



townhall.virginia.gov

## Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Board of Education
<b>Virginia Administrative Code (VAC) citation(s)</b>	8 VAC 20-90-10 et seq.
<b>Regulation title(s)</b>	<i>Procedure for Adjusting Grievances</i>
<b>Action title</b>	Revise the <i>Procedure for Adjusting Grievances</i>
<b>Date this document prepared</b>	April 15, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The *Procedure for Adjusting Grievances* provides (1) an orderly procedure for resolving disputes concerning the application, interpretation, or violation of any of the provisions of local school board policies, rules and regulations as they affect the work of teachers, other than dismissals or probation and (2) an orderly procedure for the expeditious resolution of disputes involving the dismissal any teacher.

The regulations, *Procedure for Adjusting Grievances*, were last amended effective May 2, 2005. In addition to technical edits, the proposed amendments include the following provisions to comport with the 2013 and 2014 General Assembly legislation:

- Changes the grievance procedure for teachers by giving local school boards the option to assign a grievance hearing to be heard by an impartial hearing officer designated by the local school board;
- Removes the option for a grievance to be heard before a fact-finding panel;

- Removes “placing on probation” from the definition of a Grievance;
- Revises the Board of Education forms prescribed by the *Code of Virginia*.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.*

N/A

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including:1) the date the action was taken;2) the name of the agency taking the action; and 3) the title of the regulation.*

- (1) [To be presented to the Board of Education on April 28, 2016, for final review and action];
- (2) Virginia Board of Education
- (3) *Procedure for Adjusting Grievances*

### Legal basis

*Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

The *Constitution of Virginia* grants the Board of Education authority for the general supervision of the public school system, and Section 22.1-16 of the *Code of Virginia* authorizes the Board to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

*Constitution of Virginia* ([Article VIII, Section 4](#)):  
“The general supervision of the public school system shall be vested in a Board of Education....”

*Code of Virginia*, Section [22.1-16](#). Bylaws and regulations generally.  
  
The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

*Code of Virginia*  
§§ [2.2-507](#), [22.1-79](#), [22.1-253.13:5](#), [22.1-293](#), [22.1-294](#), [22.1-295](#), [22.1-298.1](#), [22.1-299](#), [22.1-302](#), [22.1-303](#), [22.1-304](#), [22.1-305](#), [22.1-305.1](#), [22.1-306](#), [22.1-307](#), [22.1-309](#), [22.1-311](#), [22.1-313](#), and [22.1-314](#) of the *Code of Virginia* [References: 2013 General Assembly: Senate Bill [2151](#) bill is identical to House Bill [1223](#); 2014 General Assembly: House Bill [977](#) and Senate Bill [43](#)]

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

---

The *Procedure for Adjusting Grievances* is essential to protect the health, safety, or welfare of citizens as the regulations provide (1) an orderly procedure for resolving disputes concerning the application, interpretation, or violation of any of the provisions of local school board policies, rules and regulations as they affect the work of teachers, other than dismissals or probation and (2) an orderly procedure for the expeditious resolution of disputes involving the dismissal of any teacher.

In addition to technical edits, the proposed amendments were required to comport with the 2013 and 2014 General Assembly legislation.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

---

The Virginia Board of Education regulations, *Procedure for Adjusting Grievances*, were last amended effective May 2, 2005. The 2013 and 2014 General Assembly approved legislation resulting in the need to make revisions to the regulations. Other than changing the *Procedure for Adjusting Grievances* to comport with the 2013 and 2014 legislation, no additional substantive revisions were made. The major revisions to the regulations are as follows:

- Changes the grievance procedure for teachers by giving local school boards the option to assign a grievance hearing to be heard by an impartial hearing officer designated by the local school board;
- Removes the option for a grievance to be heard before a fact-finding panel;
- Removes “placing on probation” from the definition of a Grievance;
- Revises the Board of Education forms prescribed by the *Code of Virginia*.

## Issues

*Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

---

The *Procedure for Adjusting Grievances* provides (1) an orderly procedure for resolving disputes concerning the application, interpretation, or violation of any of the provisions of local school board

policies, rules and regulations as they affect the work of teachers, other than dismissals or probation and (2) an orderly procedure for the expeditious resolution of disputes involving the dismissal any teacher.

The regulations do not pose any major disadvantages to the public or the Commonwealth.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

---

The regulations are state requirements, and there are no applicable federal requirements related to this regulatory revision.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

---

No localities are particularly affected by the proposed regulation.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

---

The proposed regulations address the procedure for adjusting grievances, ensuring an orderly procedure for resolving disputes.

### Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

---

No changes have been made since the proposed stage.

**Public comment**

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

No public comments have been received since the publication of the proposed stage.

