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Final Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-671-10 et seq.
Regulation title	<i>Regulations Governing the Operation of Private Schools for Students with Disabilities in the Commonwealth</i>
Action title	Final Review of Proposed Regulations Governing the Operation of Private Schools for Students with Disabilities (Final Stage) and Repeal of the Regulations Governing the Operation of Private Day Schools for Students with Disabilities (8 VAC 20-670-10 et seq.)
Date this document prepared	September 13, 2013 (updated March 13, 2014)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The proposed regulation will govern the operation of both private day schools and schools in private residential facilities, including group homes. The new regulation provides clarity to provisions for obtaining a license to operate. It provides clarity to provisions for the management and conduct of schools and standards for programs offered by schools. It requires programs of instruction that promote individual student academic achievement. The proposed regulation requires schools to develop policies and procedures to ensure safe learning environments and the protection of children in their care.

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 or board taking the action, and (3) the title of the regulation.

On June 27, 2013, the Board of Education unanimously approved the proposed *Regulations Governing the Operation of Private Schools for Students with Disabilities*, 8VAC20-671-10 et seq., and requested repeal of the *Board's Regulations Governing the Operation of Private Day Schools for Students with Disabilities*, 8VAC 20-670-10 et seq., and authorized the Department of Education to proceed with the requirements of the Administrative Process Act.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Code of Virginia

Title 22.1. Education, Chapter 16, Schools for Students with Disabilities, *Sections 22.1-319 – 22.1-332.*

Section 22.1-321. Regulations. The Board of Education shall make regulations not inconsistent with law for the management and conduct of schools. The regulations may include standards for programs offered by the schools. The Board may authorize the Superintendent to issue licenses to operate schools.

Section 22.1-323.2. Licensure of services delivered in group homes and residential facilities for children –
A. The Department of Education shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities regarding educational programs offered in group homes and residential facilities in the Commonwealth. The Board shall promulgate regulations allowing the Department of Education to so assist and cooperate with other state departments.

B. The Board's regulations shall address the educational services required to be provided in such group homes and residential facilities as it may deem appropriate to ensure the education and safety of the students.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it 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.

These regulations were drafted in response to action of the 2008 General Assembly, which repealed the *Standards for Interdepartmental Regulation of Children's Residential Facilities*, 22 VAC 42-11-10 et seq., and required each licensing agency to promulgate new regulations that govern the agency's role in serving students in group homes and residential facilities. The Board of Education determined that a single set of regulations to govern the operation of all private schools for students with disabilities would be beneficial to placing agencies, licensing agencies, and parents seeking private placements. These regulations govern the operation of all private schools for students with disabilities, including day schools and schools in children's residential facilities and group homes, in the commonwealth.

The regulations are essential to protect the health, safety, and welfare of children attending private schools for students with disabilities. The regulations are designed to ensure students who cannot be served in public schools because of their disabilities can receive a free appropriate education in the least restrictive environment.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Substantive provisions

8VAC20-671-10. Added definitions of aversive stimuli, emotional disturbance, funding agency, Mechanical restraints, pharmacological restraints, placing agency, under definition of Section 504, defined 504 Plan, and substantial compliance.
8VAC20-671-30. Licenses generally – Added provision that the Department may make exception to the requirements of this chapter for good cause. The new provision will allow the licensing agency to grant temporary or permanent waiver of compliance with a regulation or portion of a regulation, or permission to meet the intent of the regulation by a method other than that specified in the regulation, when the department, in its sole discretion, determines enforcement will create an undue hardship and the delivery of services to students or safety will not be adversely affected.
8VAC20-671-120. Assessment of application. Added requirement to require the Department to conduct a review of the character, reputation, status, and responsibility of the applicant before issuing a license.
8VAC20-671-150. Monitoring. Added a provision that requires the Department to re-examine findings of noncompliance in consultation with the school administrator when there is disagreement and amend any written report as appropriate within seven business days.
8VAC20-671-330. Support staff. Revised the requirements for paraprofessionals and other ancillary staff. Strengthen qualifications for hiring paraprofessionals, requiring specific training within 60 calendar days of hire.
8VAC20-671-350. Staff development. Deleted the requirement for 15 additional hours of annual training. Teachers are required to engage in professional development to maintain their license.
8VAC20-671-370. School facilities and safety – Revised the requirement that schools provide 50 net square feet per occupant to "50 square feet per student" for schools and classrooms added to existing buildings established after the effective date of these regulations.
8VAC20-671-380. Contingency plans. Revised language to require at least one tornado drill, at least one earthquake drill, and at least two lockdown drills. Added lockdown drills as required by public schools.
8VAC20-671-510. Instructional program for middle school grades – Added requirement that each school shall provide students with opportunities for career and technical exploration. The provision does not require a course offering. Schools could meet the requirement through existing course offerings.
8VAC20-671-520. Instructional program for secondary school grades – Added provision for a course of study that provides instruction in economics and personal finance and occupational readiness. The provision was added for consistency with public schools.
8VAC20-671-620. Student conduct. Added a requirement to notify the parent on the date on which the decision is made to suspend or expel a student. Added requirement that the parent shall be informed on the day of each incident of physical restraint or seclusion. Added requirement that the written report from an incident of restraint or seclusion shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff. Added a provision that requires schools to annually report to the Virginia Department of Education the number of times restraint and seclusion was used during the school year.
8VAC20-671-660. Managing student behavior in emergency situations. Added requirements as safeguards to protect students in an emergency situation when it is necessary to use restraint or

seclusion.
8VAC20-671-700. Serious incident reports. Revised language for immediate reporting to the parent but no later than the end of the school day.
8VAC20-671-760. (Now 671-750) Maintenance of student records. Changed requirement for fire proof cabinets to fire resistant cabinets for storing student records. The provision was changed for reduced burden on private providers. Fire resistant cabinets are less expensive than fire proof cabinets.

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.

- 1) The primary advantage to the public is that the proposed regulation requires schools to provide an instructional program that promotes individual student academic achievement in the essential academic disciplines, English, mathematics, science, and history/social science and requires an instructional school day comparable to the school day of public schools. There is no disadvantage to the public.
- 2) The primary advantage to the agency is public schools will have placement options for students with disabilities whose needs cannot be met in a public school setting.
- 3) Parents who seek private school education for their child with a disability are provided with safe schools with education programs licensed by the Board of Education. There is no disadvantage to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
<p>***8VAC20-671-10. Definitions</p>	<p>"Applicant" means the person, partnership, corporation, or association that has completed and submitted an application to the licensing agency for approval for a license to operate a school for students with disabilities in Virginia.</p>	<p>Changed licensing agency to Department</p>	<p>Consistency</p>
	<p>There was no definition of "aversive stimuli."</p>	<p>Added definition "Aversive stimuli" means any action used to punish a student or to eliminate, reduce, or discourage the problem behavior by use of any of the following or any other actions that are painful, humiliating, degrading, or abusive:</p> <ol style="list-style-type: none"> 1. Noxious odors and tastes; 2. Water and other mists or sprays; 3. Blasts of air; 4. Corporal punishment as defined in Section 22.1-279 of the Code of Virginia; 5. Verbal and mental abuse; 6. Placement of a student alone in a room, where the door is locked or held shut and the student is prevented from leaving the room; 7. Forced exercise where: <ol style="list-style-type: none"> a. The student's behavior is related to his or her disability; b. The exercise would have a harmful effect on the student's health; or c. The student's disability prevents participation in activities; and 8. Deprivation of necessities, including: <ol style="list-style-type: none"> a. Food or liquid at a time when it is customarily served; b. Medication, or c. Use of restroom.] 	<p>Clarification</p>
	<p>"Board" means the State Board of Education, which has general supervision of the public school system.</p>	<p>Deleted words [which has general supervision of the public school system]</p>	<p>Not necessary</p>
	<p>"Corrective action plan" means the school's plan of action to correct a finding of noncompliance. The plan must identify specific timelines and the person(s) responsible for implementation.</p>	<p>Added words to end of statement, [applicable to this chapter or other applicable regulation.]</p>	<p>Clarification</p>

	<p>"Emotional disability" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: [(34 CFR 300.8(c)(4))]</p> <ol style="list-style-type: none"> 1. An inability to learn that cannot be explained by intellectual, sensory, or health factors; 2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers; 3. Inappropriate types of behavior or feelings under normal circumstances; 4. A general pervasive mood of unhappiness or depression; or 5. A tendency to develop physical symptoms or fears associated with personal or school problems. <p>Emotional disability includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability as defined by the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81)</p>	<p>Deleted defining language of "Emotional disability" directing reader to see "Emotional disturbance"</p> <p>"Emotional Disturbance" is also referred to as "Emotional Disability" and means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: (34 CFR 300.8(c)(4))</p> <ol style="list-style-type: none"> 1. An inability to learn that cannot be explained by intellectual, sensory, or health factors; 2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers; 3. Inappropriate types of behavior or feelings under normal circumstances; 4. A general pervasive mood of unhappiness or depression; or 5. A tendency to develop physical symptoms or fears associated with personal or school problems. <p>Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance or emotional disability as defined in this section.</p>	<p>Statutory conformity</p>
	<p>There was no definition of "Funding agency."</p>	<p>Added definition: "Funding agency" means a Community Policy and management Team under the Comprehensive Services Act, local school division or local department of social services.</p>	<p>Clarification</p>
	<p>"Illegal drug" means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 USC § 812(c), or under any other provision of federal law.</p>	<p>Inserted [or a prescription drug not prescribed for the person or]</p>	<p>Clarification</p>
	<p>"Individualized Instruction Plan" or "IIP" means a written statement (plan) for a child who is privately placed or for a child who has not been determined eligible for special education services that is developed, reviewed, and</p>	<p>Added words at the end of statement ... developed, reviewed, and revised at least annually in a team meeting that includes the parent [and student when appropriate.]</p>	<p>Clarification</p>

	<p>revised at least annually in a team meeting that includes the parent. The IIP specifies the student's academic level, course of study, individual educational needs, and the educational services the child will receive.</p> <p>“License to Operate” or “license” means a document issued by the State Superintendent of Public Instruction that verifies approval to operate a school for students with disabilities and that indicates the status of the school regarding compliance with applicable regulations.</p> <p>“Licensing agency” means the Virginia Department of Education.</p> <p>There was no definition of “Mechanical restraint.”</p> <p>There was no definition of “Pat down.”</p> <p>There was no definition of “Pharmacological restraints.”</p>	<p>Changed the word verifies to [authorizes] and deleted words at end of statement. "License to operate" or "license" means a document issued by the [State state] Superintendent of Public Instruction that [verifies authorizes] approval to operate a school for students with disabilities [and that indicates the status of the school regarding compliance with applicable regulations].</p> <p>Deleted definition and replaced throughout text with “Department”</p> <p>Added definition ["Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as: 1. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; 2. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; 3. Restraints for medical immobilization; or 4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.]</p> <p>Added definition “Pat down” means a thorough external body search of a clothed person.</p> <p>Added definition ["Pharmacological restraints" means a drug or medication used on a student to control behavior or restrict freedom of movement that is not (1) prescribed by a</p>	<p>Consistency with wording on license</p> <p>Consistency</p> <p>Clarification</p> <p>Clarification</p> <p>Clarification</p>
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	<p>"Publicly placed student" means a student placed in a private school for students with disabilities by a local school division or Comprehensive Services Act team or by court order.</p> <p>"Qualified personnel" or "qualified staff" means personnel who have met Virginia Department of Education approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individual is providing special education or related services. In addition, the professional must meet other state agency requirements for such professional service and Virginia licensure requirements as designated by Virginia law or regulations.</p> <p>"Section 504" means that section of the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance.</p>	<p>licensed physician, or other qualified health professional acting under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition; and (2) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority.]</p> <p>Added definition ["Placing agency" means Community Policy and Management Team under the Comprehensive Services Act, local school division, or department of social services.]</p> <p>Added language "Publicly placed student" means a student placed in a private school for students with disabilities by a local school division, or Family Assessment and Planning Team under the Comprehensive Services Act team or by court order.</p> <p>Deleted unnecessary wording and reworded. "Qualified personnel" or "qualified staff" means personnel who have met [the state-approved or state-recognized Virginia Department of Education approved or recognized] certification, licensing, [registration, or other comparable requirements that apply to the area in which the individual is providing special education or related services. In addition, the professional must meet other state agency requirements for such professional service and Virginia licensure requirements as designated by Virginia law or regulations or other comparable requirement applicable to a specific discipline].</p> <p><u>Added and defined "504 Plan"</u> ["504 Plan" means a written plan required under Section 504 of the Rehabilitation Act of 1973. (29 USC § 701 et seq.) A student's 504 Plan details modifications, accommodations, and services that are needed for the student with a disability to participate in and enjoy the benefits of school programs at the same level as their peers without disabilities .]</p>	<p>Clarification</p> <p>Clarification</p> <p>Clarification</p> <p>Wordy</p> <p>Clarification</p>
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	<p>"Special education" means specially designed instruction to meet the unique needs of a child with a disability. There is no cost to the parent(s) for special education for a child who is placed in a school for students with disabilities by a school division, the Department of Social Services, or court order. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.39)</p> <p>Standard precautions" mean precautions designed to prevent transmission of HIV, hepatitis B virus (HBV), and other bloodborne pathogens when providing first aid or health care. Standard cautions apply to blood; all body fluids, secretions, and excretions except sweat, regardless of whether or not they contain blood; nonintact skin; and mucous membranes. The precautions are designed to reduce the risk of transmission of microorganisms from both recognized and unrecognized sources of infection when providing first aid or health care. Standard precautions include protective barriers such as gloves, gowns, aprons, masks, or protective eye wear that can reduce the risk of exposure with materials that may contain infectious microorganisms.</p> <p>There was no definition of "substantial compliance."</p>	<p>Deleted unnecessary words. "Special education" means specially designed instruction to meet the unique needs of a child with a disability. [There is no cost to the parent(s) for special education for a child who is placed in a school for students with disabilities by a school division, the Department of Social Services, or court order. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.39)]</p> <p>Added "universal" as a descriptor to the definition and changed "cautions" to "precautions."</p> <p>Added definition ["Substantial compliance" means that while there may be noncompliance with one or more regulations that represent minimum risk, compliance clearly and obviously exists with most of the regulations as a whole.]</p>	<p>Simplification</p> <p>Clarification</p> <p>Needed for licensing purposes</p>
<p>8 VAC20-671-20 Exemptions</p>	<p>This chapter shall not apply to any of the following at § 22.1-320 of the Code of Virginia: 6. Any private school for students with disabilities that operates in or on the premises of an elementary, middle, or secondary public school in a regular school setting during a typical school day.</p>	<p>Deleted #6</p>	<p>Requires change in the Code of Virginia</p>
<p>**8VAC20-671-30. Licenses generally.</p>	<p>B. An individual seeking to operate a school for students with disabilities shall file an application with the licensing agency.</p>	<p>Replaced "licensing agency" with "Department" in B. Added new requirement "C. The Department may make exception to the requirements of this chapter for good cause."</p>	<p>Consistency</p> <p>Added for licensure purposes</p>
<p>8VAC20-671-40. Advertising.</p>	<p>e. The accrediting agency shall be named, if accreditation is used, as part of a school's promotional materials.</p>	<p>e. Added words The accrediting agency shall be named, [using its official title] if accreditation is used, as part of a school's promotional</p>	<p>Clarification</p>

