

1 **State Board of Education**

2 **Action to Align 8VAC20-671 with Chapter 172 of the 2021 Acts of the Assembly SS1**
3 **8VAC20-671-10. Definitions.**

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

6 "504 Plan" means a written plan required under § 504 of the Rehabilitation Act of 1973 (29
7 USC § 701 et seq.), as amended. A student's 504 Plan details modifications, accommodations,
8 and services that are needed for the student with a disability to participate in and enjoy the benefits
9 of school programs at the same level as his peers without disabilities.

10 "Accredited status" means accreditation by an agency recognized by the Virginia Council for
11 Private Education.

12 "Applicant" means the person, partnership, corporation, or association that has completed
13 and submitted an application to the department for approval for a license to operate a school for
14 students with disabilities in Virginia.

15 "Autism" means a developmental disability significantly affecting verbal and nonverbal
16 communication and social interaction, generally evident before age three that adversely affects a
17 child's educational performance. Other characteristics often associated with autism are
18 engagement in repetitive activities and stereotyped movements, resistance to environmental
19 change or change in daily routines, and unusual responses to sensory experiences. Autism does
20 not apply if a child's educational performance is adversely affected primarily because the child
21 has an emotional disturbance. A child who manifests the characteristics of autism after age three
22 could be identified as having autism if the criteria in this definition are satisfied.

23 "Aversive stimuli" means any action used to punish a student or to eliminate, reduce, or
24 discourage the problem behavior by use of any of the following or any other actions that are
25 painful, humiliating, degrading, or abusive:

- 26 1. Noxious odors and tastes.
- 27 2. Water and other mists or sprays.
- 28 3. Blasts of air.
- 29 4. Corporal punishment as defined in § 22.1-279.1 of the Code of Virginia.
- 30 5. Verbal and mental abuse.
- 31 6. Placement of a student alone in a room, where the door is locked or held shut and the
32 student is prevented from leaving the room.
- 33 7. Forced exercise where:
 - 34 a. The student's behavior is related to his disability;
 - 35 b. The exercise would have a harmful effect on the student's health; or
 - 36 c. The student's disability prevents participation in activities.
- 37 8. Deprivation of necessities, including:
 - 38 a. Food or liquid at a time when it is customarily served;
 - 39 b. Medication; or
 - 40 c. Use of restroom.

41 "Behavioral intervention plan" means a plan that utilizes positive behavioral interventions and
42 supports to address (i) behaviors that interfere with the learning of students with disabilities or
43 with the learning of others or (ii) behaviors that require disciplinary action.

44 "Board" means the State Board of Education.

45 "Business day" means Monday through Friday, 12 months of the year, exclusive of federal
46 and state holidays (unless holidays are specifically included in the designation of business days).

47 "Calendar days" means consecutive days, inclusive of Saturdays and Sundays. Whenever
48 any period of time fixed by this chapter shall expire on a Saturday, Sunday, or federal or state
49 holiday, the period of time for taking such action under this chapter shall be extended to the next
50 day that is not a Saturday, Sunday, or federal or state holiday.

51 "Complaint" means an accusation that a school has violated one or more of the requirements
52 of this chapter or other applicable regulation.

53 "Consent" means:

54 1. The parent or eligible student has been fully informed of all information relevant to the
55 activity for which consent is sought in the parent's or eligible student's native language or
56 other mode of communication;

57 2. The parent or eligible student understands and agrees in writing to the carrying out of
58 the activity for which consent is sought, and the consent describes that activity and lists
59 the records (if any) that will be released and to whom; and

60 3. The parent or eligible student understands that the granting of consent is voluntary on
61 the part of the parent or eligible student and may be revoked any time.

62 If a parent or eligible student revokes consent, that revocation is not retroactive (i.e., it does
63 not negate an action that has occurred after the consent was given and before the consent was
64 revoked.) Revocation ceases to be relevant after the activity for which consent was obtained was
65 completed.

66 The meaning of the term "consent" is not the same as the meaning of the term "agree" or
67 "agreement." "Agree" or "agreement" refers to an understanding between the parent or eligible
68 student and the school about a particular matter and as required in this chapter. There is no
69 requirement that an agreement be in writing, unless stated in this chapter. The school should
70 document its agreement.

