



# Virginia Department of Planning and Budget **Economic Impact Analysis**

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**8 VAC 20-23 Licensure Regulations for School Personnel**  
**Department of Education**  
**Town Hall Action/Stage: 5387 / 8762**  
November 9, 2020

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## **Summary of the Proposed Amendments to Regulation**

The Board of Education (Board) proposes to amend 8 VAC 20-23 *Licensure Regulations for School Personnel* to reflect 2016, 2017, 2018, 2019, and 2020 Acts of Assembly.

### **Background**

Except for where noted, the proposal essentially inserts text from the legislation described below into the regulation.

#### *Length of Renewable Licenses and Professional Development Points*

Chapters 748 and 749 of the 2018 Acts of Assembly changed the length of time for renewable licenses from five to ten years.<sup>1</sup> The second enactment clause of the chapters states "That the Board of Education shall amend its regulations for the establishment of requirements for teacher licensure renewal set forth in 8VAC20-22-110 to require teachers to complete no more than 360 professional development points within the 10-year license renewal period established by this act." The Board proposes to require 270 professional development points within a ten-year period to renew the license.

#### *Provisional Licenses*

Chapters 748 and 749 of the 2018 Acts of Assembly also state that the Board shall extend for at least one additional year, but for no more than two additional years, the three-year Provisional License of a teacher upon receiving from the division superintendent (i) a

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<sup>1</sup> See Chapter 748: <https://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0748>. Chapter 749 is identical.

recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year Provisional License.

Chapter 63 and 407 of the 2019 Acts of Assembly<sup>2</sup> states that the Board shall issue another Provisional License to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a Provisional License that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

#### *One-Year High School License*

Chapter 711 of the 2018 Acts of Assembly<sup>3</sup> created a one-year annually renewable license to teach in public high schools. The candidate must have: 1) received a graduate degree from a regionally accredited institution of higher education, 2) completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education, 3) received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought, 4) completed study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services, and 5) completed certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators.<sup>4</sup>

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<sup>2</sup> See Chapter 63: <https://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0063>. Chapter 407 is identical.

<sup>3</sup> See Chapter 711: <https://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0711>

<sup>4</sup> The certification or training program shall be (i) based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

*Career and Technical Education, Dual Enrollment*

Chapters 247 and 255 of the 2017 Acts of Assembly<sup>5</sup> state that a local school board or division superintendent may waive any of the following applicable licensure requirements for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education: 1) demonstrated proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board, 2) study in attention deficit disorder, 3) study in gifted education, including the use of multiple criteria to identify gifted students, 4) study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school, 5) renewal requirements, including professional development in a manner prescribed by the Board, 6) demonstrated proficiency in reading and writing Braille, and 7) initial or renewal requirement to complete awareness training, provided by the Department of Education (DOE), on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

Chapter 651 of the 2016 Acts of Assembly<sup>6</sup> established a three-year Career and Technical Education License. The three-year license is issued to teach high school career and technical education courses in a specific subject area to an individual who: 1) is recommended for the license by a local school board, 2) meets certain basic conditions for licensure as prescribed by the Board,<sup>7</sup> 3) holds a relevant baccalaureate degree, professional license, or industry certification credential,<sup>8</sup> 4) has at least four years of full-time work experience or its equivalent in the specific career and technical education subject area in which the individual seeks to teach, and 5) if appropriate, has obtained qualifying scores on the communication and literacy professional teacher's assessment prescribed by the Board. The employing local board is required

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<sup>5</sup> See Chapter 247: <https://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0247>. Chapter 255 is identical.

<sup>6</sup> See Chapter 651: <https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0651&161+ful+CHAP0651>

<sup>7</sup> The “certain basic conditions” are not specified in either the Code of Virginia or the proposed regulation.

<sup>8</sup> Specifically, the candidate must: (i) hold, at a minimum, a baccalaureate degree from a regionally accredited institution of higher education and has completed coursework in the career and technical education subject area in which the individual seeks to teach, (ii) hold the required professional license in the specific career and technical education subject area in which the individual seeks to teach, where applicable, or (iii) hold an industry certification credential, as that term is defined in § 22.1-298.1 of the Code of Virginia, in the specific career and technical education subject area in which the individual seeks to teach.

to assign a mentor to supervise the individual issued the Career and Technical Education License. Chapter 651 specified that the individual so licensed was to teach for no more than 50 percent of the instructional day or year, on average. Chapters 748 and 749 of the 2018 Acts of Assembly removed that restriction.

Chapter 767 of the 2019 Acts of Assembly<sup>9</sup> established the Career and Technical Education or Dual Enrollment License. The Career and Technical Education or Dual Enrollment License is a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subsections E and F of 8VAC20-23-40. Such instructor must maintain continuous employment in such position at the institution of higher education as a condition of continued licensure. The statutory authority for issuing this license shall expire on July 1, 2021; however, any such license issued prior to July 1, 2021, shall remain in effect for three years from the date it was issued unless such license is revoked by the Board.

#### *Licensure by Reciprocity*

Chapters 745 and 746 of the 2018 Acts of Assembly<sup>10</sup> state that licensure by reciprocity is provided for any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by DOE. Each such individual shall establish a file in DOE by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

Chapters 748 and 749 of the 2018 Acts of Assembly state that licensure by reciprocity is provided for individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received

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<sup>9</sup> See Chapter 767: <https://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0767>

<sup>10</sup> See Chapter 745: <https://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0745>. Chapter 746 is identical.

by the DOE. Each such individual shall establish a file in DOE by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

### *Cardiopulmonary Resuscitation*

The current regulation requires that every person seeking initial licensure or renewal of a license provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation (CPR) , and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for CPR and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. Chapter 783 of the 2017 Acts of Assembly<sup>11</sup> added that the training must include hands-on practice of the skills necessary to perform CPR.