		materials.	
8VAC20-671-50 Types of Licenses.	<p>The following shall apply consistent with § 22.1-323.1 of the Code of Virginia:</p> <ol style="list-style-type: none"> 1. A conditional license shall be issued to a new school that demonstrates compliance with administrative and policy requirements but has not demonstrated compliance with all requirements of this chapter. <ol style="list-style-type: none"> a. A conditional license may be renewed. b. The issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months. 2. A provisional license may be issued to a school that has demonstrated an inability to maintain compliance with this chapter or other applicable regulations. <ol style="list-style-type: none"> a. A provisional license may be issued at any time. b. A provisional license may be renewed. c. The issuance of a provisional license and any renewal thereof shall be for no longer a period than six successive months. 3. An annual license may be issued under the following conditions and may be extended for a period not to exceed six successive months: <ol style="list-style-type: none"> a. A school applies for renewal while holding a conditional or provisional license substantially meets the requirements of this chapter; b. The licensing agency determines that a major violation has occurred that impacts the overall operation of the school; or c. The school makes significant changes in its operation. 4. A triennial license shall be issued when a school: <ol style="list-style-type: none"> a. Applies for renewal while holding an annual or triennial license; and b. Substantially meets or exceeds the requirements of this chapter and other applicable regulations. 5. The term of a school's license may be modified at any time during the licensure period based on a change in the school's compliance with this chapter and other applicable regulations. 	<p>Revised:</p> <p>The following shall apply consistent with [§ 22.1-323.1 § 22.1-323, 323.1, and 323.2] of the Code of Virginia:</p> <ol style="list-style-type: none"> 1. A conditional license [shall may] be issued [to a new school that demonstrates compliance with administrative and policy requirements but has not demonstrated compliance with all requirements of this chapter] upon approval of an application to operate a school for students with disabilities not to exceed a period of six months]. <ol style="list-style-type: none"> a. A conditional license may be renewed [for a period of six months when a new school demonstrates compliance with administrative and policy requirements but has not fully demonstrated substantial compliance with requirements of this chapter]. <ul style="list-style-type: none"> [b. The issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months. 2. A provisional license may be issued to a school that has demonstrated an inability to maintain compliance with this chapter or other applicable regulations. <ol style="list-style-type: none"> a. A provisional license may be issued at any time. b. A provisional license may be renewed. c. The issuance of a provisional license and any renewal thereof shall be for no longer a period than six successive months.] [3 2]. An annual license may be issued under the following conditions and may be extended for a period not to exceed [six 36] successive months: <ol style="list-style-type: none"> [a. A school provides notice for continued licensure while holding a conditional license.] [a b] . [A school applies for renewal while holding a conditional or] When a school holds a] provisional license [and] substantially meets the requirements of this chapter; <ul style="list-style-type: none"> [b. The licensing agency determines that a major violation has occurred that impacts the overall operation of the school; or] c. [The When a] school makes significant changes in its operation. [4 3]. A triennial license shall be issued 	<p>Revised for clarification and consistency with Code and other licensing agencies</p>

		<p>when a school [holds an annual or triennial license and substantially meets the requirements of this chapter]:</p> <p>[a. Applies for renewal while holding an annual or triennial license; and</p> <p>b. Substantially meets or exceeds the requirements of this chapter and other applicable regulations.</p> <p>5. The term of a school's license may be modified at any time during the licensure period based on a change in the school's compliance with this chapter and other applicable regulations.</p> <p>4. The term of a school's license may be reduced to provisional when the school has demonstrated an inability to [achieve or] maintain compliance with this chapter or other applicable regulations.</p> <p>a. A provisional license may be issued at any time.</p> <p>b. A provisional license may be renewed.</p> <p>c. The issuance of a provisional license and any renewal thereof shall be for no longer a period than six successive months.]</p>	
8VAC20-671-60. Change in condition.	<p>B. A change in a condition shall not be implemented prior to approval by the licensing agency. The licensing agency shall respond to the request and provide approval or denial in 10 calendar days following the date the request was received.</p> <p>C. A change in a condition may not be approved during a provisional or conditional licensure period.</p>	<p>Deleted language:</p> <p>B. A change in a condition shall not be implemented prior to approval by the licensing agency. [The licensing agency shall respond to the request and provide approval or denial in 10 calendar days following the date the request was received.]</p> <p>[C. A change in a condition may not be approved during a provisional or conditional licensure period.]</p>	Deletions Clarification Simplification
8VAC20-671-70. License to operate is nontransferable	<p>1. The licensee shall notify the licensing agency at least 30 calendar days prior to the proposed change.</p> <p>2. The new owner shall submit an initial application for a license to operate to the licensing agency within 30 calendar days following the effective date of the change in ownership.</p>	"Licensing agency" changed to "Department".	Consistency
8VAC20-671-80. Penalty for non-compliance in obtaining a license to operate.	3. The licensing agency shall refer to the Office of the Attorney General any alleged or known violation of this chapter. The Office of the Attorney General shall refer the matter to the Commonwealth's attorney of proper jurisdiction.	Changed 3. The [licensing agency Department] shall refer [to the Office of the Attorney General any alleged or known violation of this chapter. The Office of the Attorney General shall refer the matter any person who opens, operates, or conducts a school for students with disabilities without a license] to the [appropriate] Commonwealth's attorney [of proper jurisdiction] .	Consistency with Code
8VAC20-671-	The licensing agency shall maintain a directory	"Licensing agency" changed to	Consistency

<p>90. Directory of private schools for students with disabilities.</p>	<p>of schools holding valid licenses to operate that shall be available to the public (§ 22.1-332 of the Code of Virginia). The directory shall identify other applicable state licensing agencies over the school and may include additional information to inform the public about the school's operation.</p>	<p>“Department”. “Directory” has been changed to “List”</p>	<p>with the Code</p>
<p>8VAC20-671-100. Initial application.</p>	<p>To obtain a license to operate a school for students with disabilities, an application shall be filed with the Department of Education. A completed initial application shall include the following:</p> <ol style="list-style-type: none"> 1. Complete name and physical address of the school; 3. Evidence that the applicant has conducted a needs assessment; 12. Description of the education program to include disability category or categories to be served, enrollment capacity, age range, gender, and course offerings; 	<p>Edited section: To obtain a license to operate a school for students with disabilities, [an] application shall be filed with the [Virginia] Department of Education. A completed initial application shall include the following:</p> <ol style="list-style-type: none"> 1. Complete name and [with] physical [and mailing] address of the school; 3. Evidence that the applicant has conducted a needs assessment [assessed the community's need for a new school.] 12. Description of the education program to include disability category or categories to be served, enrollment capacity, [grade level(s),] age range, gender, and course offerings; 	<p>Edits Clarification</p>
<p>8VAC20-671-110. Applicant commitments.</p>	<p>Each application for a license to operate a school for students with disabilities shall contain the following commitments:</p> <ol style="list-style-type: none"> 1. To conduct the school in accordance with all applicable regulations of the board; 2. To permit the board or department to inspect the school or classes being conducted therein at any time and to make available to the board or department, when requested to do so, all information pertaining to the activities of the school required for the administration of this chapter, including its financial condition; 3. To advertise the school at all times in a form and manner that is free from misrepresentation, deception, or fraud and to conform to provisions of the board governing such advertising; 4. To ensure that all representations made by an agent of the school are free from misrepresentation, deception, or fraud and to conform to provisions of the board governing such advertising; 5. To display the current license to operate prominently where it may be inspected by students, visitors, and the board or department; and 6. To maintain all premises, equipment, and facilities of the school in an adequate, safe, and sanitary condition. 	<p>Capitalized “Board” and “Department.”</p>	<p>Consistency</p>

<p>**8VAC20-671-120. Assessment of application.</p>	<p>C. Any application that has not been approved within the allotted time period shall be denied and returned to the applicant. The applicant may reapply for a license 90 calendar days following the date of the returned application. D. The licensing agency may require the applicant to appear before a review committee for final approval of the application.</p>	<p>"Licensing agency" changed to "Department" Deleted item C. and added new provision as C. [C. The Department shall conduct a review of the character, reputation, status, and responsibility of the applicant before issuing a license.] Revised D. The [licensing agency Department] may require the applicant to [appear before a review committee for meet with Department staff before] final approval of the application.</p>	<p>Consistency Consistency with other licensing agencies Added new provision. Clarification</p>
<p>8VAC20-671-130. On-site inspection.</p>	<p>Before a license can be issued, the licensing agency shall conduct an on-site inspection or equivalent virtual inspection of the school building and grounds to determine its suitability for the operation of a school for students with disabilities.</p>	<p>Inserted words Before a license can be issued [to an applicant], Changed "equivalent virtual inspection" to "review photographs or videos"</p>	<p>Clarification</p>
<p>8 VAC20-671-140. Renewal of licenses.</p>	<p>A. Sixty calendar days prior to the expiration of a license to operate, the licensee shall submit to the licensing agency notification of intent for continued operation of the school. B. The license of each school that continues to operate as such shall be renewed on or before the anniversary date set by the licensing agency. C Each license that has not been renewed in accordance with this chapter shall expire and a new license shall be obtained from the board before such school may continue to operate. A new application must be submitted to the licensing agency.</p>	<p>"Licensing agency" changed to "Department" Deleted requirement A. Renumbered. Changed B. to A. and C. to B. Deleted words [C B]. Each license that has not been renewed in accordance with this chapter shall expire [and a new license shall be obtained from the board before such school may continue to operate. A new application must be submitted to the licensing agency].</p>	<p>Consistency Not necessary to notify the agency of intent to continue operation. Edits</p>
<p>**8 VAC20-671-150. Monitoring.</p>	<p>The licensing agency shall: 1. Make at least one [announced or] unannounced visit during the effective dates of the license to operate for the purpose of monitoring the school's compliance with this chapter; 2. Notify relevant local governments and placing and funding agencies of health and safety or human rights violations. 3. Cooperate with other licensing agencies, specifically, the Department of Social Services and the Department of Behavioral Health and Developmental Services, in fulfilling licensing responsibilities. The licensing agency shall notify relevant local governments and placing and funding agencies when a school's licensure status is lowered to provisional.</p>	<p>"Licensing agency" changed to "Department" Requirement #1, deleted announced visits Requirement #3 was revised as two single requirements [3. Notify the appropriate public agencies when a school's licensure status is lowered to provisional.] Renumbered item 3. to 4. Deleted language end of #4 and moved as #3. Added new requirement: 5. Re-examine findings of noncompliance in consultation with the school</p>	<p>Consistency Clarification that at least one visit shall be un-announced Monitoring consistency</p>

		administrator when there is disagreement and amend any written report as appropriate in seven business days.	
8VAC20-671-160. Complaint resolution procedures.	4. During the course of the investigation, the licensing agency shall: c. Make a determination of compliance or noncompliance on each issue in the complaint based upon the facts and applicable regulations and notify the parties in writing of the findings and the bases for such findings. The licensing agency has 60 calendar days after the written complaint is received to carry out the investigation and to resolve the complaint. An extension of the 60 calendar day time limit may occur if exceptional circumstances exist with respect to a particular complaint.	"Licensing agency" changed to "Department" Edited c. toThe Department has 60 calendar days after the written complaint is received to carry out the investigation and to resolve the complaint [issue a letter of finding]. ...	Consistency Clarification
8VAC20-671-170. Denial, revocation, or suspension of license.		Moved first statement under 671-180 to become B. under 671-170. B. The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall be applicable to proceedings under this section.	Placement. Edit
8VAC20-671-180. Summary or final order of suspension	The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall be applicable to proceedings under this section. In compliance with § 22.1-329 of the Code of Virginia, the following shall apply:	First sentence moved for proper placement under Denial, revocation, or suspension of license The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall be applicable to proceedings under this section.	Placement. Edit
8VAC20-671-190. Timeline for correction of unsatisfactory conditions.	In compliance with § 22.1-330 of the Code of Virginia, the board or department: 1. May, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts that, if proved, would constitute grounds for refusal, suspension, or revocation of a license, investigate the actions of any applicant for or any person or persons holding or claiming to hold a license to operate.	Edited to capitalize Board and Department, changed "which" to "that" and added "a school" to end of 1.	Editing
8 VAC20-671-210. Responsibilities of the licensee.	The licensee shall: 7. Develop a written policy prohibiting the consumption of tobacco products, drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored activities. 8. Require as a condition of employment that any applicant who accepts employment full-time or part-time, permanent or temporary, including interns and volunteers to submit to fingerprinting and to provide personal descriptive information to be forwarded along	Edited as indicated for clarity 7. Develop a written policy prohibiting the consumption of tobacco products, [illegal] drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored [student] activities. 8. Require as a condition of employment that any applicant who accepts employment full-time or part-time,	7. Clarification consistency with other licensing agencies 8. Clarification

	<p>with the applicant's fingerprints through Virginia's Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. In addition, where the applicant has resided in another state within the last five years, the school shall as a condition of employment determine if there are any founded complaints of child abuse or neglect in such state(s) pursuant to §§ 22.1-296.3 and 22.1-296.4 of the Code of Virginia. The requirement applies to interns, volunteers, and any contracted service providers who work with children or come into regular contact with children (two or more times a month) during the performance of their duties.</p>	<p>permanent or temporary, [including interns and] volunteers [to on a regular basis and will be alone with a student in the performance of his duties, or anyone who provides contractual services, including services of a student intern, on a regular basis and will be alone with a student in the performance of his duties shall] submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through [Virginia's the] Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. [In addition, where the applicant has resided in another state within the last five years, the school shall as a condition of employment determine if there are any founded complaints of child abuse or neglect in such state(s) pursuant to §§ 22.1-296.3 and 22.1-296.4 of the Code of Virginia.] [a. Anyone who is hired or is approved to provide volunteer services, contractual services, or services of a student-intern on a regular basis and will be alone with students cannot begin working with children until the criminal history background check has been received by the school.]</p>	<p>Deleted statement In wrong place, Moved to #9</p> <p>Added for clarification</p> <p>Clarification Consistency with Code of Virginia</p>
<p>9. Require as a condition of employment that any applicant who accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary; shall provide written consent and necessary personal information for the school to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services.</p>		<p>9. Require as a condition of employment that any applicant who accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, [including interns and] volunteers [on a regular basis and will be alone with a student in the performance of his duties; or anyone who provides contractual services, including services of a student intern on a regular basis and will be alone with a student in the performance of his duties, shall] provide written consent and necessary personal information for the school to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services [pursuant to § 63.2-1515 of the Code of Virginia. Where the applicant has resided in another state within the last five years, the school shall as a condition of employment, determine if there are any founded complaints of child abuse or neglect in such state(s)</p>	

