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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) Chapter citation(s)	8VAC20-780
VAC Chapter title(s)	Standards for Licensed Child Day Centers
Action title	Final Review of Revised Regulation for Licensed Child Day Centers Transferring from the Board of Social Services to the Board of Education
Final agency action date	July 22, 2021
Date this document prepared	July 22, 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.

Effective July 1, 2021, the Board of Education became responsible for establishing a unified public-private system for early childhood care and education (ECCE) in the Commonwealth, to be implemented by the Virginia Department of Education (VDOE). Chapters [860](#) and [861](#) of the 2020 Acts of the General Assembly require regulations governing the implementation and oversight of ECCE programs to be transferred from the Board of Social Services to 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*.

The Board unanimously approved the transfer of existing regulations to the State Board of Education administrative code in April 2021, which became effective July 1, 2021. Since that time, the final action to amend Standards for Licensed Child Day Centers to Address Federal Health and Safety Requirements,

initially submitted under the Board of Social Services (22VAC40-185 under Social Services; now 8VAC20-780 under Education), was approved. Following a public comment period that ended on May 12, 2021, the final regulation becomes effective on September 21, 2021. This amended regulation, with necessary amendments, must now be adopted by the Board per Chapters [860](#) and [861](#) of the 2020 Acts of the General Assembly as an exempt action.

The process of revising the *Standards for Licensed Child Day Centers* began in 2016, prompted by the reauthorization of the Child Care and Development Block Grant (CCDBG) Act and corresponding Final Rule in the Federal Register. The Act and Rule clarified the minimum health and safety standards that states should set to promote access to safe, quality child care. Since the initial Notice of Intended Regulatory Action (NOIRA), VDSS has conducted a series of public comment periods and incorporated feedback as appropriate while still meeting the goal of complying with federally recommended standards. As such, the revised standards have been thoroughly vetted and reviewed. Necessary amendments for the purpose of the exempt action, in addition to the Board’s adoption of the regulation, include:

- Renumbering;
- Changing references from the Board of Social Services to the Board of Education; and
- Changing code references and descriptions.

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 the amended Standards for Licensed Child Day Centers currently under the Board of Social Services 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 exempt action to amend the Standards for Licensed Child Day Centers on July 22, 2021.