**All changes made in this regulatory action**

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
<p><b>8VAC20-90-10. Definitions</b></p>	<p>N/A</p>	<p>Revisions were made to conform to changes in the <i>Code of Virginia</i> (2013 and 2014 General Assembly); Forms in the appendices of the document also were revised to comport with the revisions.</p> <p><b>8VAC20-90-10. Definitions.</b></p> <p>The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.</p> <p>"Business day" means, <del>in accordance with § 22.1-312 of the Code of Virginia</del>, any day that the relevant school board office is open.</p> <p>"Days" means calendar days unless a different meaning is clearly expressed in this procedure. <del>Whenever any period of time fixed by this procedure shall expire the last day for performing an act required by this procedure falls on a Saturday, Sunday, or legal holiday, the period of time for taking action under this procedure shall be extended to the act may be performed on the next day if it that is not a Saturday, Sunday, or legal holiday.</del></p> <p>"Dismissal" means the dismissal of any teacher within the term of such teacher's contract <del>and the nonrenewal of a contract of a teacher on a continuing contract.</del></p> <p>"Grievance" means, for the purpose of Part II (8VAC20-90-20 et seq.), a complaint or a dispute by a teacher relating to his employment, including but not necessarily limited to the application or interpretation of personnel policies, rules and regulations, ordinances, and statutes; acts of reprisal <del>as a result</del> <u>against a teacher for filing or processing a grievance, or participating as a witness in any step, meeting, or hearing related to a grievance; or complaints</u> of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex. "Grievance" means, for the purposes of Part III (8VAC20-90-60 et seq.), a complaint or a dispute involving a teacher relating to his employment involving dismissal <del>or placing on probation</del>. The term "grievance" shall not include a complaint or dispute by a teacher relating to the establishment and revision of wages or salaries, position classifications or general benefits; suspension of a teacher or</p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>nonrenewal of the contract of a teacher who has not achieved continuing contract status; the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations; failure to promote; <del>or</del> discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in <del>a particular subject</del>, <u>enrollment in or abolition of a particular subject</u>, or insufficient funding; hiring, transfer, assignment and retention of teachers within the school division; suspension from duties <del>in emergencies</del>; <del>or</del> the methods, means and personnel by which the school division's operations are to be carried on; <u>or coaching or extracurricular activity sponsorship</u>. While these management rights are reserved to the school board, failure to apply, where applicable, these rules, regulations, policies, or procedures as written or established by the school board is grievable.</p> <p><u>"Hearing officer" means an impartial hearing officer from outside the school division who possesses some knowledge and expertise in public education and education law and who is capable of presiding over an administrative hearing.</u></p> <p>"Personnel file" means, for the purposes of Part III (8VAC20-90-60 et seq.), any and all memoranda, entries or other documents included in the teacher's file as maintained in the central school administration office or in any file regarding the teacher maintained within a school in which the teacher serves.</p> <p><del>"Probation" means a period not to exceed one year during which time it shall be the duty of the teacher to remedy those deficiencies which give rise to the probationary status.</del></p> <p>"Teacher" or "teachers" means, for the purposes of Part II (8VAC20-90-20 et seq.), all employees of the school division involved in classroom instruction and all other full-time employees of the school division except those employees classified as supervising employees. "Teacher" means, for the purposes of Part III (8VAC20-90-60 et seq.), all regularly <del>certified</del> <u>licensed</u> professional public school personnel employed by <u>any school division</u> under a written contract as provided by § 22.1-302 of the Code of Virginia, <del>by any school division</del> as a teacher or <u>as an assistant principal, principal, or supervisor of classroom teachers but excluding all superintendents</u> as provided by § 22.1-294 of the Code of Virginia.</p> <p>"Shall file," "shall respond in writing," or "shall serve written notice" means the document is either delivered personally <del>to the grievant or office of the proper school board representative</del> or is mailed by registered or certified mail, return receipt requested, and postmarked within the time limits prescribed by this procedure <u>to the grievant or office of the proper school board representative</u>.</p> <p>"Supervisory employee" means any person having authority in the interest of the board (i) to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; and (ii) to direct other employees; or (iii) to adjust the grievance of other employees; or (iv) to recommend any action set forth in clause (i), (ii), or (iii) above; provided that the authority to act as set forth in clause (i), (ii), (iii), or (iv) requires the exercise of independent judgment and is not merely routine and clerical in nature.</p> <p>"Written grievance appeal" means a written or typed statement describing the event or action complained of, <del>or</del> the date of the event or action <u>complained of</u>, and a concise description of those policies, <del>procedures</del> <u>rules</u>, regulations, <del>ordinances</del> or statutes upon which the teacher bases his claim. The grievant shall specify what he expects to obtain through use of the grievance procedure. <u>A statement written grievance appeal shall be written upon on forms prescribed by the Board of Education and supplied by the local school board.</u></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