	<p>12. Report to the licensing agency within 10 business days lawsuits, settlements, or criminal charges relating to the operation of the school.</p> <p>13. Develop and implement an accessible policy and procedures to handle grievances from students, parents, and employees.</p>	<p>pursuant to §22.1-296.3 and 22.1-296.4 of the Code of Virginia.]</p> <p>[a. Anyone who has not submitted to a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services shall not be permitted to work alone with children.</p> <p>b. The results of the search of the registry must be received prior to permitting an applicant to work alone with children.]</p> <p>12. Revised Deleted [settlements, or criminal charges relating to the operation of the school] against or settlements with the licensee relating to the health and safety or human rights of students and any criminal charges against staff that may be related to the health and safety or human rights of students.]</p> <p>13. Replaced ‘grievances’ with ‘school related complaints’. Added statement to requirement: Develop and implement an accessible policy and procedures to handle [grievances school related complaints] from students, parents, and employees. [Schools are required to provide written notification of the right to file a complaint with the Department’s private school licensure office.]</p> <p>[Schools are required to provide written notification of the right to file a complaint with the Department’s private school licensure office.]</p> <p>Added requirement [14. The school shall have a written policy and procedure that the school does not discriminate according to state and federal law.</p>	<p>Added for consistency with <i>Code of Virginia</i></p> <p>Clarification</p> <p>Clarification</p> <p>Clarification</p>
8VAC20-671-230. Protection of contractual rights.	2. The guaranty instrument shall be based on the school's approved capacity. A minimum guaranty of \$10,000 for up to 25 students and \$5,000 for each additional 25 students shall apply.	Deleted word “minimum.”	Clarification
8 VAC20-671-240. Insurance.	A. The licensee shall maintain liability insurance covering the premises and the school's operation. B. The licensee shall maintain liability insurance on all vehicles used to transport	Added requirement to B The licensee shall maintain [ensure] liability insurance on all vehicles . . . [The school shall obtain written consent from the parent to transport a student in a staff	B. Clarification Added safeguard for parent,

	students, including vehicles owned by staff. C. The members of the governing body and staff who are authorized to handle school or students' funds shall be bonded.	member's personal vehicle.] C. Added language. The members of the governing body and staff who are . . .[or otherwise indemnified against employee dishonesty.]	student and school protection C. Added flexibility
8 VAC20-671-250. Fundraising.	A. Written consent of the parent(s) or legal guardian and of a child age 14 or older shall be obtained before participating in any school fundraising activity.	A. Deleted words Written consent of the parent(s) or legal guardian and of a child age 14 or older... "B. Added statement: [No student shall be forced to participate in any school fundraising activity.]	Wordy Clarification
8VAC20-671-270. Personnel policies and procedures.	A. The licensee shall have written personnel policies and procedures that include, but are not limited to, job qualifications, job descriptions, staff supervision, evaluation, grievance, and termination. 1. The licensee shall develop and implement written policies and procedures that persons appointed or designated to assume the responsibilities of each position possess the education, experience, knowledge, skills, and abilities specified in the job description.	Deleted words. A. The licensee shall have written personnel policies and procedures that include, but are not limited to, job qualifications, job descriptions, [staff] supervision, evaluation, grievance, and termination. 1. The licensee shall develop and implement written policies and procedures that persons appointed or designated to assume the responsibilities of each position possess the education, experience, [knowledge,] skills, and abilities specified in the job description.	Redundant
8VAC20-671-290. Job descriptions.	A. There shall be a written job description for each position that includes job title; duties and responsibilities; job title of the immediate supervisor; and minimum education, experience, knowledge, skills, and abilities required for entry-level performance of the job.	Deleted word; A. There shall be a written job description for each position that includes job title; duties and responsibilities; job title of the immediate supervisor; and minimum education, experience, [knowledge,] skills, and abilities required for entry-level performance of the job.	Redundant
8 VAC20-671-300. School administrators	A. The licensee shall designate one or more individuals responsible for the administrative operation of the school who serves as the instructional leader and is responsible for effective school management that promotes positive student achievement, and a safe and secure environment in which to teach and learn. B. As the instructional leader, the school administrator is responsible for ensuring that students are provided an opportunity to learn and shall: 1. Protect the academic instructional time from unnecessary interruptions and disruptions and enable the professional teaching staff to spend the maximum time possible in the teaching/learning process by keeping to a minimum clerical responsibility and the time students are out of class; 2. Seek to maintain a safe and secure school environment;	A. Deleted words, Added statement for clarification A. The licensee shall designate one or more an individual(s) [who is a graduate of an accredited college or university and is] responsible for the administrative operation of the school [who serves as the instructional leader and is responsible for including effective school management that promotes positive student achievement, and a safe and secure environment in which to teach and learn]. [This individual may also serve as the instructional leader.] B. [As the instructional leader, t] [T]he school administrator [shall:] is responsible for ensuring that students are provided an opportunity to learn and shall: 1. Protect the academic instructional time from unnecessary interruptions [and	Clarification Simplification Simplification

	<p>3. Involve the staff of the school in identifying the types of staff development needed to improve student achievement and ensure that the staff participate in those activities;</p> <p>4. Analyze classroom practices and methods for improvement of instruction;</p> <p>5. Ensure that students' education records are maintained and that criteria used in making placement and promotion decisions, as well as any instructional interventions used to improve the student's performance, are included in the record; and</p> <p>6. Monitor and evaluate the quality of instruction, provide staff development, and provide support that is designed to improve instruction.</p>	<p>disruptions and enable the professional teaching staff to spend the maximum time possible in the teaching/learning process by keeping to a minimum clerical responsibility and the time students are out of class;</p> <p>2. Seek to maintain a safe and secure school environment;</p> <p>3. Involve the school staff [of the school] in identifying [the types of] staff development needs needed to improve student achievement and ensure [that the staff participation participate in those activities];</p> <p>4. Analyze classroom practices and methods for improvement of instruction;</p> <p>[5.] Ensure [that students' student] education records are maintained [confidentially;] and that criteria used in making placement and promotion decisions, as well as any instructional interventions used to improve the student's students' performance, are included in the record[s]; and</p> <p>[6.] Monitor and evaluate the quality of instruction [and provide supports as needed -[provide staff development, and provide support that is designed]- to improve instruction.</p>	<p>Wordy</p> <p>Redundant</p>
<p>8 VAC20-671-310. Teachers and staffing.</p>	<p>F. A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i> (8VAC20-81).</p>	<p>A. Added language for clarification</p> <p>[1. Schools where students are instructed by content or grade level endorsed teachers shall have available appropriately endorsed special education teachers to case manage IEPs and to provide disability specific technical assistance and instruction.]</p> <p>[2. Schools offering only self-contained classroom instruction shall have teachers endorsed in either special education general curriculum or special education adapted curriculum depending on the functioning level of the students.]</p> <p>F. Inserted words. The Department may grant approval for alternative staffing levels [and teaching assignments] upon request from private schools for students with disabilities seeking . . . Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).</p>	<p>Clarification Provides needed flexibility</p> <p>Clarification added flexibility</p>

<p>8VAC20-671-320. Substitute teachers.</p>	<p>B. Substitute teachers shall be at least 18 years of age, hold a high school diploma or a general educational diploma (GED), have two years of full-time postsecondary education or two years of successful work experience with children with disabilities or equivalent, and attend orientation to the school's policies and procedures.</p>	<p>B. Substitute teachers shall be at least 18 years of age, hold a high school diploma or a [general educational diploma General Educational Development] (GED) [certificate], have two years of full-time postsecondary education or two years of [successful] work experience with children [with disabilities or equivalent, and attend orientation to the school's policies and procedures].</p> <p>[C. A substitute teacher employed to fill a teacher vacancy shall receive orientation to the school's policies and procedures.]</p>	<p>Correction</p> <p>Stand alone section for clarity and emphasis</p>
<p>**8 VAC20-671-330. Support staff.</p>	<p>B. Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), hold a high school diploma or a general educational diploma (GED), have two years of full-time successful work experience with children or completed two years of coursework in a related field, complete orientation conducted by the school administrator or designee regarding school policies and procedures and characteristics of students served, and work under the supervision of qualified staff.</p> <p>C. No support staff shall be used as replacement for teachers or related service staff unless they meet the qualifications of the position.</p> <p>D. Support staff who do not meet licensure or certification requirements shall not be given misleading work titles or titles that infer that they meet required credentials.</p>	<p>Reworded</p> <p>**_B. Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), [at a minimum] hold a high school diploma or [a general educational diploma (GED) GED], have two years of [full-time successful] work experience with children or completed two years of coursework in a related field, [complete orientation conducted by the school administrator or designee regarding school policies and procedures and characteristics of students served, and work under the supervision of qualified staff or upon employment, complete within 60 calendar days of hire training specific to the assigned student population and job duties as they relate to the academic and behavioral progress of students. Such training shall include individualized instruction and student behavior management, including principles and strategies to reduce interfering behavior, build positive skills, and enhance communication of students with autism spectrum disorders].</p> <p>Added:</p> <p>[E. Paraprofessionals shall work under the supervision of qualified professional staff.]</p>	<p>Revised to ensure high quality paraprofessionals</p>
<p>8VAC20-671-340. Staff supervision.</p>	<p>The licensee shall develop and implement written policies and procedures regarding the supervision of employees and all other individuals working with children, including volunteers and interns.</p>	<p>Reworded:</p> <p>The licensee shall develop and implement written policies and procedures regarding the supervision of employees[,full-time and part-time,] and all other [individuals working with children, including volunteers and interns staff including volunteers and</p>	<p>Clarification</p>

		student interns working in the school building or on school grounds.	
**8 VAC20-671-350. Staff development.	<p>D. Within 30 calendar days following begin date, all staff shall receive training on the school's policy and procedures, including standard precautions, child abuse and neglect, mandatory reporting.</p> <p>E. Within 30 calendar days following their begin date, all staff responsible for medication administration shall have successfully completed an approved medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications. Staff shall meet this requirement before administering any medication to students and shall receive annual retraining.</p> <p>F. All staff shall receive annual professional development and refresher in emergency preparedness and response to include alerting emergency personnel and sounding alarms; implementing evacuation procedures with particular attention to students with special needs; and using, maintaining, and operating emergency equipment.</p> <p>G. All staff shall receive annual professional development and refresher on behavior supports, child abuse and neglect, and mandatory reporting.</p> <p>H. Each full-time staff person shall complete an additional 15 hours of annual training applicable to his job duties</p>	<p>Clarified and added specifics. D. Within 30 calendar days following their staff's begin date, all staff shall receive training on the school's policy and procedures, including standard precautions, child abuse and neglect, and mandatory reporting [, and maintaining appropriate professional relationships and interactions among staff and students, and suicide prevention.]</p> <p>Covered under Medication and Health [E. Within 30 calendar days following their begin date, all staff responsible for medication administration shall have successfully completed an approved medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications. Staff shall meet this requirement before administering any medication to students and shall receive annual retraining.] [F. E.] All staff shall receive annual professional development and refresher in on the school's policies and procedures on standard precautions,] emergency preparedness and response to include alerting emergency personnel and sounding alarms; implementing evacuation procedures with particular attention to students with special needs; and using, maintaining, and operating emergency equipment [; accessing emergency information for students and staff including medical information and utilizing community supports.]</p> <p>[G. F.] All staff shall receive annual professional development and refresher on behavior supports, child abuse and neglect, [and] mandatory reporting [, maintaining appropriate professional relationships and interactions among staff and students, and suicide prevention.]</p> <p>[G.H. Each full-time staff person shall complete an additional 15 hours of annual training applicable to their job duties. Each staff who works directly with students shall annually receive 15 hours of professional development related to student progress and academic achievement that is applicable to the</p>	<p>Clarification</p> <p>Deleted from this section</p> <p>Inserted words for clarification</p> <p>Clarification</p> <p>Reworded for clarification</p>

		population served and to their job duties.]	
8 VAC20-671-360. Personnel records.	<p>B. A record shall be maintained for each staff to include:</p> <p>2. Documentation of qualifications;</p> <p>5. Reports of required health examinations;</p> <p>9. Documentation of Department of Motor Vehicles checks and a current copy of the driver's license for all staff who transport students;</p>	<p>B. A record [Records] shall be maintained for each staff to include:</p> <p>2. [including educational background and professional licensure or certification.]</p> <p>5. Changed health examinations to [tuberculosis certificate]</p> <p>9. Revised language to [Driving record verification from the Department of Motor Vehicles.]</p>	<p>Clarification</p> <p>2. Clarification</p> <p>5. Comply with Dept. of Health</p> <p>9. Clarification</p>
**8VAC20-671-370. School facilities and safety.	<p>A. Each school shall be maintained in a manner ensuring compliance with the Virginia Uniform Statewide Building Code (13VAC5-63). Each school shall:</p> <p>1. Maintain a physical plant that is accessible, barrier free, safe, and clean;</p> <p>2. Provide 50 net square feet per occupant space for classrooms and suitable space for administrative staff, pupil personnel services, library and media services, and physical education with consideration given to safety;</p> <p>3. Provide adequate, safe, and properly equipped classrooms, laboratories, play areas, and dining areas that meet the needs of students and instruction; and</p> <p>4. Provide space for safe storage of items such as first aid equipment, medication, household supplies, school supplies, and equipment.</p> <p>B. After the initial application, the school shall document annually that buildings and equipment are maintained in accordance with</p>	<p>A. Revised so that each requirement stands as a single requirement, separate from the Virginia Uniform Statewide Building Code.</p> <p>1. Changed to B.[Each school shall maintain...]</p> <p>2. Changed to C. and the requirement of 50 net square feet per occupant was revised.</p> <p>[2 C]. [Provide 50 net square feet per occupant space for classrooms and suitable space for administrative staff, pupil personnel services, library and media services, and physical education with consideration given to safety; Each school shall provide safe and adequate instructional areas, space for administrative staff, pupil personnel services, library and media services, and physical education. Schools established after the effective date of these regulations and classrooms added to existing buildings shall provide at least 50 square feet of classroom or instructional area per student excluding classroom fixtures.]</p> <p>3. Changed to D. Added [and instructional areas, and where appropriate] laboratories, play areas....]</p> <p>4 became E</p> <p>B became F</p>	<p>Revised duplicative; clarified statements required under the Virginia Uniform Statewide Building Code.</p> <p>C. Revised for existing facilities</p> <p>Numbering/ Lettering</p>