71 "Controlled substance" means a drug or other substance identified under Schedule I, II, III,
72 IV, or V of the Controlled Substances Act, 21 USC § 812(c).

73 "Corrective action plan" means the school's plan of action to correct a finding of
74 noncompliance applicable to this chapter or other applicable regulations. The plan must identify
75 specific timelines and the person responsible for implementation.

76 "Deaf-blindness" means simultaneous hearing and visual impairments, the combination of
77 which causes such severe communication and other developmental and educational needs that
78 they cannot be accommodated in special education programs solely for children with deafness or
79 children with blindness.

80 "Deafness" means a hearing impairment that is so severe that the child is impaired in
81 processing linguistic information through hearing, with or without amplification, that adversely
82 affects the child's educational performance.

83 "Department" means the Virginia Department of Education.

84 "Developmental delay" means a disability affecting a child age two by September 30 through
85 six, inclusive:

86 1. Who (i) is experiencing developmental delays, as measured by appropriate diagnostic
87 instruments and procedures, in one or more of the following areas: physical development,
88 cognitive development, communication development, social or emotional development, or
89 adaptive development; or (ii) has an established physical or mental condition that has a
90 high probability of resulting in developmental delay;

91 2. The delay is not primarily a result of cultural factors, environmental or economic
92 disadvantage, or limited English proficiency; and

93 3. The presence of one or more documented characteristics of the delay has an adverse
94 effect on educational performance and makes it necessary for the student to have
95 specially designed instruction to access and make progress in the general educational
96 activities for this age group.

97 "Disability category" means a listing of special education eligibility classifications for students
98 served including: autism, deaf-blindness, developmental delay, emotional disability, hearing
99 impairment (including deafness), intellectual disability, multiple disabilities, orthopedic
100 impairment, other health impairment, specific learning disability, speech or language impairment,
101 traumatic brain injury, and visual impairment (including blindness).

102 "Education records" means those records that are directly related to a student and maintained
103 by the school or by a party acting for the school. Education records may be recorded in any
104 manner including, but not limited to, handwriting, print, computer media, video or audiotape, film,
105 microfilm, or microfiche. Education records include discipline and medical records. Education
106 records include electronic exchanges between school personnel and the parent regarding matters
107 associated with the child's educational program.

108 "Eligible student" means a student who has reached 18 years of age.

109 "Emotional disability" or "emotional disturbance" means a condition exhibiting one or more of
110 the following characteristics over a long period of time and to a marked degree that adversely
111 affects a child's educational performance:

- 112 1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- 113 2. An inability to build or maintain satisfactory interpersonal relationships with peers and
114 teachers;
- 115 3. Inappropriate types of behavior or feelings under normal circumstances;
- 116 4. A general pervasive mood of unhappiness or depression; or
- 117 5. A tendency to develop physical symptoms or fears associated with personal or school
118 problems.

119 Emotional disability or emotional disturbance includes schizophrenia. The term does not apply
120 to children who are socially maladjusted, unless it is determined that they have an emotional
121 disturbance or emotional disability as defined in this section.

122 "Funding agency" means a community policy and management team under the Children's
123 Services Act, Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia; local school
124 division; or local department of social services.

125 "Guaranty instrument" means a surety bond, irrevocable letter of credit, or certificate of
126 deposit.

127 "Hearing impairment" means an impairment in hearing in one or both ears, with or without
128 amplification, whether permanent or fluctuating, that adversely affects a child's educational
129 performance but that is not included under the definition of deafness in the Regulations Governing
130 Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).

131 "Illegal drug" means a controlled substance or a prescription drug not prescribed for the
132 person but does not include a controlled substance that is legally possessed or used under the
133 supervision of a licensed health care professional or that is legally possessed or used under any
134 other authority under the Controlled Substances Act, 21 USC § 812(c), or under any other
135 provision of federal law.

