

**Guidelines for Considering and Approving
Requests for Year-Round Instructional
Program Waivers Pursuant to § 22.1-79.1**

Approved by the Board of Education July 25, 2019

Statutory Authority

Section [22.1-79.1](#) of the *Code of Virginia*, provides that the Board of Education may grant a waiver to a local school board providing its students with year-round instructional programs in one or more schools to open such year-round school(s) prior to the date permitted by § 22.1-79.1.

§ [22.1-79.1](#). Opening of the school year; approvals for certain alternative schedules.

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be no earlier than 14 days before Labor Day. In each school division in which the school board sets the school calendar so that the first day students are required to attend school is before Labor Day, such school board shall close each school in the school division from the Friday immediately preceding Labor Day through Labor Day. The Board of Education may waive this requirement based on a school board certifying that it meets the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means a school division is providing its students, in the school year for which the waiver is sought, with instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools. Any waiver provided pursuant to this subsection shall only apply to the opening date for those schools where such year-round instructional programs are offered.

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through 12 and 540 hours for kindergarten.

D. Notwithstanding the provisions of this section or any other provision of law, the school board of any school division located in Planning District 16 that was not granted a good cause waiver pursuant to this section for the 2018-2019 school year but would qualify for such a waiver pursuant to this section as it was in effect prior to July 1, 2019, for the 2019-2020 school year may set the school calendar so that the first day students are required to attend is earlier than Labor Day, including earlier than 14 days before Labor Day. Additionally, the school board of any school division located in Planning District 16 that is entirely surrounded by two school divisions that either were granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, or would qualify for a good cause waiver pursuant to this section as it was in effect prior to July 1, 2019, for the 2019-2020 school year may open schools on the same opening date as either such surrounding school division.

In addition, clause 2 of [Chapters 569](#) and [570](#) of the 2019 Acts of Assembly, provides:

2. That any school board of a school division that was granted a waiver for the 2018-2019 school year under one of the good cause requirements then in effect pursuant to § 22.1-79.1 of the Code of Virginia or pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, may continue to set the school calendar so that the first day students are required to attend is earlier than 14 days before Labor Day. Additionally, any school board of a school division that was granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, shall not be required to close the Friday immediately preceding Labor Day.

In accordance with § 22.1-79.1 of the *Code*, the Board of Education may waive the requirements of § 22.1-79.1 based on a school board certifying that it is providing its students, in the school year for which the waiver is sought, with instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools.

The Board of Education delegates to the Superintendent of Public Instruction the authority to collect, on its behalf, the certifications of local school boards submitted for the purpose of obtaining a waiver to open one or more schools providing year-round instruction prior to the date permitted by § 22.1-79.1.

To receive a waiver, the local school board shall submit annually to the Superintendent of Public Instruction certification that the school division is providing its students, in the school year for which the waiver is sought, with instructional programs that are offered on a year-round basis by the school division in one or more of its schools.

Such certification shall be made in a manner prescribed by the Superintendent of Public Instruction. School divisions must maintain evidence that the certified conditions have been met.

Reports to the Board of Education

- The Board of Education may request that the Superintendent of Public Instruction provide a report to the Board regarding the status of certifications submitted and waivers granted under the above-stated policies. Such report shall be provided in a manner and at a time as agreed to by the Superintendent and the President of the Board and shall include information deemed pertinent by the Superintendent of Public Instruction.
- Any questions regarding § 22.1-79.1 waivers should be directed to the Policy Office at policy@doe.virginia.gov or (804) 225-2092.