	<p>the Virginia Statewide Fire Prevention Code (13VAC5-51) and maintain records of regular safety, health, and fire inspections conducted and certified by local health and fire departments.</p> <p>C. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted in advance to the licensing agency for approval.</p> <p>D. Animals allowed on the premises shall be tested, inoculated, and licensed as required by law.</p> <p>E. Smoking shall be prohibited at all times and in all school buildings, on all school grounds, and during off campus school-sponsored activities.</p> <p>F. Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.</p> <p>G. There shall be a written policy concerning safeguards for aquatic-related activities to include supervision by a certified lifeguard.</p> <p>H. There shall be a written policy regarding safeguards for school-sponsored activities including adventure and wilderness activities.</p> <p>I. There shall be an electronic two-way communication system available to staff at all times in the classroom and during school-sponsored activities.</p>	<p>C. became G</p> <p>D. became H.</p> <p>E. Deleted E. Smoking shall be prohibited at all times and in all school buildings, on all school grounds, and during off campus school-sponsored activities</p> <p>Changed F. to I.</p> <p>Changed G. to J. Revised language [There shall be a written policy concerning the provision of safeguards for water-related activities and a provision that a certified life guard supervises all swimming activities.]</p> <p>Changed H. to K.</p> <p>Changed I to L. and revised to delete "electronic two-way communication"</p> <p>Added [M. Schools shall have written policy and procedures to monitor access to the school building and school grounds at all times during the school day.]</p>	<p>E. Cover in earlier section</p> <p>Consistency with other licensing agencies</p> <p>Clarification</p> <p>Added new provision for safety</p>
<p>**8VAC20-671-380. Contingency plans.</p>	<p>A. A school shall have contingency plans for emergencies that include staff certification in cardiopulmonary resuscitation (CPR), abdominal thrust (Heimlich maneuver), and emergency first aid.</p> <p>B. The school administration shall ensure that the school has:</p> <ol style="list-style-type: none"> 1. Written procedures to follow in emergencies such as fire, injury, illness, and violent or threatening behavior. Contingency plans should be developed with the assistance of state or local public safety authorities. Such plans shall be outlined in the student handbook and discussed with staff and students during 	<p>A. Inserted word "medical" in front of emergencies and deleted words abdominal thrust (Heimlich maneuver),</p> <p>B.</p> <ol style="list-style-type: none"> 1. Changed word "discussed" to [reviewed] 	<p>A. Redundant</p>

	<p>the first week of each school year; C. Each school shall have at least three tornado drills every school year in order that students may be practiced in such drills. D. The school shall have a written emergency preparedness and response plan for all locations that addresses: 1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks, (ii) communitywide plans to address different disasters and emergency situations, and (iii) assistance, if any, that the local emergency management office will provide to the school in an emergency. 2. Analysis of the school's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, workplace violence or terrorism, missing persons, riot, severe injuries, or other emergencies that would disrupt the normal course of service delivery.</p> <p>4. Written emergency response procedures for assessing the situation; protecting students, employees, contractors, student interns, volunteers, and visitors; equipment and education records; and restoring services. 5. Emergency procedures, which shall address: a. Communicating with employees, contractors, and community responders;</p> <p>J. At least one evacuation drill (the simulation of the school's emergency procedures) shall be conducted each week during the first month of school and one each month thereafter in each building occupied by students.</p>	<p>C. Changed Each school shall [annually] have at least [three one] tornado [drills every school year in order that students may be practiced in such drills drill, at least one earthquake drill, and at least two lockdown drills, one in September and one in January].</p> <p>D. 2. Inserted [intruder, hostile situation,] Analysis of the school's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, workplace violence [, intruder, hostage situation,] or terrorism, missing persons, riot, severe injuries, or other emergencies that would disrupt the normal course of service delivery.</p> <p>D. 4. Inserted "protecting" in front of "equipment." Added volunteers and student-interns D. 5. a. Communicating with employees, contractors, [volunteers, student-interns,] and community responders; J. Revised At least one [emergency] evacuation drill [(the simulation of the school's emergency procedures)] shall be conducted [each week during the first month of school and one each month thereafter] in each building occupied by students [at least once per week for the first 20 school days and then once a month for the rest of the school year and more often if necessary].</p>	<p>C. Consistency with public schools.</p> <p>Clarification</p> <p>Clarification</p> <p>Inclusiveness</p> <p>J. Revised for consistency with public schools.</p>
<p>8VAC20-671-390. Weapons.</p>	<p>The licensee shall develop written policies and procedures governing prohibition of the possession and use of firearms, pellet guns, air guns, and other weapons on the school's premises and during school-related activities unless the weapons are in the possession of licensed security personnel or law-enforcement officers.</p>	<p>Revised for consistency with Code. Added statement regarding informing students and staff. The licensee shall develop written policies and procedures governing the prohibition of [weapons on school property mandated in §18.2-308.1. of the possession and use of firearms, pellet guns, air guns, and other weapons on the school's premises and during school-</p>	<p>Code consistency</p>

		related activities unless the weapons are in the possession of licensed security personnel or law enforcement officers. The staff and students shall be annually informed of the policies and procedures regarding the prohibition of weapons.]	
8VAC20-671-400. Strip searches.	A. Strip searches and body cavity searches are prohibited.	Changed the title of this section from "Strip searches" to "Searches" Deleted A and moved it to "Prohibitions" section A. Strip searches and body cavity searches are prohibited.	Moved item A to 8VAC20-671-670. Prohibitions
8VAC20-671-410. Student application and admission.	B. A summary of each school's admissions policy, course offerings at each grade level, and behavioral management program shall be made available to students, parents, and placing and licensing agencies. D. The school shall provide written notification for a student's education records within five business days of the student's enrollment. Notification shall be made to the superintendent of the school division where the student last attended. The school shall request current information pertinent to the student's educational growth to include, but not limited to, the IEP, 504 Plan, or career development plan; plan of study; assessments; grades or transcript; discipline records; and health records. E. An application for admission is not to be construed as a binding instrument on the part of the student or the school. F. A school may require the payment of a reasonable nonrefundable initial application fee to cover expenses in connection with processing a student's application provided it retains a signed statement in which the parties acknowledge their understanding that the fee is nonrefundable. No other nonrefundable fees shall be allowed prior to enrollment. G. Any contract or enrollment agreement used by the school shall be in writing and clearly specify the following: 2. Itemized cost of the program to include tuition, scholarships, and all other charges; and	Edited for clarity B. [A summary of each- The] school's admissions policy, course offerings, [at each grade level,] and behavioral management program shall be made available to students, parents, and placing and licensing agencies. Deleted D. and replaced with new language: [D. Upon enrollment and at least annually, the school shall provide parents access, or a copy upon request, to the school's policies and procedures, including those governing the management of student behavior, the school's curriculum, and the school's promotion and retention policies.] Added new language with original E becoming F. [E. When the student's education records are not provided during the application process, with written parental consent, the school shall make a request within five business days of enrollment to the student's last attended school or the division superintendent or designee.] F. changed to G. G. changed to H. 2. Itemized cost of the program to include tuition, scholarships, and all other charges;	More appropriate language for this section. D. Not necessary in this section Clarification Re-lettering Clarification Clarification

	<p>3. The school's contingency, cancellation, and refund policies.</p> <p>H. Any contract or enrollment agreement used by the school becomes a legally binding instrument upon the school's written acceptance.</p> <p>I. Each school that serves privately placed students shall offer access to a tuition insurance plan if the school financially obligates students for more than quarterly increments of annual tuition.</p>	<p>H. I. Any contract or enrollment agreement used by the school becomes a legally binding instrument upon the school's written acceptance [of the student].</p> <p>Deleted I.</p> <p>[I. Each school that serves privately placed students shall offer access to a tuition insurance plan if the school financially obligates students for more than quarterly increments of annual tuition.]</p>	<p>Clarification</p> <p>I. Not available to small schools</p>
8VAC20-671-420. Standard school year and school day.	<p>A. Each school shall have a standard school year of at least 180 instructional days. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 instructional hours (990 hours annual instructional time), excluding breaks for meals and recess, and a minimum of three hours for kindergarten.</p> <p>B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5-1/2 hours) unless otherwise stated in the child's Individualized Education Program (IEP), Individualized Instruction Plan (IIP), 504 Plan, or other documentation.</p>	<p>A. Each school shall have a standard school year of at least 180 [instructional teaching] days [or a total of at least 990 teaching hours per year]. The standard school day for students in grades 1 through 12 shall average at least [five and one-half 5-1/2] teaching hours [(990 hours annual instructional time) or average 27 and one-half hours weekly], excluding breaks for meals and recess, and a minimum of three [instructional] hours [daily] for kindergarten.</p> <p>Deleted the proposed B language B. [The private school shall initiate a team meeting to review the child's IEP, 504 Plan or IIP when a student has a medical, mental, or physical condition that requires modification of the student's school schedule.]</p>	<p>A. Clarification requested by stakeholders.</p> <p>Revised B for clarification</p>
8VAC20-671-430. School and community communication	<p>A. Each school shall promote communications and foster mutual understanding with parents and the community and use information from parents, citizens, business, and industry in evaluating the educational program.</p> <p>B. At the beginning of each school year, the school shall provide to parents or guardians information on the availability of and source for receiving the curriculum for their child's core subjects and a copy of the school's promotion and retention policies and access to the school's policies and procedures.</p>	<p>Changed the title of section to [Community Relationships]</p> <p>A. Revised. [Each school shall facilitate cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large.]</p> <p>B. Deleted</p>	<p>More appropriate title</p> <p>Clarification</p> <p>B. Redundant</p>
8VAC20-671-440. Philosophy, goals, and objectives	<p>2. The goals and objectives shall (i) be written in plain language so as to be understandable to noneducators, including parents; (ii) to the extent possible, be stated in measurable terms; and (iii) consist primarily of measurable objectives to raise student and school achievement in the core academic areas, to increase graduation rates, and to increase the quality of instruction through professional staff development and licensure.</p>	<p>2. Deleted language</p> <p>2. [The g-Goals] and objectives shall (i) be written in plain language so as to be understandable to noneducators, including parents. [(ii) to the extent possible, be stated in measurable terms; and (iii) consist primarily of measurable objectives to raise student and school achievement in the core academic areas, to increase graduation rates, and to</p>	<p>Decrease burden on school administrator</p>

		increase the quality of instruction through professional staff development and licensure.]	
8 VAC20-671-450. Student achievement expectations.	<p>A. A process to identify and recommend strategies to address the learning, behavior, communication, or development of individual students who are having difficulty in the educational setting shall be developed at each school.</p> <p>B. Participation in the Virginia assessment program by students with disabilities shall be prescribed by provisions of their IEPs or 504 Plans. All students with disabilities shall be assessed with appropriate accommodations and alternate assessments when required.</p> <p>C. Each school that serves students who anticipate earning a diploma and graduating from a Virginia high school must follow the requirements for graduation outlined in the Regulations Establishing Standards for Accrediting Public Schools in Virginia (8VAC20-131).</p> <p>D. The school shall cooperate with the public school in the administration of SOL tests to students with disabilities and students who need verified credits to graduate from a public high school in Virginia, and the administration of any other SOL tests.</p>	<p>Changed for clarity and to specifically include the parent;</p> <p>A. [A process to Schools shall [identify and recommend] [develop] strategies to address the learning, behavior, [and] communication [needs of individual students in collaboration with the parent.] [-, or development of individual students who are having difficulty in the educational setting shall be developed at each school.]</p> <p>B. Participation in the Virginia assessment program by students with disabilities shall be prescribed by provisions of their IEPs or 504 Plans. [All students with disabilities shall be assessed with appropriate accommodations and alternate assessments when required.]</p> <p>C. Each school that serves students who anticipate earning a diploma and graduating from a [public] Virginia high school must follow the requirements for graduation outlined in the <i>[Regulations Establishing Standards for Accrediting Public Schools in Virginia]</i> (8 VAC 20-131).</p> <p>D. The school shall cooperate with the public school in the administration of SOL tests. [to students with disabilities and students who need verified credits to graduate from a public high school in Virginia, and the administration of any other SOL tests.]</p>	<p>A. Clarification</p> <p>B. Statement is not necessary covered in another section</p> <p>C. Revised for clarification</p> <p>D. Unnecessary wording</p>
8 VAC20-671-460. Program of instruction and learning objectives [Individualized Education Program (IEP)]	<p>A. When a child is presently receiving the services of a private school, a representative of the private school shall attend IEP meetings upon the request of the student's school division. If a representative is not able to attend, the school shall use other methods to ensure participation by the private school including individual or conference telephone calls.</p> <p>B. After a child with a disability enters a private school, any meetings to review and revise the child's IEP may be initiated and conducted by the private school at the discretion of the student's school division.</p> <p>E. When a child with a disability is placed by a local school division or a Comprehensive Services Act team in a private school, all rights and protections under state and federal regulations shall be extended to the child.</p>	<p>Individualized Education Program (IEP) Repositioned from Section 671- 470 to 460 Original 460 now 490</p> <p>8VAC 20-671-470 460 Individualized Education Program (IEP)</p> <p>A. Deleted words at beginning of statement: When a child is presently receiving the services of a private school,</p> <p>B. Deleted words at beginning of statement: After a child with a disability enters a private school.</p> <p>Replaced CSA team with FAPT team in E.</p> <p>E. When a child with a disability is placed by a local school division or [Family Assessment and Planning Team]-a</p>	<p>Sections repositioned for improved flow in reading</p> <p>Words deleted in A and B, wordy</p> <p>Technical Correction</p>