136 "Individualized Education Program" or "IEP" means a written statement for a child with a
137 disability that is developed, reviewed, and revised at least annually in a team meeting in

138 accordance with the Regulations Governing Special Education for Children with Disabilities in
139 Virginia (8VAC20-81). The IEP specifies the individual educational needs of the child and what
140 special education and related services are necessary to meet the child's educational needs.

141 "Individualized Instruction Plan" or "IIP" means a written statement for a child who is privately
142 placed or for a child who has not been determined eligible for special education services that is
143 developed, reviewed, and revised at least annually in a team meeting that includes the parent
144 and student when appropriate. The IIP specifies the student's academic level, course of study,
145 individual educational needs, and the educational services the child will receive.

146 "Intellectual disability" means the definition formerly known as "mental retardation" and means
147 significantly subaverage general intellectual functioning, existing concurrently with deficits in
148 adaptive behavior and manifested during the developmental period that adversely affects a child's
149 educational performance.

150 "Licensee," also known as the sponsor, means the person, partnership, corporation, or
151 association to whom a license is issued and who is legally responsible for compliance with this
152 chapter.

153 "License to operate" or "license" means a document issued by the state Superintendent of
154 Public Instruction that authorizes approval to operate a school for students with disabilities.

155 "Mechanical restraint" means the use of any device or equipment to restrict a student's
156 freedom of movement. This term does not include devices implemented by trained school
157 personnel or utilized by a student that have been prescribed by an appropriate medical or related
158 services professional and are used for the specific and approved purposes for which such devices
159 were designed, such as:

- 160 1. Adaptive devices or mechanical supports used to achieve proper body position,
161 balance, or alignment to allow greater freedom of mobility than would be possible without
162 the use of such devices or mechanical supports;
- 163 2. Vehicle safety restraints when used as intended during the transport of a student in a
164 moving vehicle;
- 165 3. Restraints for medical immobilization; or
- 166 4. Orthopedically prescribed devices that permit a student to participate in activities
167 without risk of harm.

168 "Multiple disabilities" mean simultaneous impairments (such as intellectual disability with
169 blindness or intellectual disability with orthopedic impairment), the combination of which causes
170 such severe educational needs that they cannot be accommodated in special education programs
171 solely for one of the impairments. The term does not include deaf-blindness.

172 "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a
173 child's educational performance. The term includes impairments caused by congenital anomaly,
174 impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments
175 from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause
176 contractures).

177 "Other health impairment" means having limited strength, vitality, or alertness, including a
178 heightened alertness to environmental stimuli, that results in limited alertness with respect to the
179 educational environment, that is due to chronic or acute health problems such as asthma,
180 attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart
181 condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia,
182 and Tourette syndrome, and that adversely affects a child's educational performance.

183 "Paraprofessional," also known as paraeducator, means an appropriately trained employee
184 who assists and is supervised by qualified professional staff in meeting the requirements of this
185 chapter.

