



**#174-21**

**Commonwealth of Virginia**  
**Virginia Department of Education**  
Superintendent's Memo #174-21

DATE: July 2, 2021  
TO: Division Superintendents  
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction  
SUBJECT: **Student Enrollment Requirements - School Year 2021-2022**

This memo provides the enrollment requirements for the 2021-2022 school year. These requirements apply to all students, including those attending through virtual or remote means. Please ensure that all appropriate school division employees are aware of these requirements.

**New for 2021-2022**

- [HB1090](#) (2020) amended § 32.1-46 of the *Code of Virginia* the minimum vaccination requirements for attendance at a public or private elementary, middle or secondary school, child care center, nursery school, family day care home, or developmental center. Please review the [Virginia Department of Health School and Daycare Minimum Immunization Requirements](#) for a list of required immunization requirements. This webpage has been updated to reflect the changes effective **July 1, 2021**.
- [Item 146.d](#) of the 2021 Appropriation Act provides that any student with a disability who receives special education and related services, reaches age 22 after September 30, 2020, and is scheduled to complete high school in the spring of 2021 is given the option for an extension to attend high school for the duration of the 2021-22 school year.

- Item [145.C.14](#) of the 2021 Appropriation Act prohibiting kindergarten-eligible five-year-olds be served in the Virginia Preschool Initiative is waived for the 2021-2022 school year.
- Item [144.S.3](#) of the 2021 Appropriation Act allowing at-risk five-year-olds be served in public-private delivery of pre-kindergarten services as offered by the Virginia Early Childhood Foundation Mixed Delivery Program is waived for in the 2021-2022 school year.

## Compulsory Attendance

Section [22.1-254](#) of the *Code of Virginia* (also referred to as the “compulsory attendance law”) provides, in part:

Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, cause such child to attend a public school or a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § [22.1-254.1](#).

The compulsory attendance law requires a child to attend a private or public school or receive education through certain alternatives to school attendance, such as home instruction, unless the child is excused from attendance by a local school board in accordance with § 22.1-254 of the Code.

## Home Instruction

In addition to enrolling a child in public or private school, parents may satisfy the compulsory attendance law by providing home instruction. Please refer to the Virginia Department of

Education's [Home Instruction webpage](#) for more information and resources regarding home instruction, including the [Home Instruction Handbook - Information for Parents](#).

## Religious Exemption

Parents who wish to seek a religious exemption to compulsory attendance must petition their local school board and show that, by reason of bona fide religious training or belief, the pupil, together with his parents, is conscientiously opposed to attendance at school in accordance with § [22.1-254](#)(B)(1) of the Code.

## Delayed Kindergarten Enrollment

Any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year in accordance with § [22.1-254](#)(H)(5) of the Code.

## Residency

Section [22.1-3](#) of the Code provides that the public schools in each school division “shall be free to each person of school age who resides within the school division.”

Section [22.1-1](#) of the Code defines a person of school age as “a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.”

For the purposes of enrollment, the local school division determines whether a student meets the residency requirements in accordance with § [22.1-3](#) of the Code, which state that a person of school age shall be deemed to reside in a school division under the following circumstances:

- The student is living with a natural parent or a parent by legal adoption.

- The student has a parent in the military and is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed by the custodial parent.
- The student's parents are deceased, and the student is living in loco parentis with a person who resides in that locality.
- The student is living in the locality, not solely for school purposes, as an emancipated minor.
- The student is experiencing homelessness as described in § [22.1-3\(A\)\(7\)](#).
- The student is living with another person who resides in the school division, not solely for school purposes, and that individual: (a) is the court-appointed guardian, or has legal custody, of the person; or (b) is acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § [63.2-1200](#); or (c) is an adult relative providing temporary kinship care as defined in § [63.2-100](#) when the student's parents are unable to care for him or her.

The school division may require one or both of the parents and the adult relative providing kinship care to submit certain documents and verifications in order to enroll the child. In addition, a school division may also require the parent or adult relative to obtain written verification from the department of social services where the parent or parents live and/or where the kinship care provider lives, to show that the kinship care arrangement serves a legitimate purpose that is in the best interest of the child and is not solely for purposes of school enrollment.

For the purpose of establishing residency, a person is deemed a resident of the school division when any or all of the building in which they reside is taxable by the locality in which the school division is located. Any student who resides on property that is located in one or more school divisions who is registered for enrollment in a school division prior to July 1, 2019, and any sibling of such student, shall continue to be deemed to reside in the enrolled school division.