<p><b>8VAC20-90-20. Purpose of Part II of this grievance procedure</b></p> <p><b>8VAC20-90-30. Grievance procedure.</b></p>		<p style="text-align: center;">Part II Grievance Procedure</p> <p><b>8VAC20-90-20. Purpose of Part II of this grievance procedure.</b> The purpose of Part II of the Procedure for Adjusting Grievances is to provide an orderly procedure for resolving disputes concerning the application, interpretation, or violation of any of the provisions of local school board policies, rules and regulations as they affect the work of teachers, other than dismissals or probation. An equitable solution of grievances should be secured at the most immediate administrative level. The procedure should not be construed as limiting the right of any teacher to discuss any matter of concern with any member of the school administration, nor should the procedure be construed to restrict any teacher's right to seek, or the school division administration's right to provide, review of complaints that are not included within the definition of a grievance. Nothing in this procedure shall be interpreted to limit a school board's exclusive final authority over the management and operation of the school division.</p> <p><b>8VAC20-90-30. Grievance procedure.</b> Recognizing that grievances should <del>be begun</del> <u>begin</u> and <u>should be settled</u> promptly, a grievance must be initiated within 15 business days following either the event giving rise to the grievance, or within 15 business days following the time when the employee knew or reasonably should have known of its occurrence. Grievances shall be processed as follows:</p> <ol style="list-style-type: none"> <li>1. Step 1 -- Informal. The first step shall be an informal conference between the teacher and his immediate supervisor (which may be the principal). The teacher shall state the nature of the grievance, and the immediate supervisor shall attempt to adjust the grievance. It is mandatory that the teacher present the grievance informally prior to proceeding to Step 2.</li> <li>2. Step 2 -- Principal. If for any reason the grievance is not resolved informally in Step 1 to the satisfaction of the teacher, the teacher must perfect his grievance by filing <del>said grievance in writing</del> <u>a written grievance appeal on the required form</u> within 15 business days following the event giving rise to the grievance, or within 15 business days following the time when the employee knew or reasonably should have known of its occurrence, specifying on the form the specific relief expected. Regardless of the outcome of Step 1, if a written grievance <u>appeal</u> is not, without just cause, filed within the specified time, the grievance will be barred. A meeting shall be held between the principal (or his designee or both) and the teacher (or his designee or both) within five business days of the receipt by the principal of the written grievance. At such meeting the teacher or other party involved, or both, shall be entitled to present appropriate witnesses and to be accompanied by a representative other than an attorney. The principal (or his designee or both) shall respond in writing within five business days following such meeting. The principal may forward to the teacher within five days from the receipt of the written grievance a written request for more specific information regarding the grievance. The teacher shall file an answer thereto within 10 business days, and the meeting must then be held within five business days thereafter.</li> <li>3. Step 3 -- Superintendent. If the grievance is not settled to</li> </ol>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>the teacher's satisfaction in Step 2, the teacher can proceed to Step 3 by filing a written notice of appeal with the superintendent, accompanied by the original <u>written</u> grievance appeal form within five business days after receipt of the Step 2 answer (or the due date of such answer). A meeting shall then be held between the superintendent (or his designee or both) and the teacher (or his designee or both) at a mutually agreeable time within five business days. <u>The superintendent or designee may make a written request for more specific information from the teacher, but only if such information was not requested in Step 2. The teacher shall file an answer to such request within 10 business days, and the meeting shall be held within five business days of the date on which the answer was received.</u> At such meeting both the superintendent and the teacher shall be entitled to present witnesses and to be accompanied by a representative who may be an attorney. A representative may examine, cross-examine, question, and present evidence on behalf of a grievant or the superintendent without violating the provisions of § 54.1- 3904 of the Code of Virginia. If no settlement can be reached in said meeting, the superintendent (or his designee) shall respond in writing within five business days following such meeting. <del>The superintendent or designee may make a written request for more specific information from the teacher, but only if such was not requested in Step 2. Such request shall be answered within 10 business days, and the meeting shall be held within five business days of the date on which the answer was received.</del> If the grievance is not resolved to the satisfaction of the teacher in Step 3, the teacher may <del>elect to have a hearing by a fact finding panel, as provided in Step 4, or after giving proper notice may request a decision by the school board pursuant to Step 5</del> 4.</p> <p><del>4. Step 4 — Fact finding panel. In the event the grievance is not settled upon completion of Step 3, either the teacher or the school board may elect to have a hearing by a fact finding panel prior to a decision by the school board, as provided in Step 4. If the teacher elects to proceed to Step 4, he must notify the superintendent in writing of the intention to request a fact finding panel and enclose a copy of the original grievance form within five business days after receipt of a Step 3 answer (or the due date of such answer). If the school board elects to proceed to a fact finding panel, the superintendent must serve written notice of the board's intention upon the grievant within 15 business days after the answer provided by Step 3.</del></p> <p><del>a. Panel. Within five business days after the receipt by the division superintendent of the request for a fact finding panel, the teacher and the division superintendent shall each select one panel member from among the employees of the school division other than an individual involved in any previous phase of the grievance procedure as a supervisor, witness, or representative. The two panel members so selected shall within five business days of their selection select a third impartial panel member.</del></p> <p><del>b. Selection of impartial third member. In the event that both panel members are unable to agree upon a third panel member within five business days, both members of the panel shall request the chief judge of the circuit court</del></p>



Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which one individual shall be selected by the two members of the panel to serve as the third member. The individuals named by the chief judge may reside either within or outside the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and in all cases shall possess some knowledge and expertise in public education and education law and shall be deemed by the judge capable of presiding over an administrative hearing. Within five business days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by alternately deleting names from the list until only one remains. The panel member selected by the teacher shall make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member. Panel members shall not be parties to, or witnesses to, the matter grieved. With the agreement of the teacher's and division superintendent's panel members, the impartial panel member shall have the authority to conduct the hearing and make recommendations as set forth herein while acting as a hearing officer.</p> <p>The Attorney General shall represent personally or through one of his assistants any third impartial panel member who shall be made a defendant in any civil action arising out of any matter connected with his duties as a panel member. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal representation to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General and be paid out of the funds appropriated for the administration of the Department of Education.</p> <p>c. Holding of hearing. The hearing shall be held by the panel within 30 business days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by a representative or legal counsel.</p> <p>d. Procedure for fact finding panel.</p> <p>(1) The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.</p> <p>(2) The panel may ask, at the beginning of the hearing, for statements from the division superintendent and the teacher clarifying the issues involved.</p> <p>(3) The parties shall then present their claims and evidence. Witnesses may be questioned by the panel members, the teacher and the division superintendent. The panel may, at its discretion, vary this procedure, but shall afford full and equal opportunity to all parties to present any material or relevant evidence and shall afford</p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p><del>the parties the right of cross-examination.</del></p> <p><del>(4) The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.</del></p> <p><del>(5) Exhibits offered by the teacher of the division superintendent may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.</del></p> <p><del>(6) The facts found and recommendations made by the panel shall be arrived at by a majority vote of the panel members.</del></p> <p><del>(7) The hearing may be reopened by the panel, on its own motion or upon application of the teacher or the division superintendent, for good cause shown, to hear after-discovered evidence at any time before the panel's report is made.</del></p> <p><del>(8) The panel shall make a written report which shall include its findings of fact and recommendations, and shall file it with the members of the school board, the division superintendent, and the teacher, not later than 30 business days after the completion of the hearing.</del></p> <p><del>(9) A stenographic record or tape recording of the proceedings shall be taken. However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with the two parties shall share equally the cost of the recording. If either party requests a transcript, that party shall bear the expense of its preparation.</del></p> <p><del>In cases of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.</del></p> <p><del>(10) The recommendations and findings of fact of the panel submitted to the school board shall be based exclusively upon the evidence presented to the panel at the hearing. No panel member shall conduct an independent investigation involving the matter grieved.</del></p> <p><del>e. Expenses:</del></p> <p><del>(1) The teacher shall bear his own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one half by the school board and one half by the teacher.</del></p> <p><del>(2) The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his normal business hours if he receives his normal salary for the period of such service.</del></p> <p><del>(3) Witnesses who are employees of the school board</del></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.</p> <p>f. Right to further hearings. Following a hearing by a fact-finding panel, the teacher shall not have the right to a further hearing by the school board as provided in subdivision 5 c of this section. The school board shall have the right to require a further hearing in any grievance proceeding as provided in subdivision 5 c of this section.</p> <p>5. 4. Step 5 4 -- Decision by the school board.</p> <p>a. If a teacher elects to proceed directly to a determination before request a decision by the school board as provided for in Step 5 3, he must notify the superintendent in writing of the intention to appeal directly to make the request of the board, of the grievance alleged, and the relief sought within five business days after receipt of the answer as required in Step 3 or the due date thereof. Upon receipt of such notice, the school board may elect to have a hearing before a fact finding panel, as indicated in Step 4, by filing a written notice of such intention with the teacher within 10 business days of the deadline for the teacher's request for a determination by the school board the board may hold a hearing on the grievance, may elect to have the hearing conducted by a hearing officer appointed by the school board consistent with the procedures in § 22.1-311 of the Code of Virginia, or may make its determination on the basis of the written evidence presented by the teacher and the recommendation of the superintendent.</p> <p>b. In the case of a hearing before a fact finding panel, the school board shall give the grievant its written decision within 30 days after the school board receives both the transcript of such hearing, if any, and the panel's finding of fact and recommendations unless the school board proceeds to a hearing under subdivision 5 c of this section. The decision of the school board shall be reached after considering the transcript, if any; the findings of fact and recommendations of the panel; and such further evidence as the school board may receive at any further hearing which the school board elects to conduct.</p> <p>c. In any case in which a hearing before a fact finding panel is held in accordance with Step 4, the local school board may conduct a further hearing before such school board.</p> <p>(1) The local school board shall initiate such hearing by sending written notice of its intention to the teacher and the division superintendent within 10 days after receipt by the board of the findings of fact and recommendations of the fact finding panel and any transcript of the panel hearing. Such notice shall be provided upon forms to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.</p> <p>(2) In any case where such further hearing is held by a school board after a hearing before the fact finding panel, the school board shall consider at such further hearing the transcript, if any; the findings and recommendations of the fact finding panel; and such further evidence including, but not limited to, the testimony of those witnesses who have previously testified before the fact finding panel as</p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p><del>the school board deems may be appropriate or as may be offered on behalf of the grievant or the administration.