186 "Parent" means:
187 1. A person who is:
188 a. A biological or adoptive parent of a child;
189 b. A foster parent, even if the biological or adoptive parent's rights have not been
190 terminated, but subject to subdivision 3 of this definition;
191 c. A guardian generally authorized to act as the child's parent or make educational
192 decisions for the child (but not the Commonwealth if the child is a ward of the
193 Commonwealth);
194 d. An individual acting in the place of a biological or adoptive parent (including
195 grandparent, stepparent, or other relative) with whom the child lives, or an individual
196 who is legally responsible for the child's welfare; or
197 e. If no party qualified under subdivisions 1 a through 1 d of this definition can be
198 identified, or those parties are unwilling to act as parent, a surrogate parent who has
199 been appointed in accordance with 8VAC20-81-220.
200 2. The biological or adoptive parent, when attempting to act as the parent pursuant to this
201 section and when more than one party is qualified under subdivision 1 of this definition to
202 act as a parent, must be presumed to be the parent for purposes of this section unless the
203 biological or adoptive parent has had his residual parental rights and responsibilities
204 terminated pursuant to § 16.1-277.01, 16.1-277.02, or 16.1-283 of the Code of Virginia or
205 a comparable law in another state.
206 3. The local school division shall provide written notice to the biological or adoptive parents
207 at their last known address that a foster parent is acting as the parent pursuant to this
208 section, and the local school division is entitled to rely upon the actions of the foster parent
209 pursuant to this section until such time that the biological or adoptive parent attempts to
210 act as the parent.
211 4. If a judicial decree or order identifies a specific person among subdivisions 1 a through
212 1 e of this definition to act as the "parent" of a child or to make educational decisions on
213 behalf of a child, then such person shall be determined to be the "parent" for purposes of
214 the special education identification, evaluation, and placement of a child and the provision
215 of a free appropriate public education to a child.
216 "Pat down" means a thorough external body search of a clothed student.
217 "Personally identifiable information" means information that includes, but is not limited to:
218 1. The student's name, the child's parent, or other family member;
219 2. The address of the child;
220 3. A personal identifier, such as the child's social security number or student number; or
221 4. A list of personal characteristics that would make the student's identity easily traceable.
222 "Pharmacological restraints" means a drug or medication used on a student to control
223 behavior or restrict freedom of movement that is not (i) prescribed by a licensed physician or other
224 qualified health professional acting under the scope of the professional's authority for the standard
225 treatment of a student's medical or psychiatric condition and (ii) administered as prescribed by
226 the licensed physician or other qualified health professional acting under the scope of the
227 professional's authority.
228 "Physical restraint" means the use of approved physical interventions or "hands-on" holds by
229 trained staff to prevent a student from moving his body to engage in a behavior that places him
230 or others at risk of physical harm. Physical restraint does not include:
231 1. Briefly holding a student in order to calm or comfort the student; or

232 2. Holding a student's hand or arm to escort the student safely from one area to another.

233 "Placing agency" means the community policy and management team under the Children's
234 Services Act, Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia; the local school
235 division; or the local department of social services.

236 "Privately placed student" means a student placed in a private school for students with
237 disabilities by the parent.

238 "Publicly placed student" means a student placed in a private school for students with
239 disabilities by a local school division, family assessment and planning team under the Children's
240 Services Act, or court order.

241 "Qualified personnel" or "qualified staff" means personnel who have met the state-approved
242 or state-recognized certification, licensing, or other comparable requirement applicable to a
243 specific discipline.

244 "Regular basis" means more than twice a month.

245 "Related services" means transportation and such developmental, corrective, and other
246 supportive services as are required to assist a child with a disability to benefit from special
247 education and includes speech-language pathology and audiology services; interpreting services;
248 psychological services; physical and occupational therapy; recreation, including therapeutic
249 recreation; early identification and assessment of disabilities in children; counseling services,
250 including rehabilitation counseling; orientation and mobility services and medical services for
251 diagnostic or evaluation purposes. Related services also include school health services and
252 school nurse services; social work services in schools; and parent counseling and training.
253 Related services do not include a medical device that is surgically implanted including cochlear
254 implants, the optimization of device functioning (e.g., mapping), maintenance of the device, or the
255 replacement of that device. The list of related services is not exhaustive and may include other
256 developmental, corrective, or supportive services (such as artistic and cultural programs, and art,
257 music, and dance therapy, if they are required to assist a child with a disability to benefit from
258 special education).

259 "School" means a school for students with disabilities that has a license to operate issued by
260 the Superintendent of Public Instruction.

261 "School for students with disabilities" or "schools" means a privately owned and operated
262 preschool, school, or educational organization, no matter how titled, maintained, or conducting
263 classes for the purpose of offering instruction, for a consideration, profit or tuition, to persons
264 determined to have autism, deaf-blindness, developmental delay, a hearing impairment including
265 deafness, intellectual disability, multiple disabilities, orthopedic impairment, other health
266 impairment, an emotional disturbance, a specific learning disability, a speech or language
267 impairment, a traumatic brain injury, or a visual impairment including blindness.

268 "Seclusion" means the confinement of a student alone in a room from which the student is
269 physically prevented from leaving.

270 "Serious incident" means:

- 271 1. Any accident or injury requiring medical attention by a licensed physician;
- 272 2. Any illness that requires hospitalization;
- 273 3. Any runaway; or
- 274 4. Any event that affects, or potentially may affect, the health, safety, or welfare of any
275 student being served at the school or school-related activity.