Please see § [22.1-3](#) of the *Code* for more information regarding residency.

## Students with Military Parent(s)

In accordance with § [22.1-360](#) of the Code, Virginia is a member of the Interstate Compact on Educational Opportunity for Military Children (the Compact). The purpose of the Compact is to streamline the transfer of children of military families into Virginia public schools.

Specifically, the Compact addresses the following: (1) education records and enrollment (Article IV), which contains provisions regarding record transfers, immunizations, and school entrance age; (2) placement and attendance (Article V), which contains provisions regarding course and program placement and special education services; (3) eligibility (Article VI), which addresses documentation requirements for enrollment; and (4) graduation (Article VII), which addresses how receiving school divisions will facilitate the on-time graduation of military transfer students.

The Code also includes provisions specific to the enrollment of military children:

- A child of a military family is deemed a resident of a school division and cannot be denied admission or charged tuition if the child lives with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under [Title 10, US Code, § 1044b](#) by the custodial parent. Such children may continue to attend school in the school division they attended while residing with the custodial parent without paying tuition, or they may attend school in the school division in which the noncustodial parent or other person resides without paying tuition. (§§ [22.1-3\(A\)\(2\)](#) and [22.1-360](#), Art.VI)
- Children of a person on active military duty may remain enrolled in a school division, free of charge, upon relocation to military housing in another Virginia school division, when their parents receive an order for such relocation. (§ [22.1-3\(B\)\(1\)](#))
- Children of a person on active military duty may remain enrolled in a school division upon relocation outside of the school division, free of charge until the end of the school year, when their parents receive an order to relocate to a new duty station or be deployed. (§ [22.1-3\(B\)\(2\)](#))

- Children of a person on active military duty may enroll in the school division of the child's intended residence, free of charge, once his parent is relocated pursuant to orders received. A permanent address must be established in the school division of the intended residence within 120 days, otherwise the school division may charge tuition. These students also may register, either remotely or in-person, for courses and other academic programs in the same manner and at the same time as the other students in the school division. (§ [22.1-3\(B\)\(3\)](#))

School boards governing school divisions that contain a military installation or military housing must establish policies permitting students residing on a military installation or in military housing to enroll in any school within the school division, upon request of their parent, if space is available. (§ [22.1-7.2](#))

For additional information about the enrollment of students of military families, please see the VDOE webpages regarding [Military Families](#) and [Guidance for Military Connected Students](#).

### **Students Experiencing Homelessness**

School divisions must immediately enroll students experiencing homelessness. School divisions must coordinate the identification and provision of services to such students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions as may be necessary to resolve interdivisional issues.

For more information regarding the enrollment of students experiencing homelessness, please see § [22.1-3](#) of the Code and [Project HOPE - Virginia](#).

### **Students in Foster Care**

In accordance with § [22.1-3.4](#) of the Code, a student who has been placed in a foster care placement, as defined in § [63.2-100](#), by a local social services agency shall be immediately enrolled in school even if the placing social services agency is unable to produce the documents required for enrollment. In such cases, the person enrolling the student must provide a written statement that, to the best of his knowledge, sets forth (i) the student's age, (ii) compliance with the requirements of § [22.1-3.2](#), and (iii) that the student is in good health and is free from communicable or contagious disease.

Within 72 hours of placing a child of school age in a foster care placement, the local social services agency making such placement shall, in writing: (a) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement; and (b) inform the principal of the status of the parental rights.

The provisions of § [22.1-3.4](#) apply to any student who was in foster care upon reaching 18 years of age but who has not yet reached 22 years of age. Please refer to the Virginia Department of Education's [Enrollment of Students in Foster Care](#) webpage for additional information regarding the enrollment of these students.

## Birth Certificate

Except as provided in § [22.1-3.1](#) of the Code, no student shall be admitted for the first time to any public school in any school division in Virginia unless the person enrolling the student shall present, upon admission, a certified copy of the student's birth record. A photocopy of the child's birth certificate will not meet this requirement. If a certified copy of the child's birth certificate cannot be obtained, the person enrolling the child must submit a sworn statement setting forth the child's age and explaining the inability to present a certified copy.

A certified copy of a birth record for a person born in Virginia may be obtained from the [Division of Vital Records and Health Statistics](#) at the Virginia Department of Health.