</del></p> <p><del>(3) The further hearing before the school board shall be set within 30 days of the initiation of such hearing, and the teacher must be given at least 15 days written notice of the date, place, and time of the hearing.</del></p> <p><u>b. In any case in which the school board elects to hold a hearing or elects to have a hearing officer conduct the hearing, the hearing shall be set within 30 days of the school board's receipt of the notice required by subdivision 4 a of this section (Step 4a), and the teacher must be given at least 15 days' written notice of the date, time, and place of the hearing.</u></p> <p>The teacher and the division superintendent may be represented by legal counsel or other representatives. The hearing <del>before the school board</del> shall be private, unless the teacher requests a public hearing. The school board or the hearing officer, as the case may be, shall establish the rules for the conduct of <del>any the</del> hearing <del>before it</del>. Such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence, including the testimony of witnesses and the right of all parties or their representatives to cross-examine the witnesses. Witnesses may be questioned by the school board <del>or the hearing officer</del>.</p> <p><u>The In the case of a hearing conducted by the school board, the school board's attorney, assistants, or representative, if he, or they, represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the provisions of § 22.1-69 of the Code of Virginia, the superintendent shall be excluded from any executive session of the school board which <del>that</del> has as its purpose reaching a decision on the grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative, and the superintendent, may join the school board in executive session to assist in the writing of the decision.</u></p> <p>A stenographic record or tape recording of the <del>proceedings</del> <u>hearing</u> shall be taken. However, <del>in proceedings concerning grievances not related to dismissal or probation,</del> the recording may be dispensed with entirely by mutual consent of the parties. <del>In such proceedings,</del> <u>if</u> the recording is not dispensed with, the two parties shall share the cost of the recording equally, and if either party requests a transcript, that party shall bear the expense of its preparation.</p> <p><del>In the case of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to the expiration of the six month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.</del></p> <p><u>c. In the event of a hearing conducted by a hearing officer,</u></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p><u>the recommendation of the hearing officer shall be based exclusively upon the evidence presented at the hearing. Upon the hearing officer's own motion or upon application by either party to the grievance, the hearing officer may reopen the hearing for the purpose of hearing after-discovered evidence upon a finding of good cause by the hearing officer at any time before his recommendation is due. The hearing officer shall transmit his written recommendation and a record or recording of the hearing to the school board as soon as practicable and no more than 10 business days after the hearing.</u></p> <p><u>d. In the event of a hearing by a hearing officer, the school board may make its decision upon the record or recording of such hearing or the school board may elect to conduct a further hearing to receive additional evidence. The school board must hold such further hearing as soon as practicable and must give written notice of the time and place of such further hearing to the division superintendent and the teacher within 10 business days after the board received the record or recording of the initial hearing. The notice must specify each matter to be inquired into by the school board. The school board shall determine the procedure to be followed at such further hearing.</u></p> <p><u>e. In the event of a hearing before the school board, the school board shall give the teacher its written decision as soon as practicable and no more than 30 days after the hearing. The decision of the school board shall be reached after considering the evidence and information presented at the school board hearing.</u></p> <p><u>f. In the event of a hearing before a hearing officer followed by a further hearing by the school board, the school board shall give the teacher its written decision as soon as practicable and no more than 30 days after such further hearing. The decision of the school board shall be reached after considering the record or recording of the initial hearing, the recommendations of the hearing officer, and the evidence and information presented at the further hearing before the school board.</u></p> <p><u>g. In the event of a hearing before a hearing officer in cases in which no further hearing is conducted by the school board, the school board shall give the teacher its written decision as soon as practicable and no more than 30 days after receiving the record or recording of the hearing. The decision of the school board shall be reached after considering the record or recording of the hearing and the recommendations of the hearing officer.</u></p> <p><u>(4) The decision of the school board shall be based solely on the transcript, if any; the findings of fact and recommendations of the fact finding panel; and any evidence relevant to the issues of the original grievance procedure at the school board hearing in the presence of each party. The school board shall give the grievant its written decision within 30 days after the completion of the hearing before the school board. In the event the school board's decision is at variance with the recommendations of the fact finding panel, the school board's written decision shall include the rationale for the decision.</u></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
<p><b>8VAC20-90-40. Grievability.</b></p>		<p><del>d. In any case where a hearing before a fact-finding panel is not held, the board may hold a separate hearing or may make its determination on the basis of the written evidence presented by the teacher and the recommendation of the superintendent.</del></p> <p><del>e. h. The school board shall retain its exclusive final authority over matters concerning employment and the supervision of its personnel.</del></p> <p><b>8VAC20-90-40. Grievability.</b></p> <p>A. Initial determination of grievability. Decisions regarding whether a matter is grievable shall be made by the school board at the request of the division <del>superintendent</del> <u>administration</u> or grievant <u>and such decision shall be made within 10 business days of such request.</u> The school board shall reach its decision only after allowing the division <del>superintendent</del> <u>administration</u> and the grievant opportunity to present written or oral arguments regarding grievability. The decision as to whether the arguments shall be written or oral shall be at the discretion of the school board. <del>Decisions shall be made within 10 business days of such request.</del> Such determination of grievability shall be made subsequent to the reduction of the grievance to writing but prior to any <del>panel or board</del> <u>hearing by the board or a hearing officer,</u> or the right to such determination shall be deemed to have been waived. Failure of the school board to make such a determination within such a prescribed 10-business-day period shall entitle the grievant to advance to the next step as if the matter were grievable.