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Exempt Action: Final Regulation Agency Background Document

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| Agency name | Virginia Board of Education |
| Virginia Administrative Code (VAC) Chapter citation(s) | 8VAC20-770 8VAC20-780 8VAC20-790 8VAC20-800 8VAC20-810 8VAC20-820 8VAC20-830 8VAC20-840 8VAC20-850 |
| VAC Chapter title(s) | Background Checks for Child Day Programs Standards for Licensed Child Day Centers Child Care Program Standards for Licensed Family Day Homes Minimum Standards for Family Day Systems General Procedures and Information for Licensure Fees Requirements for Processing Applications Virginia Child Care Provider Scholarship Program Voluntary Registration of Family Day Homes—Requirements for Providers |
| Action title | Transfer of Early Childcare Regulations |
| Final agency action date | April 22, 2021 |
| Date this document prepared | April 8, 2021 |

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Pursuant to [§ 22.1-289.03 of the Code of Virginia](#), the Board of Education (Board) is responsible for establishing “a statewide unified public-private system for early childhood care and education system in the Commonwealth to ensure that every child has the opportunity to enter kindergarten healthy and ready to learn.” The system will be “implemented by the Board, the Superintendent [of Public Instruction] and the Department [of Education (VDOE)]” effective July 1, 2021. Funding and oversight of early childhood care and education (ECCE) programs and policies—including the Child Care Subsidy Program and child care licensing and monitoring—will transition to VDOE from the Virginia Department of Social Services on July 1 accordingly.

Chapters [860](#) and [861](#) of the 2020 Acts of the General Assembly require that the regulations governing the implementation and oversight of ECCE programs be transferred from the Board of Social Services to the Board and state that such transferred regulations “remain in full force and effect until altered, amended, or rescinded by the Board of Education.” The Board’s initial actions to adopt these regulations with “necessary amendments” are exempt from Article 2 ([§ 2.2-4006 et seq.](#)) of Chapter 40 of Title 2.2 of the Code of Virginia. Necessary amendments for the purposes of such exempt action include:

- Renumbering;
- Changing references from the Board of Social Services to the Board of Education;
- Changing code references and descriptions;
- Striking regulations specific to adult care programs and child welfare programs; and
- Striking regulations related to child support enforcement pursuant to [§ 63.2-1911](#).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). “Mandate” is defined as “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Chapters [860](#) and [861](#) of the 2020 Acts of the General Assembly require that the regulations governing the implementation and oversight of ECCE programs be transferred from the Board of Social Services to the Board of Education. The Board must adopt these regulations with necessary amendments in order to comply with the law.

Statement of Final Agency Action

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.

The Virginia Board of Education provided final review and approval of the following regulations on April 22, 2021:

- 8VAC20-770 – Background Checks for Child Day Programs and Family Day Systems
- 8VAC20-780 – Standards for Licensed Child Day Center
- 8VAC20-790 – Child Care Program
- 8VAC20-800 – Standards for Licensed Family Day Homes
- 8VAC20-810 – Minimum Standards for Licensed Family Day Systems
- 8VAC20-820 – General Procedures and Information for Licensure
- 8VAC20-830 – Fee Requirements for Processing Applications
- 8VAC20-840 – Virginia Child Care Provider Scholarship Program
- 8VAC20-850 – Voluntary Registration of Family Day Homes – Requirements for Providers