local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place it may specify. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing.

3. At the hearing, the local school board shall receive the recommendation of the division superintendent and then either deny the petition or recommend license revocation or suspension. A decision to deny the petition shall be final, except as specified in subsection G of this section, and the investigative file on the petition shall be closed and maintained as a separate file. Any record or material relating to the allegations in the petition shall be placed in the investigative file. Should the local school board recommend the revocation or suspension of a license, the division superintendent shall forward the recommendation [ , petition,  ] and [ ~~the~~ ] investigative file to the Superintendent of Public Instruction within 14 days.

G. Revocation on motion of the Virginia Board of Education. The Virginia Board of Education reserves the right to act directly to revoke a license when the Virginia Board of Education has reasonable cause to believe that subsection A of this section is applicable. The Superintendent of Public Instruction may send a petition for revocation to the license holder as provided by subsection D of this section. The license holder shall have the opportunity to [ ~~respond~~ present his written answer, if any, ] to the petition[ ~~or request cancellation of the license~~ ] within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

 [ If the license holder does not wish to contest the allegations in the petition, he may request the cancellation of the license by submitting a written, signed statement requesting cancellation in response to a petition for revocation. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 day of receipt of the request for cancellation. ]

[ ~~1~~ 2. ] If the license holder files a written answer admitting the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [ , ] as certified by the United States Postal Service, the petition shall be forwarded to the Virginia Board of Education for action. No revocation will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

 [ ~~2~~ 3. ] If the license holder timely files his written answer denying the allegations in the petition, the Superintendent of Public Instruction shall schedule a hearing with the investigative panel provided in 8VAC20-23-780 A. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing. The investigative panel shall take action on the petition as specified in 8VAC20-23-780 A. No revocation will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

H. Reinstatement of license. A license that has been revoked may be reinstated by the Virginia Board of Education after five years if the board is satisfied that reinstatement is in the best interest of the public schools of the Commonwealth of Virginia. The individual seeking reinstatement [ ~~must~~ shall ] submit a written request and completed application to the board. [ ~~The request for reinstatement will be reviewed by the Superintendent of Public Instruction's investigative panel pursuant to 8VAC20-23-780.~~ ] Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

## 8VAC20-23-730. Cancellation.

A. A license may be canceled by the voluntary return of the license by the license holder [ in response to a petition for revocation or suspension or pursuant to a court order ]. Reasons for cancellation are the same as those listed under 8VAC20-23-720 A.

B. The individual may voluntarily return the license to the division superintendent or the Superintendent of Public Instruction with a written, signed statement requesting cancellation. The individual shall acknowledge in the request that he understands that the notice of cancellation will include the statement: "The license holder voluntarily [ ~~returned~~ surrendered ] his teaching license and requested cancellation. Reasons for cancellation are the same as those for revocation." [ ~~However, if the request for cancellation is in response to a petition for revocation, the~~ The ] individual shall [ also ] acknowledge that he understands that the notice of cancellation will include the statement: "The license holder voluntarily [ ~~returned~~ surrendered ] the license in response to a petition for revocation [ or suspension or a court order ]." The individual also shall acknowledge that he understands that the cancellation of the license will be reported to division superintendents in Virginia and [ , through a national clearinghouse, ] to chief state school officers of the other states and territories of the United States. The division superintendent shall forward any request for cancellation and, if applicable, the petition for revocation [ or suspension ] to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send the person a notice of cancellation by certified mail within 14 days of receipt of the request for cancellation.