		Comprehensive Services Act team in a private school, all rights and protections under state and federal regulations shall be extended to the child.	
8VAC20-671-480 470 Individualized Instruction Program (IIP)	A. Students without disabilities and those placed by parents for educational reasons shall have an Individualized Instruction Program (IIP) developed within 30 days of admission that describes strengths and needs of the student, current level of functioning, goals and objectives, timelines, course of study, and postsecondary goals for students 14 years of age and older. B. Each school shall request with consent of the parent(s) the student's education records from the last school attended, and information from other agencies as appropriate. This information should be used in developing the student's IIP. C. The IIP shall provide a beginning and ending date of services. D. The IIP shall be reviewed at least annually by a team that includes the student and the parent. E. Student progress reports shall be provided to the parent or guardian at least quarterly.	Repositioned Section 8VAC20-671-480 to 671-470 A. Students [not determined eligible for special education without disabilities and those placed by parents for educational reasons]-shall have an Individualized Instruction Program (IIP) developed within 30 [business days of admission]enrollment that describes strengths and needs of the student, current level of functioning, goals and objectives, [timelines,] course of study, and postsecondary goals for students 14 years of age and older. B. Each school shall request with [written] consent of the parent(s) the student's.... C. The IIP shall provide a beginning and ending date of services. D. The IIP shall be reviewed at least annually by a team that includes the [school administrator or teacher, other staff as appropriate, parent, and student as appropriate. and the parent] E. Student progress reports shall be provided to the parent [or guardian] at least quarterly.	Renumbered section Wordy
8VAC20-671-490 480. 504 Plans	Each school admitting students with 504 Plans shall implement the plan and cooperate with the school division in its annual review.	Repositioned 8VAC20-671-490 to 671-480 Added statement [An individualized instruction plan (IIP) shall be developed for each student with a 504 Plan.]	Renumbered section Clarification
8VAC20-671-460 490. Program of Instruction and learning objectives.	B. The instructional program shall be designed to meet the needs of all students enrolled and shall educate students with age-appropriate peers. D. Each school serving students 14 years of age and older shall provide opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to training, employment, and independent living, as appropriate.	Section 460 moved to Section 490 Added language B. The instructional program shall be designed to meet the needs of all students enrolled and shall educate students with age-appropriate peers [unless it can be shown that for a particular child with a disability, the alternative placement is appropriate and documented on the student's IEP, IIP or 504 Plan.] Inserted new language, D. [D. Children of preschool ages (two to five, inclusive) shall receive services determined by the child's IEP, IIP or 504 Plan.] Revised D which became E.	Repositioned section Clarification Clarification Old D/New E

	<p>E. Each school shall provide opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to postsecondary training, education, employment and independent living skills, as appropriate.</p> <p>F. Each school shall provide a program of instruction that supports the SOL for the core subjects: English, mathematics, science, and history/social science.</p> <p>G. Each school shall require students to participate in a program of health and physical fitness during the regular school year unless the student is unable to participate due to a medical condition.</p> <p>J. The services provided by a private school shall be provided by personnel meeting the same licensure requirements as personnel providing services in the public school, outlined in Licensure Regulations for School Personnel (8VAC20-22).</p>	<p>[D. E.] [Each school serving Students 14 years of age and older shall [be] provided opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to [postsecondary education,] training, employment, and independent living, as appropriate.</p> <p>Deleted Former E</p> <p>[E. Each school shall provide opportunities for students to gain knowledge and occupational readiness skills necessary for successful transition to postsecondary training, education, employment and independent living skills, as appropriate.]</p> <p>F. Each school shall provide a program of instruction that [supports the SOL clearly articulates learning outcomes] for the core subjects: English, mathematics, science, and history/social science. [Schools may use Virginia’s Standards of Learning (SOL).]</p> <p>G. Each school shall require students to participate in a program of health and physical fitness during the regular school year unless the student is unable to participate due to a medical condition [or has met the credit requirement for graduation].</p> <p>Deleted J.</p> <p>[J. The services provided by a private school shall be provided by personnel meeting the same licensure requirements as personnel providing services in the public school, outlined in Licensure Regulations for School Personnel (8VAC20-22).]</p> <p>Old K became J and added new K. [K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.]</p>	<p>Clarification</p> <p>Former E. Duplicative</p> <p>Clarification</p> <p>Clarification</p> <p>Redundant</p> <p>Clarification</p>
<p>8VAC20-671-500. Instructional program for elementary school grades.</p>	<p>A. The elementary school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. In addition, each school shall provide opportunities for students to gain an appreciation for art and music. Students shall be required to participate in a program of health and physical fitness during the regular school year.</p> <p>B. In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the</p>	<p>A. Deleted from this section, covered under Section 490 (formerly Section 460). Added a lead-in statement to this section.</p> <p>[A. The elementary school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. In addition, each school shall provide opportunities for students to gain an appreciation for art</p>	<p>Duplicative</p>

	<p>focus of the instructional program.</p> <p>C. To provide students with sufficient opportunity to learn, a minimum of 75% of the annual instructional time of 990 hours shall be given to instruction in the disciplines of English, mathematics, science, and history/social science. Students who are not successfully progressing in early reading proficiency or who are unable to read with comprehension the materials used for instruction shall receive additional instructional time in reading.</p>	<p>and music. Students shall be required to participate in a program of health and physical fitness during the regular school year. In addition to the applicable requirements under 8VAC20-671-490, the following shall apply:]</p> <p>[B- A.] In kindergarten through grade 3, reading, writing, spelling, and mathematics shall be the focus of the instructional program.</p> <p>[C- B.] To provide students with sufficient opportunity to learn, a minimum of 75% [75 percent] ...the materials used for instruction shall receive additional [instructional time-instruction] in reading.</p>	Edits
<p>**8VAC20-671-510. Instructional program for middle school grades</p>	<p>A. The middle school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. Each school shall provide opportunities for appreciation of art and music and an introduction to career and technical exploration and require students to participate in a program of health and physical fitness during the regular school year.</p> <p>B. English, mathematics, science, and history/social science shall be required.</p> <p>C. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines of English, mathematics, science, and history/social science.</p> <p>D. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading.</p>	<p>Deleted A. and B. from this section, covered in Section 490. Added lead-in statement [In addition to the applicable requirements under 8VAC20-671-490, the following shall apply:]</p> <p>[- A. The middle school grades shall provide each student a program of instruction that supports the SOL for English, mathematics, science, and history/social science. Each school shall provide opportunities for appreciation of art and music and an introduction to career and technical exploration and require students to participate in a program of health and physical fitness during the regular school year.]</p> <p>[- B. English, mathematics, science, and history/social science shall be required.]</p> <p>[C A]. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines of English, mathematics, science, and history/social science.</p> <p>[- D B]. Each school shall ensure that students who are unable to read with comprehension the materials used for instruction receive additional instruction in reading.</p> <p>Added requirement</p> <p>[C. Each school shall provide students with opportunities for career and technical exploration.]</p>	<p>Duplicative</p> <p>Re-lettering</p> <p>C. Provide students opportunities for career and technical exploration</p>
<p>**8VAC20-671-</p>	<p>A. The secondary school grades shall provide</p>	<p>Added lead-in statement</p>	

<p>520. Instructional program for secondary school grades.</p>	<p>each student a program of instruction that supports the SOL in English, mathematics, science, and history/social science.</p> <p>B. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines.</p> <p>C. Students in secondary education programs who plan to graduate with a standard or advanced diploma from a Virginia public high school should have the opportunity to complete credits in foreign languages, fine arts, and career and technical training.</p> <p>F. Guidance and counseling shall be provided for students to ensure that a program of studies contributing to the student's academic achievement and meeting graduation requirements is being followed.</p>	<p>A. Deleted, covered under Section 490 and renumbered</p> <p>A. The secondary school grades shall provide each student a program of instruction that supports the SOL in English, mathematics, science, and history/social science.</p> <p>B. A. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines [English, mathematics, science, and history/social science].</p> <p>[C. Students in secondary education programs who plan to graduate with a standard or advanced diploma from a Virginia public high school should have the opportunity to complete credits in foreign languages, fine arts, and career and technical training.</p> <p>B. Each school shall provide a course of study that leads to graduation and postsecondary education, training, and independent living, as appropriate.</p> <p>Added new C. [Each school shall provide instruction in economic and personal finance and occupational readiness.]</p> <p>Added new D. [A curriculum that includes functional living skills training, including community-based instruction, shall be available to students as the need is determined by the IEP or IIP,]</p> <p>Former D became E. and E. became F.</p> <p>Deleted former F which became G and replaced with new language</p> <p>[F. Guidance and counseling shall be provided for students to ensure that a program of studies contributing to the student's academic achievement and meeting graduation requirements is being followed.]</p> <p>[G. Staff shall provide guidance and counseling to assist students in meeting graduation requirements.]</p>	<p>Clarification</p> <p>More inclusive of all students</p> <p>C. Added for consistency with public school requirement</p> <p>Clarification</p> <p>Simplification and clarification</p>
<p>8VAC20-671-530. Alternative education.</p>	<p>Schools may provide students, 16 years of age to 18 years of age, an Individualized Student Alternative Education Plan (ISAEPP), a program that includes career guidance counseling; mandatory enrollment in a GED preparation</p>	<p>Schools may provide students, 16 years of age to 18 years of age [who choose to prepare for the Tests of General Educational Development (GED) certificate] an Individualized Student</p>	<p>Clarification and Simplification</p>

	<p>program; and career and technical education. Implementation of the ISAEP requires submission of an application and approval by the Department of Education.</p>	<p>Alternative Education Plan (ISAEP) program. [that permits enrollment that includes career guidance counseling; mandatory enrollment in a GED preparation program; and career and technical education] Implementation of the ISAEP program requires submission of an application and approval by the Department [of Education].</p>	
<p>8VAC20-671-550. Extracurricular and other school activities, and recess.</p>	<p>A. School-sponsored extracurricular activities shall be under direct supervision of the staff and shall contribute to the educational objectives of the school. Extracurricular activities must be organized to avoid interrupting the instructional program. B. School-sponsored extracurricular activities shall have at least one person certified in CPR for every 10 students. C. Schools that take students on adventure activities shall develop policies and procedures to ensure supervision, health and safety, and medical management.</p>	<p>Revised A., B., and C. A. School-sponsored extracurricular activities shall be under [the] direct supervision of [the] staff and [shall contribute to the educational objectives of the school. Extracurricular activities must be] organized to avoid interrupting the instructional program. B. [School-sponsored extracurricular] CPR and first aid certified staff shall accompany students on school-sponsored] activities [shall have at least one person certified in CPR for every 10 students]. C. Schools that take students on [outdoor] adventure activities [and offer programs such as canoeing, skiing, camping, and rock climbing] shall develop policies and procedures to ensure supervision, health and safety, and medical management.</p>	<p>Revised A. for consistency with public school requirement. B. Simplification C. Clarification</p>
<p>8VAC20-671-560. Family life.</p>	<p>A. Schools may use the Standards of Learning for the family life education program or other education program, which shall have the goals of reducing the incidence of pregnancy and sexually transmitted diseases and substance abuse. B. Schools offering family life shall obtain written consent from the parent or guardian for the child's enrollment in the course.</p>	<p>A. Added language to reflect goal of family life. A. Schools may use the Standards of Learning for the family life education program or other education program, [which shall have the goals] that is designed to promote parental involvement, foster positive self concepts and provide mechanisms for coping with peer pressure and the stresses of modern living according to the student's developmental stage and has the goal [goals] of reducing the incidence of pregnancy and sexually transmitted diseases and substance abuse.] B. Schools offering family life shall obtain written consent from the parent [or guardian for the child's [participation enrollment in the course]].</p>	<p>Edits Added language to strengthen goal of family life education B. Provides flexibility; not requiring a course</p>
<p>8VAC20-671-570. Student work study or</p>	<p>A. Each school that places students on work-study, on-the-job training, or any other form of employment shall ensure compliance with the</p>	<p>A. Changed word "places" to [place]</p>	<p>Singular word</p>

<p>on-the-job training.</p>	<p>applicable laws governing the employment of children. B. Work assignments that are paid or unpaid shall be in accordance with the age, health, ability, and education program of the student. C. Work assignments or employment outside the school, including reasonable rates of pay, shall be approved by the school administrator with the knowledge and consent of the parent or legal guardian.</p>	<p>B. deleted C. Changed to B. Revised wording. [C. B. Work assignments or employment outside the school, including reasonable rates of pay, shall be approved by the school administrator with the knowledge and consent of the parent. or legal guardian.]</p>	<p>B. not necessary covered in A. Simplification and clarification</p>
<p>8VAC20-671-580. Virtual learning.</p>	<p>A. Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through virtual learning. A school shall ensure that each virtual education course is provided by an institution accredited by a nationally recognized accrediting body or is authorized by a public school or school division. B. A school shall ensure that virtual learning courses meet the following requirements: 1. The content, instruction, and assessment of each course is comparable in rigor and breadth to the course that is traditionally delivered; 2. The course content is appropriate for the school's grade levels and age range; and 3. The virtual learning shall be supervised by a licensed teacher or a person eligible to hold a Virginia teaching license. The individual shall be available to the student.</p>	<p>Deleted entire section Revised to A. [Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through virtual learning. A school shall ensure that each virtual education course is provided by an institution accredited by a nationally recognized accrediting body or is authorized by a public school or school division. Virtual courses may only be offered through accredited providers as outlined in 22.1-212.23 and 22.1-253.13:3 of the Code of Virginia.] [B. A school shall ensure that virtual learning courses meet the following requirements: 1. The content, instruction, and assessment of each course is comparable in rigor and breadth to the course that is traditionally delivered; 2. The course content is appropriate for the school's grade levels and age range; and 3. The virtual learning shall be supervised by a licensed teacher or a person eligible to hold a Virginia teaching license. The individual shall be available to the student. B. The virtual learning shall be proctored by a licensed teacher or appropriately trained paraprofessional who is supervised by a licensed teacher. The teacher or paraprofessional shall be available to the student.]</p>	<p>Clarification and simplification</p>
<p>8VAC20-671-590. Equipment,</p>	<p>A. Each school shall provide a variety of current grade-level materials and equipment to support the instructional program, including</p>	<p>Edited for clarity A. Each school shall provide [a variety of current grade-level instructional] materials</p>	<p>Clarification</p>