</p> <p>B. Appeal of determination on grievability.</p> <p>1. Decisions of the school board may be appealed to the circuit court having jurisdiction in the school division for a hearing on the issue of grievability.</p> <p>a. Proceedings for a review of the decision of the school board shall be instituted by filing a notice of appeal with the school board within 10 business days after the date of the decision and giving a copy thereof to all other parties.</p> <p>b. Within 10 business days thereafter, the school board shall transmit to the clerk of the court to which the appeal is taken, a copy of its decision, a copy of the notice of appeal, and the exhibits. The failure of the school board to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court may, on motion of the grievant, issue a writ of certiorari requiring the school board to transmit the records on or before a certain date.</p> <p>c. Within 10 business days of receipt by the clerk of such record, the court, sitting without a jury, shall hear the appeal on the record transmitted by the school board and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court may, in its discretion, receive such other evidence as the ends of justice require.</p> <p>d. The court may affirm the decision of the school board or may reverse or modify the decision. The decision of the court shall be rendered not later than 15 days from the date of the conclusion of the court's hearing.</p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
<p><b>8VAC20-90-60. Dispute resolution.</b></p> <p><b>8VAC20-90-70. Procedure for dismissals</b></p>		<p style="text-align: center;">Part III Procedure for Dismissals <del>or Placing on Probation</del></p> <p><b>8VAC20-90-60. Dispute resolution.</b> This Part III of the Procedure for Adjusting Grievances adopted by the Board of Education in accordance with the statutory mandate of Article 3 (§ 22.1-306 et seq.) of Chapter 15 of Title 22.1 of the Code of Virginia and the Standards of Quality for school divisions, Chapter 13.1 (§ 22.1-253.13:1 et seq.) of Title 22.1 of the Code of Virginia, is to provide an orderly procedure for the expeditious resolution of disputes involving the dismissal <del>or placing on probation</del> of any teacher.</p> <p><b>8VAC20-90-70. Procedure for dismissals <del>or placing on probation.</del></b> A. Notice to teacher of recommendation for dismissal <del>or placing on probation.</del></p> <ol style="list-style-type: none"> <li>1. In the event a division superintendent determines to recommend dismissal of any teacher, <del>or the placing on probation of a teacher on continuing contract</del>, written notice shall be sent to the teacher on forms <del>to be prescribed by the Board of Education</del> notifying him of the proposed dismissal, <del>or placing on probation</del>, and informing the teacher that within 45 <del>10</del> business days after receiving the notice, the teacher may request a hearing before the school board, <del>or before a fact-finding panel as hereinafter set forth</del> <u>or, at the option of the school board, a hearing officer appointed by the school board, as provided in § 22.1-311 of the Code of Virginia.</u></li> <li>2. During such <del>45-day</del> <u>10-business-day</u> period and thereafter until a hearing is held in accordance with the provisions herein, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed, or acted upon by the school board except as provided for herein.</li> <li>3. At the request of the teacher, the superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to § 22.1-311 or § 22.1-312 of the Code of Virginia, the division superintendent shall provide, within 10 days of the request, the teacher, or his representative, with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal <del>or probation</del>. Within 10 days of the request of the division superintendent, the teacher, or his representative, shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal <del>or probation</del>. The division superintendent and the teacher or his representative shall be under a continuing duty to disclose and produce any additional documents identified later that may be used in the respective parties' cases-in-chief. The cost of copying such documents shall be paid by the requesting party.</li> <li>4. <del>Upon a timely request for a hearing, the school board or, at the school board's option, a hearing officer appointed by the school board shall set a hearing within 15 days of the request and the teacher shall be given at least five days' written notice of the time and the place of the hearing.</del></li> </ol> <p>B. <del>Fact-finding panel. Within 15 days after the teacher receives the notice referred to in subdivision A 1 of this section, either the teacher, or the school board, by written notice to the other party upon a form to be</del></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>prescribed by the Board of Education, may elect to have a hearing before a fact finding panel prior to any decision by the school board.</p> <p>1. Panel. Within five business days after the receipt by the division superintendent of the request for a fact finding panel, the teacher and the division superintendent shall each select one panel member from among the employees of the school division other than an individual involved in the recommendation of dismissal or placing on probation as a supervisor, witness, or representative. The two panel members so selected shall within five business days of their selection select a third impartial panel member.</p> <p>2. Selection of impartial third member. In the event that both panel members are unable to agree upon a third panel member within five business days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which list one individual shall be selected by the two members of the panel as the third member. The individuals named by the chief judge may reside either within or without the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and in all cases shall possess some knowledge and expertise in public education and education law, and shall be deemed by the judge capable of presiding over an administrative hearing. Within five business days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by the panel members alternately deleting names from the list until only one remains with the panel member selected by the teacher to make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member. Panel members shall not be parties to, or witnesses to, the matter grieved. With the agreement of the teacher's and division superintendent's panel members, the impartial panel member shall have the authority to conduct the hearing and make recommendations as set forth herein while acting as a hearing officer.</p> <p>The Attorney General shall represent personally or through one of his assistants any third impartial panel member who shall be made a defendant in any civil action arising out of any matter connected with his duties as a panel member. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal representation to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General and be paid out of the funds appropriated for the administration of the Department of Education.</p> <p>3. Holding of hearing. The hearing shall be held by the panel within 30 calendar days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by legal counsel or another representative.</p> <p>4. Procedure for fact finding panel:</p> <p>a. The panel shall determine the propriety of attendance</p>



Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p><del>at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.</del></p> <p><del>b. The panel may ask, at the beginning of the hearing, for statements from the division superintendent and the teacher (or their representative) clarifying the issues involved.</del></p> <p><del>c. The parties shall then present their claims and evidence. Witnesses may be questioned by the panel members, the teacher and the division superintendent. However, the panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination.</del></p> <p><u>B. Procedure for hearing.</u></p> <p><u>1. The hearing shall be conducted by the school board or, at the school board's option, a hearing officer appointed by the school board. The teacher and the division superintendent may be represented by legal counsel or other representatives. The hearing shall be private, unless the teacher requests a public hearing. The school board or hearing officer, as the case may be, shall establish the rules for the conduct of the hearing, and such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence, including the testimony of witnesses, and the right of all parties to cross-examine the witnesses. Witnesses may be questioned by the school board or hearing officer.</u></p> <p><del>d.</del> <u>2. The parties shall produce such additional evidence as the panel school board or hearing officer may deem necessary to an understanding and determination of the dispute. The panel school board or hearing officer shall determine the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel school board or hearing officer and of the parties.</u></p> <p><del>e.</del> <u>3. Exhibits offered by the teacher or the division superintendent may be received in evidence by the panel school board or hearing officer and, when so received, shall be marked and made a part of the record.</u></p> <p><del>f. The facts found and recommendations made by the panel shall be arrived at by a majority vote of the panel members.</del></p> <p><del>g. The recommendations and findings of fact of the panel shall be based exclusively upon the evidence presented to the panel at the hearing. No panel member shall conduct an independent investigation involving the matter grieved.</del></p> <p><del>h. The hearing may be reopened by the panel at any time before the panel's report is made upon its own motion or upon application of the teacher or the division superintendent for good cause shown to hear after-discovered evidence.</del></p> <p><del>i. The panel shall make a written report which shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent and the teacher, not later than 30 days after the completion of the hearing.</del></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>j. A stenographic record or tape recording of the proceedings shall be taken. However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.</p> <p>In cases of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.</p> <p>5. Expenses:</p> <p>a. The teacher shall bear his own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one half by the school board and one half by the teacher.</p> <p>b. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his normal business hours if he receives his normal salary for the period of such service.</p> <p>6. Right to further hearing. If the school board elects to have a hearing by a fact finding panel on the dismissal or placing on probation of a teacher, the teacher shall have the right to a further hearing by the school board as provided in subsection C of this section. The school board shall have the right to require a further hearing as provided in subsection C also.</p> <p>7. Witnesses. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.</p> <p>C. Hearing by school board:</p> <p>1. After receipt of the notice of pending dismissal or placing on probation described in subdivision A 1 of this section, the teacher may request a hearing before the school board by delivering written notice to the division superintendent within 15 days from the receipt of notice from the superintendent. Subsequent to the hearing by a fact finding panel under subsection B of this section, the teacher, as permitted by subdivision B 6 of this section, or the school board may request a school board hearing by written notice to the opposing party and the division superintendent within 10 business days after the receipt by the party initiating such hearing of the findings of fact and recommendations made by the fact finding panel and the transcript of the panel hearing. Such notice shall be provided upon a form to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.</p> <p>2. In any case in which a further hearing is held by a school board after a hearing before the fact finding panel, the school board shall consider at such further hearing the record, or</p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p>transcript, if any, the findings of fact and recommendations made by the fact finding panel and such further evidence, including, but not limited to, the testimony of those witnesses who have previously testified before the fact finding panel as the school board deems may be appropriate or as may be offered on behalf of the teacher or the superintendent.</p> <p><del>3. The school board hearing shall be set and conducted within 30 days of the receipt of the teacher's notice or the giving by the school board of its notice. The teacher shall be given at least 15 days written notice of the date, place, and time of the hearing and such notice shall also be provided to the division superintendent.</del></p> <p><del>4. The teacher and the division superintendent may be represented by legal counsel or other representatives. The hearing before the school board shall be private, unless the teacher requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it, and such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence including the testimony of witnesses and the right of all parties to cross-examine the witnesses. Witnesses may be questioned by the school board. The school board may hear a recommendation for dismissal and make a determination whether to make a recommendation to the Board of Education regarding the teacher's license at the same hearing or hold a separate hearing for each action.</del></p> <p><del>5. A record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The board shall bear the expense of the recording and the transcription.</del></p> <p><del>6. The school board shall give the teacher its written decision within 30 days after the completion of the hearing before the school board.</del></p> <p><del>7. The decision by the school board shall be based on the transcript, the findings of the fact and recommendations made by the fact finding panel, and any evidence relevant to the issues of the original grievance produced at the school board hearing in the presence of each party.</del></p> <p><del>The school board's attorney, assistants, or representative, if he or they represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the provisions of § 22.1-69 of the Code of Virginia, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.</del></p> <p><u>4. A stenographic record or tape recording of the proceedings shall be taken. The two parties shall share the cost of the recording equally. The record or recording of the proceedings shall be preserved for a period of six months. If the school</u></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p><u>board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the transcription.</u></p> <p><u>5. The teacher shall bear his own expenses. The school board shall bear the expenses of the division superintendent and the hearing officer.</u></p> <p><u>6. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.</u></p> <p><u>7. In the event of a hearing conducted by a hearing officer, the recommendation of the hearing officer shall be based exclusively upon the evidence presented at the hearing. Upon the hearing officer's own motion or upon application by the teacher or the division superintendent, the hearing officer may reopen the hearing for the purpose of hearing after-discovered evidence upon a finding of good cause by the hearing officer at any time before his recommendation is due. The hearing officer shall transmit his written recommendation and a record or recording of the hearing to the school board as soon as practicable and no more than 10 business days after the hearing.</u></p> <p><u>8. In the event of a hearing by a hearing officer, the school board may make its decision upon the record or recording of such hearing or the school board may elect to conduct a further hearing to receive additional evidence. The school board must hold such further hearing as soon as practicable and must give written notice of the time and place of such further hearing to the division superintendent and the teacher within 10 business days after the board received the record or recording of the initial hearing. The notice must specify each matter to be inquired into by the school board. The school board shall determine the procedure to be followed at such further hearing.</u></p> <p><u>D. C. School board determination.</u></p> <p><u>1. In any case in which a hearing is held before a fact finding panel but no further hearing before the school board is requested by either party, the school board shall give the teacher its written decision within 30 days after the school board receives both the transcript of such hearing and the panel's findings of the fact and recommendation. The decision of the school board shall be reached after considering the transcript, the findings of fact, and the recommendations made by the panel. In the event of a hearing before the school board, the school board shall give the teacher its written decision as soon as practicable and no more than 30 days after the hearing. The decision of the school board shall be reached after considering the evidence and information presented at the school board hearing.</u></p> <p><u>2. In the event of a hearing before a hearing officer followed by a further hearing by the school board pursuant to subdivision B 8 of this section, the school board shall give the teacher its written decision as soon as practicable and no more than 30 days after such further hearing. The decision of the school board shall be reached after considering the record or recording of the initial hearing, the recommendations of the hearing officer, and the evidence and information presented at</u></p>