C. A license that has been canceled may be reinstated by the Virginia Board of Education if the board is satisfied that reinstatement is in the best interest of the public schools of the Commonwealth of Virginia. The individual seeking reinstatement [ ~~must~~ shall ] submit a written request and completed application to the board. [ ~~The request for reinstatement will be reviewed by the Superintendent of Public Instruction's investigative panel pursuant to 8VAC20-23-780 A~~. ] Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

## 8VAC20-23-740. Suspension.

A. A license may be suspended for the following reasons:

1. Physical, mental, or emotional incapacity as shown by a competent medical authority;

2. Incompetence or neglect of duty;

3. Failure or refusal to comply with school laws and regulations, including willful violation of contractual obligations;

4. Acts related to secure mandatory tests as specified in subsection A of § 22.1-292.1 of the Code of Virginia;

5. Knowingly and willfully with the intent to compromise the outcome of an athletic competition procure, sell, or administer anabolic steroids or cause such drugs to be procured, sold, or administered to a student who is a member of a school athletic team, or fail to report the use of such drugs by a student to the school principal and division superintendent as required by clause (iii) of subsection A of § 22.1-279.3:1 of the Code of Virginia. Any person whose license is suspended or revoked by the board pursuant to this section shall be ineligible for three school years for employment in the public schools of the Commonwealth; or

6. Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.

B. Procedures.

1. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal, or other responsible school employee to file a complaint in any case in which he has knowledge [ that ] [ ~~that the license holder has committed any offense~~a basis for suspension exists, as ] set forth in subsection A of this section. The person making the complaint shall submit the complaint in writing to the appropriate division superintendent. [ If the subject of the complaint is the division superintendent, the person making the complaint may submit the complaint to the chair of the local school board. ]

2. Upon receipt of the complaint against the holder of a license, a division superintendent or his duly authorized representative shall [ immediately and thoroughly ] investigate the complaint. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board on its own motion votes to proceed to a hearing on the complaint.

C. Petition for suspension. Should the division superintendent or local school board conclude that there is reasonable cause to believe that a [ ~~complaint against the holder of a license is well founded~~ basis for suspension of the license exists ] , the license holder shall be notified of the complaint by a written petition for suspension of a license signed by the division superintendent. A copy of such petition shall be sent by certified mail, return receipt requested, to the license holder's last known address.

D. Form of petition. The petition for the suspension of a license shall set forth:

1. The name and last known address of the person against whom the petition is being filed;

2. The type of license and the license number held by the person against whom the petition is being filed;

3. The [ ~~offenses alleged~~ basis for suspension ] and the specific [ underlying alleged ] actions [ ~~that comprise the alleged offenses~~ ];

4. A statement of the rights of the person against whom the petition is being filed. The statement of rights shall notify the person [ that the license may be suspended for up to five years with the period of suspension, as determined by the Virginia Board of Education. In addition, the statement shall notify the person that any adverse action against a license, including suspension, will be reported to the division superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States.  The statement also shall notify the person ] of the right to cancel the license if he chooses not to contest the allegations in the petition [  ~~. The statement also shall notify the individual that the license may be suspended for up to five years and that~~ and notify the individual that if he cancels the license, ] he shall receive a notice of cancellation that will include the statement: "The license holder voluntarily returned the license in response to a petition for suspension." The individual also shall be notified that the cancellation [ ~~and period of suspension~~ ] will be reported to division superintendents in Virginia and [ , through a national clearinghouse, ] to chief state school officers of the other states and territories of the United States; and

5. Any other pertinent information.

E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is or was last employed.

F. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

1. If the license holder does not wish to contest the allegations in the petition, he may [ ~~cancel~~ request cancellation of ] the license by [ ~~returning the license to the division superintendent with~~ submitting ] a written and signed statement requesting cancellation [ in response to a petition for suspension to the division superintendent ]. The division superintendent shall forward the request for cancellation along with the petition for suspension to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send the person a notice of cancellation [ to the person ] by certified mail within 14 days of receipt of the request for cancellation.

2. If the license holder files a written answer admitting or denying the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [ , ] as certified by the United States Postal Service, the local school board shall promptly proceed to a hearing. The local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place it may specify. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing.