<p>instructional materials, and library media.</p>	<p>functional life skills programs. B. Each school shall provide access to computers and library media necessary to meet research inquiry and reading requirements of the instructional program and general student interest. C. Each student, as appropriate, shall be provided instruction on the use of instructional equipment and shall demonstrate understanding before access to laboratories. D. Each school shall provide textbooks and instructional materials that support Virginia's Standards of Learning. E. Each school shall establish written policy on the use of computers, including the use of the Internet and email.</p>	<p>and equipment [necessary] to support the instructional program [including the goals and objectives including functional life skills programs established for individual students.] B. [Each school shall provide access to computers and library media necessary to meet research inquiry and reading requirements of the instructional program and general student interest. Students shall receive instruction on the use of classroom equipment as appropriate and demonstrate applicable safety competencies before being allowed to use such equipment.] [C. Each student, as appropriate, shall be provided instruction on the use of instructional equipment and shall demonstrate understanding before access to laboratories. D. Each school shall provide textbooks and instructional materials that support Virginia's Standards of Learning.] [E. C.] Each school shall establish written policy on the use of computers, including the use of the Internet and email [e-mail.]</p>	<p>Redundant</p> <p>C edited and moved to B</p> <p>Duplication</p> <p>Re-numbering</p>
<p>8VAC20-671-600. School records.</p>	<p>Each school shall maintain up-to-date records to include the school's academic calendar, class roster, class schedule, course descriptions, course curriculum, individual student schedules, student progress reports, and student transcript or other documentation of grades.</p>	<p>Inserted and deleted words</p> <p>Each school shall maintain up-to-date records to include [a listing of all enrolled students with directory information,] the school's academic calendar, class roster, class schedule, course descriptions, course curriculum, individual student schedules, student progress reports, and student transcript or other documentation of [each student's] grades [and credits earned.]</p>	<p>Clarification</p>
<p>**8VAC20-671-620. Student conduct.</p>	<p>A. Each school shall have written policies and procedures that address standards of student conduct and procedures for enforcement to include attendance, truancy, suspension, expulsion, alcohol, drugs, weapons, fighting, bullying, sexual and disability harassment, pornography, and other areas as appropriate. B. When a student is suspended, including in-school suspension, or expelled, the school shall notify the student's home school division within 24 hours.</p>	<p>Added new [A. Each school shall provide a schoolwide environment that reinforces appropriate behaviors and assists students in becoming actively engaged in their own learning, academic and behavioral success.]</p> <p>Changed proposed A to B. Changed B. to C.; and revised language for clarity.</p> <p>[B. When a student is suspended, including in-school suspension, or expelled, the school shall notify the student's home school division within 24 hours. C. The parent shall be notified on the date on which the decision is made to</p>	<p>New language responsive to public comments</p> <p>Clarification and specificity</p>

		suspend or expel a student because of a violation of a code of student conduct. When a publicly placed student is suspended or expelled, the student's home school division shall be notified within 24 hours.]	
8VAC20-671-630. Behavior intervention.	<p>A. Each school shall develop and implement written policies and procedures that emphasize positive behavior interventions that focus on teaching and supporting students to practice methods to manage their own behavior.</p> <p>B. Behavior techniques that are used or available for use shall be listed in the order of their relative degree of restrictiveness and specify the staff members who may authorize the use of each technique.</p> <p>C. Staff shall consider behavior management data in their annual review of the school's policies and procedures.</p> <p>D. When substantive revisions are made to policies and procedures governing management of student behavior, written information concerning the revisions shall be provided to students, parents, placing agencies, and the licensing agency prior to implementation.</p>	<p>Removed language</p> <p>A. Each school shall develop and implement written policies and procedures that emphasize positive behavior interventions [.] [that focus on teaching and supporting students to practice methods to manage their own behavior.]</p> <p>Added:</p> <p>[E. Parents shall be provided access to the school's behavior management policy and procedures upon enrollment and at the beginning of each school year, and provided a written copy upon request.]</p>	<p>Clarification based on public comments</p> <p>Added protection</p>
8VAC20-671-640. Time-out.	<p>A. The school shall have written policy and procedures governing the conditions under which a student may use time-out and the maximum period of time-out not to exceed 30 minutes per episode. The conditions and maximum period of time-out shall be based on the student's chronological and developmental level. The school's policy and procedures shall include provisions that address the following:</p> <ol style="list-style-type: none"> 1. Each student is entitled to be completely free from any unnecessary use of time-out. 2. The areas in which a student is placed shall not be locked nor the door secured in a manner that prevents the student from opening it. 3. A student in time-out shall be able to communicate with staff. 4. Staff shall check on the student in the time-out area at least every 15 minutes and more often depending on the nature of the student's disability, condition, and behavior. 5. Procedures shall be implemented for documenting the use of time-out and staff checks on the student. 	<p>[A. The school shall have written policy and procedures governing the conditions under which a student may use time-out and the maximum period of time-out not to exceed 30 minutes per episode. The conditions and maximum period of time-out shall be based on the student's chronological and developmental level. The school's policy and procedures shall include provisions that address the following:]</p> <p>New language</p> <p>[Policies and procedures shall be written that govern the conditions under which a student may self-select or be placed in time-out and the maximum length of time a student may be in time-out. The conditions for time-out and the length of time a student may be in time-out shall be based on the student's chronological and developmental levels. The school's policy and procedures shall include:]</p> <p>2. [The areas in which a student is placed A door to a time-out room shall] not be locked nor [the door] secured in a manner</p>	<p>Revised for consistency with other requirements and other licensing agencies</p> <p>Clarification</p> <p>Consistency with other licensing</p>

		that prevents the student from opening it. 4. Staff shall check on the student [in the time-out area] at least every 15 minutes and more often depending on the nature of the student's disability, condition, [and or] behavior. 5. [Procedures shall be implemented for documenting The] use of time-out and staff checks on the student [shall be documented].	agencies
**8VAC20-671-650. Prohibitions.	A. The following actions are prohibited: 2. Prone "face down" restraints, mechanical restraints, and pharmacological restraints; 4. Limitation on contacts and visits with the student's probation officer, regulators, or placing agency representative; 7. Deprivation of approved prescription medication or other necessary services and treatment;	Added additional restraint prohibitions: 2. Prone "face down" restraints, mechanical restraints, [and] pharmacological restraints [, and any other restraint that restricts breathing or harms the child or interferes with the child's ability to communicate]; Revised language 4. Limitation on contacts and visits [with from] the student's probation officer, [social worker[,] regulators, or] placing agency representative, or other service provider as appropriate;] 7. Deleted [and treatment] Deprivation of approved prescription medication or other necessary services [and treatment];	Clarification and safety Consistency with other licensing agencies Services includes treatment
**8VAC20-671-660. Managing student behavior in emergency situations.	A. Application of a formal behavior management program designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior contingent upon the exhibition of such behaviors is allowed only as part of an individually approved time specific plan that is consistent with sound therapeutic practice. Written consent of the student, parent or guardian, and the student's school division is required. B. Each school shall have written policies and procedures that include, but are not limited to: 1. Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student. 2. A policy stating that corporal punishment and abusive techniques and interventions are not authorized, permitted, or condoned. C. Each school shall develop and implement behavior management techniques in order of	Deleted A. from this section B. became A. with changes [B A]. Each school shall have written policies and procedures [made available annually to students, parents, and placing agencies] that include, but are not limited to: 1. Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student. 2. A [policy stating statement] that corporal punishment and abusive techniques and interventions are not authorized, permitted, or condoned. C. became 3 under A with edits [C. Each school shall develop and implement 3. A statement that] behavior management techniques [are applied] in	Greater protections for students with serious behaviors and additional clarity.

	<p>their relative degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained school personnel.</p> <p>D. While the use of restraint and seclusion is prohibited, a school that finds it absolutely necessary can only do so under the following conditions:</p> <ol style="list-style-type: none"> 1. Physical restraint or seclusion is allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage. 2. Physical restraint or seclusion shall not be used as a punishment, retaliation, or for staff's convenience. 3. The school shall have written policies and procedures governing use of physical restraint and seclusion incidents that shall include the following: <ol style="list-style-type: none"> a. Each student is entitled to be completely free from any unnecessary use of physical restraint or seclusion. Physical restraint and seclusion are allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage. b. The school shall provide written notice of its behavior management program to students, parent(s), and placing agency at the time of the student's enrollment. c. Staff shall continuously monitor the use of restraint and seclusion through continuous face-to-face observation, not solely by an electronic surveillance device. d. Restraints may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques. e. Students must be supervised by staff members trained in behavior intervention. f. Schools shall inform the parent and placing agency of each incident of physical restraint or seclusion on the day of the occurrence and 	<p>order of their [relative] degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained [school] personnel.</p> <p>D was removed [D. A school that uses [physical] restraint and seclusion shall have written policies and procedures to include the following:]</p> <p>D 1 became B with edits [1. B.] Physical restraint or seclusion is allowed only in an emergency situation [for a time period that and only when it] is necessary to [contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.]</p> <p>Added new requirements under new B [1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.]</p> <p>[2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more appropriate an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.]</p> <p>[2. In cases where a student has a</p>	
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	<p>make available to the licensing agency upon request.</p> <p>g. Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the restraint or seclusion, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date.</p>	<p>history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more appropriate behavior; and (b) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.]</p> <p>Revised [2- 3.] Physical restraint or seclusion shall not be used [for disciplinary reasons or] as a punishment, retaliation, or for staff's convenience.</p> <p>Renumbered with edits and language removed as covered elsewhere. {3-A- B. 4. Each student is entitled to be completely free from any unnecessary use of physical restraint or seclusion. Physical restraint and seclusion are allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or others or causing severe property damage. b. The school shall provide written notice of its behavior management program to and acknowledged by students, parent(s), and placing agency at the time of the student's enrollment.]</p> <p>{e-5.} Staff shall [continuously] monitor the use of [physical] restraint and seclusion through continuous face-to-face observation, [and shall not rely on solely by an electronic surveillance device.</p> <p>{d-6. Physical restraint Restraints} may only be implemented, monitored, and [or] discontinued by staff who has [received proper training.] [been trained in the proper and safe use of restraint, including hands-on techniques.]</p> <p>Deleted e. Added 7., 8., and 9.</p> <p>[7. The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately</p>	
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		<p>disengage when the staff member steps away from it. The room must meet specification including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency.]</p> <p>[8. Schools shall permit parents to inspect any area used during an emergency for the purpose of seclusion.]</p> <p>{ 9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.]</p> <p>"g". became 10 and was amended to include behavioral antecedents with new requirement added:</p> <p>[g. 10.] Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the [physical] restraint or seclusion, [behavior antecedents,] less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date. [The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.]</p> <p>Added 11</p> <p>[11. Schools shall collect and annually report to the Department the number of times restraint and seclusion were used during the school year. The data shall be disaggregated by students and number of occurrences.]</p>	
<p>8VAC20-671-680.Referral for evaluation.</p>	<p>A. When a student, including those placed by their parent(s) or from out-of-state, is suspected of having a disability, the school shall make a referral to the division superintendent of the school division where the private school is located. Documentation of the referral notice shall be maintained in the student's record.</p> <p>B. The school shall cooperate with the school division on child find activities.</p>	<p>A. Revised</p> <p>[A.] When a student, [including those placed by their parent(s) or from out-of-state], is suspected of having a disability, the [private] school [shall] may make a referral to the division superintendent of the school division where the private school is located. Documentation of the referral notice shall be maintained in the student's record.</p>	<p>Clarification</p>

		[B. The school shall cooperate with the school division on child find activities.]	Redundant
8VAC20-671-690.Suspected child abuse and neglect.	<p>A. Written policies and procedures related to child abuse and neglect shall comply with the requirements of § 63.2-1509 of the Code of Virginia and distributed to all staff members. Policies and procedures shall include:</p> <ol style="list-style-type: none"> 1. Handling accusations against staff; and 2. Promptly referring suspected cases of child abuse and neglect to the local child protective services unit and for cooperating with the unit during any investigation. <p>B. Any case of suspected child abuse or neglect occurring at the school or on a school-sponsored event or excursion shall be reported immediately to the student's parent, guardian, or both if appropriate, and the placing and licensing agencies.</p> <p>C. When a case of suspected child abuse or neglect is reported to child protective services, the school shall document the following:</p> <ol style="list-style-type: none"> 1. The date and time the suspected abuse or neglect occurred; 2. A description of the suspected abuse or neglect; 3. Action taken as a result of the suspected abuse or neglect; 4. The name of the person who made the report to child protective services; and 5. The name of the person to whom the report was made at the local child protective services unit. <p>D. Suspected child abuse shall be handled and reported as a serious incident.</p>	<p>Edited for clarity, consistency with Code of Virginia.</p> <p>2. [Promptly referring suspected cases Reporting immediately, but under no circumstance later than 24 hours after having a suspicion of a reportable offense] of child abuse and neglect to [the local child protective services unit and for cooperating with the unit during any investigation the local department of social services' child protective services unit of the county or city wherein the abuse or neglect was believed to have occurred or to the Department of Social Services toll-free child abuse and neglect hotline and for cooperating with the unit during any investigation].</p> <p>B. Any case of suspected child abuse or neglect occurring at the school or on a school-sponsored event or excursion shall be reported immediately to the student's parent, [guardian, or both if appropriate,] and [the placing and licensing agencies Department. For publically placed students, the home school division and the placing agency shall also be notified]</p> <p>C. [When a case of suspected child abuse or neglect is reported to child protective services, the school shall document the following: Suspected child abuse or neglect shall be immediately documented to include the following:]</p> <ol style="list-style-type: none"> 1. The date and time the suspected abuse or neglect occurred; 2. A description of the suspected abuse or neglect; 3. Action taken as a result of the suspected abuse or neglect; 4. The name of the person who made the report to child protective services; and 5. The name of the person to whom the report was made at the local child protective services unit. <p>[D. Suspected child abuse shall be handled and reported as a serious incident.]</p>	<p>Clarification and specificity</p> <p>Consistency with other licensing agencies</p> <p>Wordy</p> <p>Wordy</p> <p>Redundant</p>

<p>8VAC20-671-700. Serious incident reports.</p>	<p>A. Any serious incident, accident, or injury to a student or medication error that occurs at the school or a school-sponsored activity shall be reported immediately, no later than the end of the school day, to the parent, student's public school, placing agency, and licensing agency.</p> <p>C. The licensing agency shall review all reports of serious incidents and investigate as appropriate using the complaint resolution procedures of this chapter.</p>	<p>Revised for clarity</p> <p>A. Any serious incident, accident, or injury to a student [or medication error] that occurs at the school or a school-sponsored activity shall be reported [to the parent] immediately, [but] no later than the end of the school day [. to the parent, the student's public school, placing agency, and licensing agency.] [A publicly placed student's home school division and the placing agency shall be notified as soon as possible but not later than 24 hours of the occurrence.]</p> <p>C. The [licensing agency Department] shall review [all] reports of serious incidents and investigate as appropriate [using the complaint resolution procedures of this chapter.].</p>	<p>A. Clarification and consistency with other licensing agencies</p> <p>C. Allows flexibility, may need to coordinate with another licensing agency</p>
<p>8VAC20-671-710. Medication and health.</p>	<p>B. Each student shall have an up-to-date certificate of immunization documenting the immunizations required by the Code of Virginia and State Board of Health's Regulations for the Immunization of School Children (12VAC5-110).</p> <p>C. Any student or staff with a disease or medical condition that is contagious or infectious shall be excluded from school while in that condition unless attendance is approved by a qualified healthcare provider. Conditions meeting this requirement must be provided in the parent/student handbook or other print materials.</p> <p>G. A program of medication administration shall be initiated for a student only when prescribed in writing by a person authorized by law to prescribe medication and written consent from the parent is obtained to administer.</p>	<p>Edited for simplification and clarity</p> <p>B. Each student shall have an up-to-date certificate of immunization. [documenting the immunizations required by the Code of Virginia and State Board of Health's Regulations for the Immunization of School Children (12VAC5-110).]</p> <p>C. Any student or staff with a [disease or] medical condition that is contagious or infectious shall [be excluded] take leave from school while in that condition unless attendance is approved by a qualified healthcare provider. Conditions meeting this requirement must be provided in the parent/student handbook or other print materials.</p> <p>[G. A program of medication administration shall be initiated for a student only when prescribed in writing by a person authorized by law to prescribe medication and written consent from the parent is obtained to administer.]</p> <p>[H G]. An individual medication administration record shall be maintained for each medication a student receives and shall include student name, date the medication is to begin, drug name, schedule for administration, strength, route, identification of the individual who administered the medication, and dates the medication was discontinued or changed.</p>	<p>B. Simplification</p> <p>C. Clarification Simplification</p> <p>G. Redundant</p> <p>Revised section for clarification, simplification</p>