Current section number	Proposed new section number, if applicable	Current requirements with proposed change and rationale
		<p><u>the further hearing before the school board.</u></p> <p><u>3. In the event of a hearing before a hearing officer in cases in which no further hearing is conducted by the school board, the school board shall give the teacher its written decision as soon as practicable and no more than 30 days after receiving the record or recording of the hearing. The decision of the school board shall be reached after considering the record or recording of the hearing and the recommendations of the hearing officer.</u></p> <p><del>2- 4.</del> <u>The school board may dismiss, or suspend, or place on probation a teacher upon a majority vote of a quorum of the school board. In the event the school board's decision is at variance with the recommendation of the fact-finding panel, the school board shall be required to conduct an additional hearing, which shall be public unless the teacher requests a private one. However, if the fact-finding hearing was held in private, the additional hearing shall be held in private. The hearing shall be conducted by the school board pursuant to subdivisions C 1 and 2 of this section, except that the grievant and the division superintendent shall be allowed to appear, to be represented, and to give testimony. However, the additional hearing shall not include examination and cross examination of any other witnesses. The school board's written decision shall include the rationale for the decision. The school board's attorney, assistants, or representative, if he or they represented a participant in the prior proceedings; the grievant; the grievant's attorney or representative; and, notwithstanding the provisions of § 22.1-69 of the Code of Virginia, the superintendent shall be excluded from any executive session of the school board that has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.</u></p> <p>FORMS (8VAC20-90)</p> <p><del>Statement of Grievance, eff. 2/05</del></p> <p><del>Principal's Decision, eff. 2/05</del></p> <p><del>Superintendent's Level, eff. 2/05</del></p> <p><del>Request for Hearing (Decision to be Presented to Grievant), eff. 2/05</del></p> <p><del>Notice of Proposed Dismissal or Proposed Placing on Probation, eff. 2/05</del></p> <p><del>Request for Hearing (to be submitted to Superintendent), eff. 2/05.</del></p> <p><a href="#">Statement of Grievance (undated, filed 11/2015)</a></p> <p><a href="#">Principal's Decision (undated, filed 11/2015)</a></p> <p><a href="#">Superintendent's Decision (undated, filed 11/2015)</a></p> <p><a href="#">Request for Hearing (undated, filed 11/2015)</a></p> <p><a href="#">Notice of Proposed Dismissal (undated, filed 11/2015)</a></p>