## Students Experiencing Homelessness

If the student seeking enrollment is a homeless child or youth as defined in § [22.1-3](#), the school shall immediately enroll such student, even if such student is unable to produce the records required for enrollment, and shall immediately contact the school last attended by the student to obtain relevant academic and other records. (§ [22.1-3.1](#)(A))

## Students in Foster Care

If the birth certificate of a foster child is not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirement for the foster child within 30 days after the child's enrollment. (§ [63.2-900](#)(D))

## Comprehensive Pre-school Physical Examination

Section [22.1-270](#) of the Code precludes the admission of students for the first time to any public kindergarten or elementary school in a school division unless the student furnishes, prior to admission, a report of a comprehensive physical examination from a qualified licensed physician, or a licensed nurse practitioner or a licensed physician assistant acting under the supervision of a licensed physician. The examination must be of the scope prescribed by the State Health Commissioner and must have been performed within 12 months before the date the student first enters the public school. In the alternative, students may provide records showing that they furnished such a report upon admission to another school or school division and provide the information that was contained in that report.

Please note that while the report of the comprehensive physical examination must contain the elements prescribed by the State Health Commissioner, state law does not require it to be on the [School Entrance Health Form MCH 213G](#) in order to be accepted by the local school board. Thus, school divisions cannot deny enrollment to a student who provides the necessary report on a different form, as long as it is attached to a MCH 213G form. For more information, please refer to [Superintendent's Memo #103-12](#), issued on April 20, 2012.

### Religious Exemption

Section [22.1-270](#) of the Code includes an exemption from the physical examination for students whose parents object for religious reasons. Such physical examination is not required of any child whose parent objects on religious grounds and who shows no visual evidence of sickness, provided that the parent states in writing that, to the best of his knowledge, the child is in good health and free from any communicable or contagious disease.

### Students with Military Parent(s)

Children of military parents must meet the physical examination requirements, as the Interstate Compact on Educational Opportunity for Military Children does not waive this requirement.



### Students Experiencing Homelessness

Students experiencing homelessness cannot be excluded from school attendance because the requisite health information required of other students cannot be provided. School divisions must immediately refer the student to the school division liaison to assist the student in obtaining the necessary physical examination.

### Students in Foster Care

Section [22.1-3.4](#) of the Code provides specific requirements for the immediate enrollment of children in foster care who do not have the requisite physical examination report. If the report of a comprehensive physical examination is not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment. (§ [63.2-900\(D\)](#))

### Immunizations

Pursuant to § [22.1-271.2](#) of the Code, no student shall be admitted by a school if his parent does not submit documentary proof of immunization to the admitting official unless, at the time of admission, the student is exempted from immunization pursuant to subsection C, or the student is a homeless child or youth as defined in § [22.1-3](#). If a student does not have documentary proof of immunization, the school shall notify the student or his parent: (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse, or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Documentation indicating that the child has received the required immunizations must be provided.

Any child whose immunizations are incomplete may be admitted conditionally if the parent or guardian provides documentation, at the time of enrollment, that the child has received at least one dose of the required immunizations and has a written schedule for completing the

remaining doses within 90 days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

Please review the Virginia Department of Health's [School and Day Care Minimum Immunization Requirements](#) webpage for a list of the required immunizations. This webpage has been updated to reflect changes effective July 1, 2021.

### **Immunization Exemption**

In accordance with § [22.1-271.2](#)(C), no certificate of immunization shall be required for a student's school admission if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, licensed nurse practitioner, or a local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

### **Students with Military Parent(s)**

Children of military families without documentation of immunizations should be immediately enrolled and shall have up to 30 days from the date of enrollment to obtain any immunizations required by the receiving state. (§ [22.1-360](#))

### **Students Experiencing Homelessness**

Students experiencing homelessness cannot be excluded from school attendance because the requisite immunization information required of other students cannot be provided. School divisions must immediately refer the student to the school division liaison to assist the student in obtaining the necessary proof of completion of immunizations.

### **Students in Foster Care**

If the proof of immunization is not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment. (§ [63.2-900](#)(D))

## Expulsion Statement

In accordance with § [22.1-3.2](#) of the Code, the parent must provide a sworn statement or affirmation, upon registration, indicating whether the student has been expelled from attending a private school or another public school in Virginia or a school in another state for an offense involving weapons, alcohol or drugs, or for willful infliction of injury to another person. In addition, the parent must provide a sworn statement or affirmation indicating whether the student has been found guilty of or adjudicated delinquent for any offense listed in § [16.1-260](#)(G) of the Code or any substantially similar offense.