276 "Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires
277 medical attention by a licensed physician.

278 "Special education" means specially designed instruction to meet the unique needs of a child
279 with a disability.

280 The term includes:

- 281 1. Speech-language pathology services or any other related service, if the service is
282 considered special education rather than a related service under state standards;
- 283 2. Vocational education; and
- 284 3. Travel training.

285 "Specially designed instruction" means adapting, as appropriate, to the needs of an eligible
286 child under this chapter, the content, methodology, or delivery of instruction to:

- 287 1. Address the unique needs of the child that result from the child's disability; and
- 288 2. Ensure access of the child to the general curriculum so that the child can meet the
289 educational standards that apply to all children within the jurisdiction of the local
290 educational agency.

291 "Specific learning disability" means a disorder in one or more of the basic psychological
292 processes involved in understanding or in using language, spoken or written, that may manifest
293 itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical
294 calculations, including conditions such as perceptual disabilities, brain injury, minimal brain
295 dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include
296 learning problems that are primarily the result of (i) visual, hearing, or motor disabilities; (ii)
297 intellectual disabilities; (iii) emotional disabilities; or (iv) environmental, cultural, or economic
298 disadvantage.

299 Dyslexia is distinguished from other learning disabilities due to its weakness occurring at the
300 phonological level. Dyslexia is a specific learning disability that is neurobiological in origin. It is
301 characterized by difficulties with accurate or fluent word recognition and by poor spelling and
302 decoding abilities. These difficulties typically result from a deficit in the phonological component
303 of language that is often unexpected in relation to other cognitive abilities and the provision of
304 effective classroom instruction. Secondary consequences may include problems in reading
305 comprehension and reduced reading experience that can impede growth of vocabulary and
306 background knowledge.

307 "Speech or language impairment" means a communication disorder, such as stuttering,
308 impaired articulation, expressive or receptive language impairment, or voice impairment, that
309 adversely affects a child's educational performance.

310 "Standard precautions" mean universal precautions designed to prevent transmission of HIV,
311 hepatitis B virus (HBV), and other bloodborne pathogens when providing first aid or health care.
312 Standard precautions apply to blood; all body fluids, secretions, and excretions except sweat,
313 regardless of whether or not they contain blood; nonintact skin; and mucous membranes. The
314 precautions are designed to reduce the risk of transmission of microorganisms from both
315 recognized and unrecognized sources of infection when providing first aid or health care.
316 Standard precautions include protective barriers such as gloves, gowns, aprons, masks, or
317 protective eye wear that can reduce the risk of exposure with materials that may contain infectious
318 microorganisms.

319 "Standards of Learning" or "SOL" means Virginia's rigorous academic standards established
320 by the Board of Education.

321 "Strip search" means a visual inspection of the body of a student when that student's outer
322 clothing or total clothing is removed, and there is an inspection of the removed clothing. Strip
323 searches are conducted for the detection of contraband.

324 "Substantial compliance" means that while there may be noncompliance with one or more
325 regulations that represent minimum risk, compliance clearly and obviously exists with most of the
326 regulations as a whole.

327 "Superintendent" means the state Superintendent of Public Instruction.

328 "Teacher of record" means the teacher who is responsible for the delivery of instruction. The
329 teacher of record shall hold a license issued by the Virginia Board of Education.

330 "Time-out" means assisting a student to regain control by removing the student from his
331 immediate environment to a different open location until the student is calm or the problem
332 behavior has subsided.

333 "Traumatic brain injury" means an acquired injury to the brain caused by an external physical
334 force or by other medical conditions, including stroke, anoxia, infectious disease, aneurysm, brain
335 tumors, and neurological insults resulting from medical or surgical treatments, resulting in total or
336 partial functional disability or psychosocial impairment, or both, that adversely affects a child's
337 educational performance. Traumatic brain injury applies to open or closed head injuries resulting
338 in impairments in one or more areas, such as cognition; language; memory; attention; reasoning;
339 abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities;
340 psychosocial behavior; physical functions; information processing; and speech. Traumatic brain
341 injury does not apply to brain injuries that are congenital or degenerative or to brain injuries
342 induced by birth trauma.