### *School Counselors*

Chapter 520 of the 2017 Acts of Assembly<sup>12</sup> established that every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

### *Training Concerning Student Behavior*

Chapter 870 of the 2020 Acts of Assembly<sup>13</sup> states that every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of §23.1-902 of the Code of Virginia<sup>14</sup> shall receive instruction or training on positive behavior interventions and supports, crisis prevention and de-escalation, the use of physical restraint and seclusion, consistent with regulations of the Board, and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

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<sup>11</sup> See Chapter 783: <https://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0783>

<sup>12</sup> See Chapter 520: <https://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0520>

<sup>13</sup> See Chapter 870: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0870>

<sup>14</sup> See §23.1-902: <https://law.lis.virginia.gov/vacode/23.1-902/>

## **Estimated Benefits and Costs**

### *Length of Renewable Licenses and Professional Development Points*

The doubling of the length of renewable licenses from five to ten years saves time and effort for licensees by only requiring them to assemble renewal applications half as often. Renewal fees are not in the regulation, but the Board did double the fees (from \$25 to \$50). Thus, the fee cost per year stays the same.

Under the current regulation, the requirement for renewing the five-year license is 180 professional development points. The Board's proposal to require 270 professional development points within the ten-year period to renew the license effectively reduces burden on licensees. When 180 professional development points are required over five years, that is 36 professional development points per year. When 270 professional development points are required over ten years, that is 27 professional development points per year.

### *Provisional Licenses*

The enabling of the extension, or essentially the one-time renewal of a Provisional License, is beneficial for teachers who have difficulty fulfilling all of the requirements for full licensure. In practice, these teachers are granted extra time to fulfill all such requirements. Given the ongoing teacher shortage,<sup>15</sup> the increase in time allowed with a Provisional License helps alleviate the shortage to a degree.

### *One-Year High School License*

The One-Year High School License makes it easier for people with experience teaching college to become licensed to teach high school. This may also help alleviate the teacher shortage to a degree.

### *Career and Technical Education, Dual Enrollment*

The provision to allow the waiving of applicable licensure requirements for any individual whom it seeks to employ as a career and technical education teacher, and the introduced Career and Technical Education License, were both intended to help alleviate the shortage of career and technical education teachers. According to DOE, no school board or

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<sup>15</sup> Source: DOE. See [https://www.doe.virginia.gov/teaching/workforce\\_data/index.shtml](https://www.doe.virginia.gov/teaching/workforce_data/index.shtml) and <https://www.education.virginia.gov/media/governorviriniagov/secretary-of-education/pdf/final-acts-report.pdf>

division superintendent has requested that requirements be waived for their career and technical education teachers since that provision became effective in 2017, and no applications have been received for the Career and Technical Education License since it was established in 2018.

### *Licensure by Reciprocity*

The new licensure by reciprocity effectively differs from the existing language in one regard, teaching experience. The current regulation requires a minimum of three years of full-time, successful teaching experience in order for an individual with an out-of-state license with full credentials and without deficiencies to be granted Virginia licensure. The language proposed to be added to the regulation from Chapters 745, 746, 748 and 749 of the 2018 Acts of Assembly does not require a specific amount of teaching experience. This may also help alleviate the teacher shortage to a degree in that more individuals with valid out-of-state licenses would qualify for Virginia licensure.

### *CPR*

Prior to Chapter 783 of the 2017 Acts of Assembly, the training requirement for CPR could be satisfied with an online course. Now, as discussed above, the training must include hands-on practice of the skills necessary to perform CPR. An all online course costs about \$35 and takes approximately 2 hours 10 minutes to complete. An online and classroom course with hands-on practice with a qualified instructor costs about \$79 and takes about 3 hours and 35 minutes plus travel time to and from the class.<sup>16</sup> Though the course with hands-on practice with a qualified instructor is more expensive, it seems likely that there would be greater assurance that the individual taking the training could perform CPR correctly.

### *School Counselors*

According to DOE, training in the recognition of mental health disorders and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse is available for free for school counselors through online modules. Thus, the only cost for the school counselors from the required training would be their time to complete the modules.

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<sup>16</sup> Data source: <https://www.redcross.org/take-a-class/cpr/cpr-training>

### *Training Concerning Student Behavior*

The requirement that every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of §23.1-902 of the Code of Virginia<sup>17</sup> shall receive such instruction or training can also be satisfied through free online modules.<sup>18</sup> Similarly, the only cost for the required training would be the time to complete the modules.

### **Businesses and Other Entities Affected**

The proposed amendments affect the 132 local school divisions in the Commonwealth, teachers, and school counselors. School divisions that are particularly affected by teacher shortages may be particularly affected by the changes that introduce new paths to licensure or extend the length of provisional licensure.

### **Small Businesses<sup>19</sup> Affected:**

The proposed amendments do not appear to adversely affect small businesses.

### **Localities<sup>20</sup> Affected<sup>21</sup>**

The proposal affects all Virginia localities in that all have public schools. Localities that have school divisions that are particularly affected by teacher shortages may be particularly affected by the changes that introduce new paths to licensure or extend the length of provisional licensure. The proposal would not likely substantively increase costs for local governments.

### **Projected Impact on Employment**

The proposed amendments do not appear to affect total employment.

### **Effects on the Use and Value of Private Property**

The proposed regulation would not likely have a substantive effect on the use and value of private property.

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<sup>17</sup> Specifically, instruction on positive behavior interventions and supports, crisis prevention and de-escalation, the use of physical restraint and seclusion, consistent with regulations of the Board, and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion

<sup>18</sup> See <https://www.odu.edu/eps/programs/ciees/initiatives/restraint-and-seclusion.html>

<sup>19</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>20</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>21</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.



## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.