## Transfer Students

Section [22.1-253.13:4](#) of the Code (i.e. Standard 4 of the Standards of Quality) requires local school boards to make provisions for students who transfer between public secondary schools and from nonpublic schools or from home instruction.

The Board of Education's [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) provide, in part:

Students transferring in grades kindergarten through 8 from Virginia public schools or nonpublic schools accredited by one of the approved accrediting constituent members of the [Virginia Council for Private Education \(VCPE\)](#) shall be given recognition for all grade-level work completed. The academic record of students transferring from all other schools shall be evaluated to determine appropriate grade placement in accordance with policies adopted by the local school board. ([8VAC 20-131-60](#)(A))

A secondary school shall accept credits toward graduation received from Virginia nonpublic schools accredited by one of the approved accrediting constituent members of the VCPE. ([8VAC 20-131-60](#)(D))

All school divisions should have policies consistent with state law regarding the transfer process.

## Students from Other Countries

Generally, students who are 18 and 19 and who are transferring from high schools in other countries should be counseled on all options. However, they are still eligible for enrollment as a person of school age as provided in the *Code* unless they have a comparable diploma from a high school in a foreign country. If a receiving school division has questions about a student's diploma or transcript, the receiving school division should research the issues to determine what kind of diploma the student has and to determine whether it is comparable to Virginia's diploma requirements. In addition, students who are from other countries and who have special education needs may be eligible for special education and related services through age 21 if they have not graduated with a comparable diploma from a high school located in a foreign country. If an English Learner student is enrolled in a Virginia public school and turns 22 during the school year, that student may continue through the end of that school year.

Questions have arisen regarding a local school board's authority to inquire into a prospective student's citizenship or visa status and to bar enrollment to those students who reside within the school division but do not hold a student visa. School divisions are not permitted to inquire into a prospective student's citizenship or visa status in order to enroll that student in school. Pursuant to a decision by the United States Supreme Court, [Plyler v. Doe](#), 457 U.S. 202 (1982), school divisions are required to accept students who meet residency requirements under § [22.1-3](#) of the Code and may not deny a free public education to undocumented school-age children who reside within their jurisdiction because they do not hold valid United States citizenship or a student visa.

On May 8, 2014, the United States Department of Education (USED), in conjunction with the United States Department of Justice (USDOJ), issued an [advisory letter](#) reminding educational agencies that, under federal law, state and local educational agencies are required to provide all children with equal access to public education at the elementary and secondary levels. In the advisory letter, USED and USDOJ indicated that they had become aware of student enrollment practices that may discourage or lead to the exclusion of students based on their or their parents' or guardians' citizenship or immigration status. The May 8, 2014 letter replaced the [advisory letter](#) previously issued May 6, 2011 and was written in response to inquiries USED received regarding the earlier letter.

The guidance in the May 8, 2014 letter is applicable to the upcoming school year in Virginia. Such guidance includes the following highlights:

A school division should review the list of documents that can be used to establish residency and ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school.

As with residency requirements, rules vary among states and school divisions as to what documents students may use to show that they fall within state or district mandated minimum and maximum age requirements, and jurisdictions typically accept a variety of documents for this purpose. A school division may not bar a student from enrolling in its schools because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.

School divisions have federal obligations and, in some instances, state obligations to report certain data, such as the race and ethnicity of their student populations. While USED requires divisions to collect and report such information, divisions cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of the child's enrollment.

To ensure compliance, please carefully review the [advisory letter](#) of May 8, 2014. Additional information on school division responsibilities and actions with regard to students and immigration, please refer to [Superintendent's Memo #059-17](#), issued on March 1, 2017.

## Social Security Numbers

Pursuant to § [22.1-287.03](#) of the Code, the Department of Education and local school boards are prohibited from requiring any student enrolled in a public school or receiving home instruction, or his parent, to provide the student's federal social security number.

## Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

All school divisions must comply with [34 CFR 110](#) (Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance). In addition, [Title VI of the Civil Rights Act of 1964](#) prohibits discrimination on the basis of race, color, and national origin by recipients of federal funds. Refusal by a school division to enroll qualified students on the basis of race, color, or national origin is a violation of this prohibition against discrimination.

### For more information

For questions related to this memo, please contact the Office of Policy at [Policy@doe.virginia.gov](mailto:Policy@doe.virginia.gov), or by telephone at (804) 225-2092.

JFL/RSA