343 "Visual impairment including blindness" means an impairment in vision that, even with
344 correction, adversely affects a child's educational performance. The term includes both partial
345 sight and blindness.

346 "Volunteer" means any individual who of his own free will and without compensation provides
347 goods or services to the school.

348 "Virtual learning" means the delivery of instruction through emerging technologies such as
349 satellite, streaming video, or the Internet.

350 **8VAC20-671-30. Licenses generally.**

351 A. The Board of Education has established general requirements for a license to operate a
352 private school for students with disabilities and has authorized the Superintendent of Public
353 Instruction to issue licenses. The following applies in accordance with § 22.1-323 of the Code of
354 Virginia:

355 1. No person shall open, operate, or conduct any school for students with disabilities in
356 this Commonwealth without a license to operate.

357 2. A license to operate shall be restricted to the disability categories specifically indicated
358 on the license, which may include one or more of the disability categories in the definition
359 of a school for students with disabilities in this chapter.

360 3. A license to operate may be issued for a period of up to three successive years.

361 4. The term of a school's license may be reduced at any time during the licensure period
362 based on a change in the school's compliance with these requirements.

363 5. A license to operate shall be prominently displayed on the premises of the school in a
364 place open for inspection by any interested person during the hours of operation.

365 6. A license to operate shall be restricted to the approved conditions as printed on the
366 license. Such conditions include, but are not limited to, the maximum number of students
367 that can be enrolled, the disability category or categories of students that can be served,
368 age range and gender, and grade levels.

369 B. An individual seeking to operate a school for students with disabilities shall file an
370 application with the department.

371 C. A school must obtain accredited status within three years from the date of issuance
372 reflected on the school's first triennial license to operate as a school for students with disabilities
373 issued by the Board.

374 D. Upon renewal of a first triennial license, a school must thereafter maintain an accredited
375 status.

376 E. The department may make exception to the requirements of this chapter for good cause.

377 **8VAC20-671-170. Denial, revocation, or suspension of license.**

378 A. The board may refuse to issue or renew a license to operate or may revoke or suspend a
379 license issued to any school pursuant to this chapter for the following causes:

- 380 1. Violating any provision of this chapter or regulation of the board;
- 381 2. Furnishing false, misleading, or incomplete information to the board or department or
382 failure to furnish information requested by the board or department;
- 383 3. Violating any commitment made in an application for a license;
- 384 4. Presenting either by the school or by any agent of the school to prospective students
385 information relating to the school which is false, misleading, or fraudulent;
- 386 5. Failing to provide or maintain premises or equipment in a safe and sanitary condition
387 as required by law;
- 388 6. Making any false promises through agents or by advertising or otherwise of a character
389 likely to influence, persuade, or induce enrollments;
- 390 7. Paying a commission or valuable consideration to any person for any act of service
391 performed in willful violation of this chapter;
- 392 8. Failing to maintain financial resources adequate for the satisfactory conduct of courses
393 of instruction offered or to retain a sufficient or qualified instructional staff;
- 394 9. Demonstrating unworthiness or incompetency to conduct the school in a manner
395 calculated to safeguard the interests of the public;
- 396 10. Failing within a reasonable time to provide information requested by the board or
397 department as a result of a formal or informal complaint to or by the board or department
398 that would indicate a violation of these requirements;
- 399 11. Attempting to use or employ any enrolled students in any commercial activity whereby
400 the school receives any compensation whatsoever without reasonable remuneration to
401 the student, except to the extent that employment of students in such activities is
402 necessary or essential to their training and is permitted and authorized by the board; or
- 403 12. Engaging in or authorizing any other conduct, whether of the same or of a different
404 character from that specified in this section, that constitutes fraudulent or dishonest
405 dealings.
- 406 13. Failing to obtain accredited status within three years of the receipt of the school's first
407 triennial license to operate as a school for students with disabilities as issued by the Board.
- 408 14. Failing to maintain accredited status after the renewal of a school's first triennial
409 license.

410 B. The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia)
411 shall be applicable to proceedings under this section.