3. At its hearing, the local school board shall receive the recommendation of the division superintendent and then either deny the petition or recommend suspension. A decision to deny the petition shall be final, except as specified in subsection G of this section, and the investigative file on the petition shall be closed and maintained as a separate file. Any record or material relating to the allegations in the petition shall be placed in the investigative file. Should the local school board recommend the suspension of a license, the division superintendent shall forward the recommendation and the investigative file to the Superintendent of Public Instruction within 14 days.

G. Suspension on motion of the Virginia Board of Education. The Virginia Board of Education reserves the right to act directly to suspend a license when the Virginia Board of Education has reasonable cause to believe that subsection A of this section is applicable. The Superintendent of Public Instruction may send a petition for suspension to the license holder as specified in subsection D of this section. The license holder shall have the opportunity to [ ~~respond~~ present his written answer ] to the petition[ ~~or request cancellation of the license~~,if any, ] within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

 [ 1. If the license holder does not wish to contest the allegations in the petition, he may request cancellation of the license by submitting a written, signed statement requesting cancellation in response to a petition for suspension. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 days of receipt of their request for cancellation. ]

 [ ~~1~~ 2. ] If the license holder files a written answer admitting the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [ , ] as certified by the United States Postal Service, the petition shall be forwarded to the Virginia Board of Education for action. No suspension will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

 [ ~~2~~ 3. ] If the license holder timely files his written answer denying the allegations in the petition, the Superintendent of Public Instruction shall schedule a hearing with the investigative panel provided in 8VAC20-23-780 A. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing. The investigative panel shall take action on the petition as specified in 8VAC20-23-780 A. No suspension will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

H. Reinstatement of license. A license may be suspended for a period of time not to exceed five years. The license may be reinstated by the Superintendent of Public Instruction, upon written request and application, with verification that all [ ~~requirements for license renewal all~~ conditions for licensure ] have been satisfied. Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

## 8VAC20-23-750. Denial.

[ A. ] A license may be denied for the following reasons:

1. Attempting to obtain [ ~~such~~ a ] license by fraudulent means or through misrepresentation of material facts;

2. Falsification of records or documents;

3. Conviction of any felony;

4. Conviction of any misdemeanor involving moral turpitude;

5. Conviction of any misdemeanor involving a [ ~~minor child or drugs, not including alcohol~~ a student or minor ];

[ 6. Conviction of any misdemeanor involving drugs (not alcohol); ]

[ ~~6~~ 7 ] . Conduct with [ ~~a~~ ] direct and detrimental effect on the health, welfare, discipline, or morale of[ ~~students~~ a student or minor ] ;

[ ~~7~~ 8 ] . Revocation, suspension, surrender, cancellation, invalidation, or denial of, or other adverse action against, a teaching, administrator, pupil personnel services, or other education-related certificate or license by another state, territory, or country; [ or denial of an application for any such certificate or license; ]

[ ~~8~~ 9 ] . Founded case of child abuse or neglect, after all [ ~~appeal rights~~ administrative appeals ] have been exhausted; or

[ ~~9~~ 10 ] . Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.

[ B. Any denial of a license for a reason set forth in 8VAC20-23-750A shall be reported to division superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States. ]

## 8VAC20-23-760. Expired [ licenses license ].

[ ~~A. The holder of a license that has expired must apply for a license according to the procedures set forth in 8VAC20-23-40 or 8VAC20-23-110. Such application may be denied renewal by the Superintendent of Public Instruction for any of the reasons specified in 8VAC20-23-750. No such denial will be ordered unless the license holder is given the opportunity for the hearing specified in 8VAC20-23-780 C.~~ ]

[ ~~B. A~~ Action against a ] license issued by the Virginia Board of Education may be [ ~~revoked or suspended~~ taken ] for any of the reasons listed in 8VAC20-23-720 A [ ~~or~~ , ] 8VAC20-23-740 A, [ or 8VAC20-23-750 A ] even if the license is expired, as long as the basis for action occurred prior to the issuance of the license or while the license was active.