	<p>I. The provider shall develop and implement written policies and procedures regarding:</p> <p>7. Medication refusal to include who is responsible for documentation, where it will be documented and action taken by staff.</p> <p>K. Medication training.</p> <p>1. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medication before they can administer medication.</p> <p>2. Training shall be provided to all staff in medication procedures and effects and infection control measures, including the use of standard precautions.</p> <p>3. There shall be a ratio of one staff member to 10 students certified in first aid and CPR and available at all times on the school grounds and during any school-sponsored activity.</p> <p>L. Monitoring the supply of medications.</p> <p>3. Students shall be prohibited from transporting medication</p>	<p>[I H]. The provider shall develop and implement written policies and procedures regarding:</p> <p>7. [Medication refusal to include who is responsible for documentation, where it will be documented and action taken by staff Documenting medication refusal].</p> <p>[K J]. Medication training.</p> <p>1. All staff responsible for medication administration shall have successfully completed [a] medication training [including refresher training, in a] program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medication before they can administer medication.</p> <p>2. Training shall be provided to [all] staff in medication procedures and effects and infection control measures, including the use of standard precautions.</p> <p>3. [There shall be a ratio of one staff member to 10 students Staff] certified in first aid and CPR [and shall be] available at all times on the school grounds and during any school-sponsored activity.</p> <p>[L K]. Monitoring the supply of medications.</p> <p>3. Students shall be prohibited from transporting medication [unless directed otherwise by the student's health care plan].</p>	<p>Consistency with public schools</p>
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<p>8VAC20-671-720.School nutrition.</p>	<p>A. Schools with internal food service shall serve to each student on a daily basis a daily diet that (i) consists of nutritionally balanced meals, (ii) includes an adequate variety and quantity of food for the age of students, and (iii) meets the minimum requirements of the U.S. Dietary Guidelines.</p> <p>B. Schools with internal food service shall ensure that all food safety and sanitation procedures are followed in accordance with state and federal regulations.</p> <p>C. Records of menus for all meals served shall be kept on file for six months.</p> <p>D. Special diets shall be provided when prescribed by a physician or requested by the student or parent because of the student's established religion.</p> <p>E. In schools where students are required to bring their own lunch, provisions shall be made to ensure a meal for all students.</p>	<p>Revised</p> <p>A. Schools with [internal] food service shall [serve to each student on a daily basis a daily ensure a] diet that (i) consists of nutritionally balanced meals, (ii) includes an adequate variety and quantity of food for the age of students, and (iii) meets [the] minimum requirements [and of] the U.S. Dietary Guidelines.</p> <p>[B. Schools with internal food service shall ensure that all 1. All] food safety and sanitation procedures [are shall be] followed in accordance with state and federal regulations.</p> <p>[C 2]. Records of menus for all meals served shall be kept on file for six months.</p> <p>[D. Special diets shall be provided 3. Provisions shall be made for special diets] when prescribed by a physician or requested by the student or parent because of the student's established religion.</p> <p>[E B]. In schools where students are required to bring their own lunch, provisions shall be made to ensure a meal for all students.</p>	<p>Revised section for clarification, simplification</p>
<p>8VAC20-671-730. Transportation</p>	<p>A. Each school shall have on file evidence that any vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state regulations, including:</p> <ol style="list-style-type: none"> 1. Vehicle safety and maintenance; 2. Licensure of vehicles; 3. Licensure of drivers; 4. Vehicle liability insurance 5. Child passenger safety, including requiring students to wear seat belts or restraints; and 6. Safety measures that take into consideration the age and disabling conditions of students. 	<p>Revised</p> <p>A. [Each school shall have on file evidence that any vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state regulations, including: Transportation provided for or used by students shall comply with local, state, and federal laws relating to:]</p> <ol style="list-style-type: none"> 1. Vehicle safety and maintenance; 2. Licensure of vehicles; 3. Licensure of drivers; 4. [Vehicle liability insurance Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported]; 5. [Child passenger safety, including requiring students to wear seat belts or restraints Vehicle liability insurance]; and 6. Safety measures that take into consideration the age and disabling conditions of students. 	<p>Simplification and clarification</p>

8VAC20-671-740. Treatment services.	Licensed providers of treatment services shall coordinate those services to allow students to receive the required hours of instruction to the extent possible. When treatment services are not prescribed by a licensed mental health professional, the student shall receive the required number of hours of instruction.	Deleted this Section	Section not needed in these regulations.
8VAC20-671-750. Student discharge.	<p>A. Each school shall have policies and procedures that address conditions for which a student may be discharged from the school.</p> <p>B. The school's criteria for discharge shall be made available to prospective students, parents, and placing agencies before their enrollment.</p> <p>C. The student's education record shall be documented with the date of discharge and reason for discharge.</p> <p>D. Students shall be discharged only to the parent or legally authorized representative.</p>	Changed Section number from 750 to 740	Renumbered section
**8VAC20-671-760. Maintenance of student records.	<p>A. The school shall have written policies and procedures for the management of all records, print and nonprint, regarding confidentiality, accessibility, security, and retention.</p> <p>B. Student education records shall be maintained in fireproof cabinets and protected from unauthorized disclosure.</p> <p>D. A school shall obtain written consent from the child's parent before disclosure of information from a student's education record to unauthorized parties. Authorized parties shall be limited to school employees, including contracted employees, and representatives of state licensing agencies who need access to the student's records to carry out their work responsibilities.</p> <p>E. A school may disclose information in an emergency to any person who needs that particular information for the purpose of preventing injury to a student or staff. The school shall not disclose any information that is not needed for this specific purpose. The school may disclose any records if they are properly subpoenaed, if a court orders them to be produced, to the school's own legal</p>	<p>Changed Section number from 671-760 to 671-750</p> <p>A. The school shall have written policies and procedures for the management of all records, print and nonprint, regarding confidentiality, accessibility, security, [and] retention, and [disposition].</p> <p>B. Student education records shall be maintained in [fireproof fire resistant] cabinets. [and protected from unauthorized disclosure.]</p> <p>D. [A school shall obtain written Written] consent from the child's parent [shall be obtained] before disclosure of information from a student's education record to unauthorized parties. Authorized parties shall be limited to school employees, including contracted employees, and representatives of [placing school divisions, accrediting agencies, and] state licensing agencies who need access to the student's records to carry out their work responsibilities.</p> <p>E. [A school may disclose information Information may be disclosed] in an emergency to any person who needs that particular information for the purpose of preventing injury to a student or staff. The school shall not disclose any information that is not needed for this specific purpose. [The school may disclose may disclose any records if they are properly</p>	<p>Clarification</p> <p>Less financial burden</p> <p>Clarification</p> <p>Wording not necessary</p>

	<p>counsel, or to anyone working on behalf of legal counsel in providing representation to the school.</p> <p>F. The school shall permit a parent or parents to inspect and review any education records relating to their child that are collected, maintained, or used by the school. The school shall comply with a request without unnecessary delay and before any meeting regarding an IEP or 504 Plan or in no case more than 14 calendar days after the request has been made. The right to inspect and review education records under this section includes:</p> <p>H. If any education record includes information on more than one child, the parent(s) of those children have the right to inspect and review only the information relating to their child or to be informed of the specific information requested.</p> <p>K. Records retention.</p> <ol style="list-style-type: none"> 1. Each school shall maintain all education records, including discipline and medical records for as long as the student continues enrollment at the school. 2. When a student transfers to another school, the student's complete education record shall be transferred within five business days from the date of request and notification of the transfer to the parent, guardian, and placing agency. 3. When a student graduates or leaves school, the school shall offer all records to the eligible student or parent(s). The records of a publicly placed student who graduates or leaves school shall be transferred to the child's public school. 4. Each school shall maintain a permanent record of attendance to include the following: <ol style="list-style-type: none"> a. Name and address of school; b. Name, address, and birth date of student; c. Name and address of parent or parents; d. Student ID; e. Dates of attendance; f. Verification of immunizations g. Scholastic work completed; and h. Academic transcript. 	<p>subpoenaed, if a court orders them to be produced, to the school's own legal counsel, or to anyone working on behalf of legal counsel in providing representation to the school.]</p> <p>F. The school shall permit a parent for parents] to inspect and review any education records relating to [their the] child that are collected, maintained, or used by the school. The school shall comply with a request without unnecessary delay and before any meeting regarding an IEP or 504 Plan. [or in no case more than 14 calendar days after the request has been made.]</p> <p>H. If any education record includes information on more than one child, the [parent(s) parent] [of those children have has] the right to inspect and review only the information relating to [their his] child or to be informed of the specific information requested.</p> <p>[K Records retention.]</p> <p>[1. Each school shall maintain all education records, including discipline and medical records for as long as the student continues enrollment at the school.]</p> <p>[2. When a student transfers to another school, the student's complete education record shall be transferred within five business days from the date of request and notification of the transfer to the parent, guardian, and placing agency.]</p> <p>[3. When a student graduates or leaves school, the school shall offer all records to the eligible student or parent(s). The records of a publicly placed student who graduates or leaves school shall be transferred to the child's public school.]</p> <p>3 is captured in new K</p> <p>[K. Transfer of records.] [When a privately placed student graduates or leaves school, the student's education record shall be offered to the eligible student or parent. The records of a publically placed student who graduates or leaves school shall be transferred to the child's home school.]</p> <p>4 is edited and became L.</p>	<p>Wording not necessary</p> <p>Wordy</p> <p>Clarification</p>
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		<p>[L. Permanent record of attendance.] [4.] Each school shall maintain a permanent record of attendance to include the following: [a 1]. Name and address of school; [b 2]. Name, address, and birth date of student; [3. Name and address of the home school division for publically placed students;] [e 4]. Name and address of [the] parent [or parents]; [e 5]. Student ID [number]; [e 6]. Dates of attendance; [and] [f. Verification of immunizations 7. Academic transcript]. [g. Scholastic work completed; and h. Academic transcript.]</p>	Clarification
8VAC20-671-770. Participation of students in human research.	A. No human research involving students shall be conducted or authorized by any school unless in compliance with the Board of Education's regulation, 8VAC20-565, or other applicable law, including 45 CFR Part 46.	<p>Changed Section number from 770 to 760</p> <p>A. No human research involving students shall be conducted or authorized by any school unless in compliance with §32.1-162.16 thru 32.1-162.20 of the Code of Virginia and the Board of Education's regulation, 8VAC20-565, or other applicable law, including 45 CFR Part 46.</p>	<p>Renumbered section</p> <p>VAC reference change</p>
8VAC20-671-780. Procedures for school closing.		<p>Renumbered Section from 780 to 770</p> <p>Amended Section title</p> <p>Procedures for [permanent] school closing.</p> <p>Changed "licensing agency" to "Department"</p>	Renumbered section

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.

Commenter	Comment	Agency response
Mae	Great information	
The Faison School, Kathy Mathews and Adam Warman	Change the definition of “behavior intervention plan” to that used by the behavior community from the book “Applied Behavioral Analysis.”	The definition is consistent with the Board of Education’s <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i> . Schools may use own definition as long as it is comparable to Board’s definition. The technical change was made to ensure clarity: “Behavior intervention plan” means a plan that utilizes positive behavioral interventions and supports to address behaviors that interfere with the learning of students with disabilities or the learning of others or <u>behaviors that</u> require disciplinary action.”
Rivermont School Alleghany	671-210-7 Word “drugs” should reflect illegal drugs and prescription drugs not prescribed to student.	Added “or a prescription drug not prescribed for the person” to the definition of “illegal drug.”
Commenter at Public Hearing: David Blaiklock, representing the Virginia Association of Independent Specialized Education Facilities (VAISEF)	671-210-7 the consumption of drugs is prohibited. The term drug could be interpreted to mean prescription medication. We recommend changing the term to controlled substance as defined in 671-10.	Added “or a prescription drug not prescribed for the person” to the definition of “illegal drug.”
The Faison School, Kathy Mathews and Adam Warman	Change the definition of “time out” to “The contingent withdrawal of the opportunity to earn positive reinforcement or the loss of access to positive reinforcers for a specified time” or use a different word like “cool down”	No change. Definition is consistent with Board of Education’s <i>Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations</i> . Schools may use own definition as long as it is comparable to Board’s definition.
Virginia Association of Independent Specialized Educational Facilities (VAISEF)* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Recommended adding in to 671-30 that the Department be allowed to grant exceptions for good cause	Agree. Added 671-30 “C. The licensing agency may make exception to the requirements of this chapter for good cause.”
Joanne Webster, Virginia Council for Private Education	671-30-In a previous draft of these regulations, there was a letter D that allowed the Department to grant exceptions for good reason. We recommend this regulation be added back in as the private schools in Virginia serve a diverse group of students with special education	Agree. Added 671-30 “C. The licensing agency may make exception to the requirements of this chapter for good cause.”

	needs. Attempting to impose a rigid set of standards that do not grant any flexibility would be detrimental to the ability of private schools to individualize the educational programming to meet the needs of the students they serve.	
Commenter at Public Hearing: Brendan Folmar, Principal of Charterhouse School at UMFS	Exception clause -671-30	Agree. Added 671-30 "C. The licensing agency may make exception to the requirements of this chapter for good cause."
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-140.A. (Renewal of licenses) <i>Recommended Changes:</i> The requirement on schools should be eliminated; DOE should assume ongoing intent to operate unless otherwise notified, and should ascertain whether a school is still in operation before planning a licensing visit.	Agree. Section A is deleted and "B" becomes "A" and "C" becomes "B." the new "B" was amended for clarity to read: "Each license that had not been renewed in accordance with this chapter shall expire." A new application must be submitted to the licensing agency."
Northstar Academy, Pat West	671-150 Unannounced visits should not occur in same year as school's triennial visit. 24 hour notice should be given for unannounced visits.	No change as the Code of Virginia permits unannounced inspections of each school each year (§22.1-323) For the purpose of issuing a license to operate, flexibility is needed in making announced and unannounced visits at any time. Added 150. "4. The licensing agency shall provide a process for school officials to file an appeal when there is disagreement with the licensing agency's identification of noncompliance with these regulations."
Northstar Academy, Pat West	671-170 A. 11. Further explanation and examples are needed.	No change. Examples may be given in guidelines.
Northstar Academy, Pat West	671-190 B. A timeline should be provided that provides consistency across school receiving complaints to correct unsatisfactory conditions.	No change. Flexibility is needed in determining a reasonable time period to correct unsatisfactory conditions.
Northstar Academy, Pat West	671-210 7. Cannot enforce (no smoking) for parents and guest at off campus activities. Support for students and staff.	Change to "illegal" drugs and specify that the school sponsored activities are for students. "7. Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities."
Commenter at Public Hearing: David Blaiklock, representing the Virginia Association of Independent Specialized Education Facilities (VAISEF)	671-210-7 the consumption of drugs is prohibited. The term drug could be interpreted to mean prescription medication. We recommend changing the term to controlled substance as defined in 671-10.	Added "illegal" as a modifier for drugs. "7. Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities."
VAISEF*	210-7 clarify "drugs" so that it does	Added "illegal" as a modifier for drugs. "7.

