



# VIRGINIA BOARD OF EDUCATION

---

# AGENDA ITEM

**Agenda Item:** E

**Date:** July 25, 2024

**Title:** First and Final Review of Exempt Actions to Align Regulations with the 2024 Acts of the Assembly

**Presenter:** Jim Chapman, Director of Board Relations

### **Purpose of Presentation**

Action required by state or federal law or regulation.

### **Executive Summary**

During the 2024 legislative session, the General Assembly passed—and the Governor subsequently signed—numerous bills which affect education in Virginia. Among those, Chapters [183](#) (HB 269), [286](#) (HB 407), 642 (HB 632), and [845](#) (SB 142) require the Virginia Board of Education (“Board”) to amend its regulations.

Each of the proposed regulatory amendments included in this item are necessary to conform to changes in Virginia statutory law. The Board is not exercising discretion in making these changes (i.e., the Board is not making policy on its own authority), but rather responding to legislative changes from the 2024 legislative session. Accordingly, the proposed amendments are being presented as exempt actions under § [2.2-4006\(A\)\(4\)\(a\)](#) of the *Code of Virginia*.

### **Action Requested**

Final review: Action requested at this meeting.

### **Superintendent’s Recommendation**

The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve the regulatory changes included with this item and authorize VDOE to take actions necessary to effectuate the legislative changes.

**Rationale for Action**

The Board is being asked to approve this action in order to keep its regulations consistent with the requirements of the Code of Virginia or in order to fulfill directives from the General Assembly and the Governor.

**Previous Review or Action**

No previous review or action.

**Background Information and Statutory Authority**

Section 2.2-4006(A)(4)(a) of the Code of Virginia exempts from the operation of Article II of the Administrative Process Act regulations that are “necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law’s effective date.”

[Chapter 183](#) (HB 269) directs the Board to amend subsection A of 8VAC20-23-90 to permit any career switcher who seeks a teaching endorsement preK through grade 12, including any career switcher who seeks a teaching endorsement in special education, to pursue a Provisional (Career Switcher) License through the career switcher alternate route to licensure program in accordance with all of the requirements set forth in such subsection. However, nothing in the section shall be construed to supplant, eliminate, or otherwise alter the Provisional (Special Education) License option established in subsection C of 8VAC20-23-90 and the Board shall clarify in its regulations that the option for a career switcher who seeks a teaching endorsement in special education to pursue a Provisional (Career Switcher) License through the career switcher alternate route to licensure program does not supplant subsection C of 8VAC20-23-90 but rather provides an additional pathway to a provisional license for an individual who seeks a teaching endorsement in special education. Chapter 183 additionally directs the Board to amend subsection A of 8VAC20-23-90 to require each individual pursuing a Provisional (Career Switcher) License who seeks an endorsement in special education to complete at least 60 percent of the requirements set forth in 8VAC20-543-500 as part of Level I preparation and to complete the remaining requirements set forth in 8VAC20-543-500 as part of Level II and Level III preparation.

[Chapter 286](#) (HB 407) amends the *Code of Virginia* by adding § 22.1-289.08:2, which provides that any family that receives public assistance through Medicaid or the Special Supplemental Nutrition Program for Women, Infants, and Children shall be deemed to categorically satisfy income eligibility requirements to receive assistance through the Child Care Subsidy Program. 8VAC-20-790-40(E) establishes the scales for determining financial eligibility for the income eligibility child care subsidy program. Thus, this regulation must be updated to reflect the relevant changes in the *Code of Virginia*.

[Chapter 642](#) (HB 632) amends § 22.1-298.1 of the Code of Virginia. The chapter establishes universal licensure by reciprocity as category of teacher licensure. This applies to teachers who hold a valid out-of-state teaching license with full credentials and without deficiencies that has been in force and in use by the individual as an employed teacher in a non-virtual classroom setting at a public or private elementary or secondary school for at least three years prior to and is in force at the time of application and meets other provisions set forth in the chapter. Chapter 642 also allows a division superintendent rather than the Board, as is required by current law, to issue a CTE teacher a provisional license to allow time for the teacher to attain the industry certification credential required by law.

[Chapter 845](#) (SB 142) amends § 22.1-298.1 of the Code of Virginia. The chapter allows the Board to authorize each school board, upon recommendation of the division superintendent or the school board and in accordance with the criteria set forth in the bill, to issue a one-year, nonrenewable local eligibility license that is only valid within the issuing school division to any individual who (i) received a baccalaureate degree from a regionally accredited institution of higher education, (ii) has experience or training in a subject or content area as the school board and division superintendent may deem appropriate for the applicable teaching position or endorsement area, and (iii) is not seeking to provide instruction in special education or eligible for collegiate professional or postgraduate professional licensure. The bill establishes several requirements, criteria, and conditions relating to a local eligibility license. The bill has an expiration date of July 1, 2030.

### **Stakeholder Engagement**

Since these regulatory changes are the result of action by the General Assembly and do not involve any discretionary action on behalf of the Board, no stakeholder engagement has been performed.

### **Implementation and Communication**

Upon the Board's approval, these regulatory actions will be submitted to the Registrar of Regulations for publication in accordance with the Administrative Process Act.

### **Impact on Fiscal and Human Resources**

Any fiscal impact resulting from these regulatory changes were considered by the General Assembly and the Governor through the legislative process. VDOE will comply with all approved legislation.