## 8VAC20-23-770. Right to counsel and transcript.

A license holder or applicant shall have the right, at his own expense, to be represented by an attorney or other representative at (i) any local school board hearing provided for in 8VAC20-23-720 F 2 or 8VAC20-23-740 F 2, (ii) [ the ] investigative panel hearing provided for in 8VAC20-23-780 A, or (iii) [ in ] proceedings before the Virginia Board of Education as specified in 8VAC20-23-780 C. The hearing before the local school board provided for in 8VAC20-23-720 F 2 or 8VAC20-23-740 F 2 and the investigative panel hearing provided for in 8VAC20-23-780 A shall be recorded, and [ , ] upon written request [ , ] the license holder or applicant shall be provided a transcript of the hearing at his own expense. Any such hearing before the Virginia Board of Education shall be recorded, and [ , ] upon written request [ , ] the license holder or applicant shall be provided a transcript of the hearing at no charge.

## 8VAC20-23-780. Action by the Superintendent of Public Instruction and the Virginia Board of Education.

A. Upon receipt of a petition, the Superintendent of Public Instruction will ensure that an investigative panel at the state level reviews the petition. The panel shall consist of three to five members selected by the Superintendent of Public Instruction. The applicant or license holder shall be given at least 14 days' notice of the date, time, and location of the investigative panel hearing when his case will be considered. The Virginia Department of Education shall ensure that the applicant or license holder receives all documentation that will be used during the investigative panel hearing prior to the hearing. Representatives of the local school division and the applicant or license holder are entitled to be present with counsel and witnesses if so desired. The investigative panel hearing shall be recorded. The recommendation of the investigative panel is made to the Superintendent of Public Instruction who will forward his recommendation and the documentation used during the investigative panel hearing to the Virginia Board of Education or its duly designated committee [ for consideration ] at one of its scheduled meetings. The applicant or license holder shall be given at least 14 days' notice of the Virginia Board of Education meeting when his case will be considered. Following the investigative panel hearing, the Virginia Department of Education shall forward the recommendation of the investigative panel to the applicant or license holder as soon as practicable, but no later than 14 days prior to the scheduled Virginia Board of Education meeting when his case will be considered.

B. The Superintendent of Public Instruction is authorized to approve the issuance of licenses for individuals who have a misdemeanor [ ~~convictions~~ conviction ] related to drugs, not including alcohol, based on a review of the cases. No individual [ ~~would~~ will ] be denied a license without a hearing of the Virginia Board of Education as required in this section.

C. [ The applicant or license holder and representatives of the local school division are entitled to be present with counsel and witnesses, if so desired, at the hearing of the Virginia Board of Education. ] The Virginia Board of Education, or its duly designated committee, shall consider the recommendation of the Superintendent of Public Instruction and such relevant and material evidence as the applicant or license holder [ and representative of the local school division ] may desire to present at the hearing. At its discretion, the Virginia Board of Education may ask the applicant or license holder questions. At the conclusion of the hearing, the Virginia Board of Education will announce its decision.

D. The decision of the Virginia Board of Education shall be recorded in the minutes of the meeting, and the applicant or license holder and principal complainants will receive written notice of the decision.

## 8VAC20-23-790. Right of applicant or license holder to appear at hearing.

An applicant or a license holder shall have the right to appear in person at the hearings held by the local school board, [ the Superintendents Investigative Panel, ] Virginia Board of Education, or board committee described in this part unless he is confined to jail or a penal institution. The local school board or Virginia Board of Education, at its discretion, may continue such hearings for a reasonable time if the applicant or license holder is prevented from appearing in person for reasons such as [ a ] documented medical [ condition ] or mental impairment.

## 8VAC20-23-800. Notification.

Notification of the revocation, suspension, cancellation, denial, or reinstatement of a license shall be made by the Superintendent of Public Instruction, or his designee, to division superintendents in Virginia and [ , through a national clearinghouse, ] to chief state school officers of the other states and territories of the United States.