Plus 78 individuals who posted comments supporting the VAISEF recommendations	not mean prescription medication	Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities."
Rivermont School Alleghany	671-210-7 Word "drugs" should reflect illegal drugs and prescription drugs not prescribed to student.	Added "illegal" as a modifier for drugs. "7. Develop a written policy prohibiting the consumption of tobacco products, <u>illegal</u> drugs, and alcohol or being under the influence of intoxicating or hallucinogenic agents while on campus and at school-sponsored student activities."
Northstar Academy, Pat West	671-210 12. Create a form for school to complete to fulfill this regulation including who should receive the report.	Forms will follow the promulgations of the regulations. Revised to more closely align with other licensing agencies' requirements: "Report to the licensing agency within 10 business days lawsuits against or settlements with the licensee relating to the health and safety or human rights of students and any criminal charges against staff that may be related to the health and safety or human rights of students."
Northstar Academy, Pat West	671-220 Submission of an audit would fulfill 1, 2, and 3 and recommend a date for submission be provided.	No change. Schools should consult with a certified public accountant or legal counsel on the depth of the school's fiscal accountability. Annual submission to the licensing agency is not required.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	240-C Proposed regulation does not speak to amount of funds and could mean even those handling field trip money had to be bonded	Revised adding to 240 C. "or otherwise indemnified against employee dishonesty."
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-240.C Our residential school has multiple staff handle student funds (eg allowance money, small sums sent by grandparents etc.). Bonding all staff that handle student funds would be an ongoing and expensive distraction from more relevant training. To address this situation, we already have a blanket employee dishonesty policy that covers up to \$50,000. <i>Recommended Changes:</i> Exempt schools from the proposed 671-240.C when they have met the sense of the standard through alternative means such as employee dishonesty insurance.	Revised adding to 240 C. "or otherwise indemnified against employee dishonesty."
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Recommended verbal assent for students over 14 to participate in fundraising activities.	671-250 Revised for clarification and consistency with other licensing agencies. Recommend deleting " <i>and of a child age 14 or older</i> ". Add:

		250 B. <u><i>"No student shall be forced to participate in any school fundraising activity."</i></u>
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-280 The standard seems to indicate that a person who stands in for the school administrator/instructional leader in the event of that person's absence must meet all of the same endorsement and degree requirements. This standard as written would effectively eliminate on-the-job training and staff development for school leadership positions. Our schools are residential schools that have additional administrators who concentrate in other areas (eg residential services, staff development, etc.) and who are able to provide support and consultation to the Lead Teachers in the absence of the Principal (school administrator). <i>Recommended Changes:</i> If a designee does not meet the credential requirements of the school administrator, the school could be permitted to produce documentation that some of the designee's annual professional development and retraining is devoted to leadership skills specific to the needs of the private school. The training could be in the form graduate level course work, participation in state/regional professional association activities, or a special project approved by the school (eg outcomes research).	No change. The commenter's concern is addresses in 310 F. through the alternative staffing plan. 31o F. "A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels and teaching assignments upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia."
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-310.D.3 Many of our students are private pay and parentally placed. We assign all of our students to teachers for individualized instruction based on the teacher's ability to meet the student's content area instructional needs as well to best match personalities so that we can facilitate both academic achievement and positive associations with learning. A student without a diagnosed disability may benefit greatly from having a special education teacher as a math teacher, for example, even if the special ed. teacher does	Revise by adding "and teaching assignments" to 310 F. "A school may offer for consideration of approval an alternative staffing plan in accordance with the department's procedures. The department may grant approval for alternative staffing levels and teaching assignments upon request from private schools for students with disabilities seeking to implement innovative programs that are not consistent with the staffing levels outlined in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia."

	<p>not have a specific math endorsement. It would be unrealistic for a school such as ours in a rather rural community to find teachers licensed in both special education and all of the content areas and still be able to offer the same successful instructional model we have employed for many years. For the most part, our students have thrived academically under our model and it would be a disservice to undermine it. <i>Recommended Changes:</i> Clarify 310.F, which allows for approval of alternative staffing plans, insofar as how approval is to be sought for 'alternative staffing' plans.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>671-330 B. Requiring two years of coursework or two years of full-time successful work with children may make it challenging for some programs to find qualified support staff. Recommended consistency with other licensing agency's requirement for residential child care staff.</p>	<p>Agree. Reworded to state: "Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), at a minimum hold a high school diploma or general educational diploma (GED), have experience working with children or completed coursework in a related field and work under the supervision of qualified staff."</p>
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671 -330 B. - Current wording precludes qualified 18 year-olds who have received adequate training from organization hiring them. Reword to say "Paraprofessionals and other ancillary staff shall be at least 18 years of age (21 years of age preferred), hold a high school diploma or a general education diploma (GED), have experience working with children or completed coursework in a related field, complete orientation conducted by the ;school administrator or designee regarding school policies and procedures and characteristics of the students served and work under the supervision of qualified staff."</p>	<p>Agree. See above response to VAISEF.</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-330. Support Staff B. Broaden definition to allow for more varied coursework or practical experience at the organization's discretion. As written may limit hiring staff whose undergraduate study was in another field or whose experience has been other than full-time.</p>	<p>Agree. See above response to VAISEF.</p>
<p>Northstar Academy, Pat</p>	<p>671-330 B. Object to</p>	<p>Agree. See above response to VAISEF.</p>

West	paraprofessionals being required to have two years experience with children or course work.	
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	350 E. is redundant as it is covered in 710 K.1.	Agree it is covered and has deleted.
The Faison School, Kathy Mathews and Adam Warman	671-350 - Change "14" to "30 days in all reference to staff development components. 14 days not enough calendar days and may interfere with hiring practices.	No change. Consistent with other licensing agency requirements
Northstar Academy, Pat West	671-350 B. All calendar day requirements should be set at "30 calendar days" for consistency.	Disagree. 30 days is consistent with other licensing agencies' requirements for 350 D. 14 calendar days is consistent with other licensing agencies for 350 B and C.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	350 H. Requirement for 15 additional hours of annual training is vague and creates time demands that may interfere with other necessary task. Teachers are required to engage in professional development to maintain their license.	Change to state: <u>350 H. "Each full-time staff shall annually receive professional development applicable to their job duties."</u>
Northstar Academy, Pat West	671-350 H. Additional training should apply only to full-time staff engaged in instructing students.	Disagree however section is changed for clarity. <u>350 H. "Each full-time staff shall annually receive professional development applicable to their job duties."</u>
Northstar Academy, Pat West	671-360 B. 5. A listing of required health documents should be included.	Clarified to specifically require a tuberculosis certificate. 350 B.5 "Reports of required tuberculosis certificate."
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	360 A (technically B).9 Term "current" is not clear and request clarification to "unexpired driver's license"	Agree revision needed for clarity. 360 B.9 now states. "Driving record verification from the Department of Motor Vehicles and a copy of a current driver's license for staff who transport students;"
Amy Smith, Grafton	671-360 A (technically B).9 Personnel Records. It should be acceptable to demonstrate compliance through the organization's electronic personnel management system rather than hard copy personnel records. To maintain in other than electronic system would be inefficient and unnecessary.	See amended section 360 B.9.response above to VAISEF. Electronic verification is an option for satisfying this requirement.
Mark Mellusi, The Discovery School of Virginia	671-370 School facilities and safety. The construction of Section A seems to imply that items 1 through 4 are actually included in Virginia	Agree. 1-4 changed to "A-E" to stand as individual requirements.

	<p>Uniform Statewide Building Code (13VAC5-63). They are not, based on my scanning of the online document building code document. In particular, I've reviewed 13VAC5-63-450 et seq., under the general heading 'Maintenance'.</p> <p><i>Recommended Changes:</i> To prevent inevitably confusing implication, the enumerated items should simply be placed in their own new section labeled 'B', and the current B should become section C, the current C should become D and so forth. If the enumerated items are actually part of the building code, specify the location in the DOE regulations so that readers may find them more readily</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>The construction of Section A seems to imply items 1 through 4 are from the Virginia Uniform Statewide Building Code which they are not. Request to make enumerate items new sections.</p>	<p>Agree. 1-4 changed to "A-E" to stand as individual requirements.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>370 A. 2. The 50 square feet per occupant requirement would adversely affect current schools. They would have to reduce their census to comply thereby losing revenue and having to reduce staff. Ask that current programs be grandfathered and that the requirement, if necessary, be set at 50 net per student not per occupant.</p>	<p>Agree that clarification regarding currently licensed schools is needed, that the square foot requirement applies to students only and to new schools and any space modified in current schools.</p> <p>Changed to read: "370 C. Each shall provide safe and adequate instructional areas, space for administrative staff, pupil personnel services, library and media services, and physical education. Schools established after the effective date of these regulations and new classrooms added to existing buildings shall provide 50 square feet of classroom or instructional area per student excluding classroom fixtures."</p>
<p>Dr. Lloyd Tannenbaum, Rivermont Schools</p>	<p>"Proposed regulations pertaining to room size."</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>David Williams, PhD, Phillips Programs</p>	<p>Opposed to 50 square feet per occupant in a classroom. Building complies with building code and was specifically designed for the populations served. Additional space outside the classroom is an available resource for students. Misguided requirement would create a financial hardship and could result in reduced services.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Rivermont School</p>	<p>370-A-2 There needs to be leeway</p>	<p>Change as indicate in response to VAISEF for</p>

Alleghany	to programs that have established instructional areas that do not meet the 50 square feet per person criteria. Add grandfather clause, require requirement be met for future renovations or buildings. Easy to monitor because building changes have to be approved before they are done.	370 A.2. which is now 370 C.
Holly Stitham, Rivermont School – Tidewater	671-370 A 2. 50 square feet per person would be difficult for established schools and costly to change. Requirement could be for schools that are being built.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Anjolle M. Scott, Rivermont	Do not agree with schools/programs having to meet the criteria of 50 square feet per person	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Sammy Mitchell, Jr. Centra/Rivermont Schools	671 370 A 2 There needs to be leeway to programs that have established instructional areas that do not meet the 50 square feet per person criteria. Add grandfather clause, require requirement be met for future renovations or buildings. Easy to monitor because building changes have to be approved before they are done.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Sharon Yasemsky, Centra/Rivermont School – Tidewater	Do not agree with 50 square feet per person	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Winnie Woods – Brown, Rivermont Schools	Do not agree with 50 square foot per person criteria. It would be disruptive to the classrooms	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Anthony Hudgins/Rivermont Tidewater	Oppose 50 square feet per person criteria. Could be accommodated for new building but costly for current.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Nate Crowley, Rivermont Tidewater School	Disagree with 50 square feet criteria (huge cost for most programs).	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Judie Holton, Rivermont	Do not agree with 50 square feet per person. Could be done for future programs but current programs should have clause that they are exempt	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Lauren Odom/Rivermont School Tidewater	671-370-A-2 50 square feet per person would be difficult and costly to change for established schools but a possibility for schools that are being built.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Marianne Stinson/Rivermont LPC (Tidewater)	671-370-A-2 50 square feet per person would be difficult and costly to change for established schools but a possibility for schools that are being built.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Blue Ridge Education	Amend 50 square feet of space per	Change as indicate in response to VAISEF for

Center, Carol Olson	occupant to 50 square feet per student. Program capacity would have to be reduced if per occupant.	370 A.2. which is now 370 C.
The Faison School: Kathy Mathews and Adam Warman	Change the word “classrooms to “instructional areas” in 370 A. 2. As many programs do not use traditional classroom space. Their building was design to have children learning outside the classroom in a variety of environments.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-370 School facilities and safety: A2 – Modifying existing classrooms would be extremely costly and in some cases impossible. It could result in lowering intensive staff to student rations or enrollment. Recommend decreasing required square footage or differentiating between space requirements for educational and residential areas.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Northstar Academy, Pat West	671-370 A. 2. 50 square foot per occupant would require reduction in number of students enrolled or require construction of additional classrooms. Recommend removing space requirement but if not change “occupant” to “student” and grandfather existing programs including if they add on or renovate.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Commenter at Public Hearing: Cynthia Culley, Assistant Head of School, Northstar Academy	671-370 A-2 Will schools that do not meet 50 net square foot occupant space be grandfathered in? To meet the requirement Northstar would have to reduce the number of students served, construct new classrooms or close.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-370.A.2 In general, this square footage is absurdly large and apparently arbitrary. This standard would pose a huge financial, not to mention architectural, burden on schools without a clear rationale for its exorbitance. Section 671-370.A.2 as written does not take into account that many schools make effective use of available space by utilizing non-traditional classroom layouts, transitioning between classrooms throughout the day, and the availability of separate indoor and outdoor activity spaces on a daily basis. <i>Recommended Changes:</i> If the concern is to promote safety, a better standard would be to specify something like ‘Each classroom should have	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.

	<p>sufficient space to allow at least a 3' wide corridor of egress available to all occupants at all times'. If the concern is to meet the space needs of students with particular disabilities, each school should have policies in place and space allotted to address each student's spatial needs via the IEP. At the very least, existing schools that have already been operating at their present locales should be specifically grandfathered in under the standards enforced when the school started.</p>	
<p>Commenter at Public Hearing: David Blaiklock, representing the Virginia Association of Independent Specialized Education Facilities (VAISEF)</p>	<p>An issue exists with regulation 671-370-A -2 which requires each classroom have 50 square feet of space per occupant – its imposing enough to restrict us at all after all these years but to impose the restriction to “occupants” as opposed to “students” becomes intrusive into on-site management of classrooms. Previous regulations did not include a minimum space requirement and all of our programs were established with occupancy permits demonstrating we were in compliance with local zoning ordinances for the programs we operate. We are uncertain as to how the specific number of 50 square feet was established and are also unaware of any data based evidence that supports the benefit of that amount of space. Our programs also include additional space and staffing accommodations that may make having that amount of space unnecessary. The problem with requiring that amount of space is that accommodating 50 square feet per occupant. Some of our programs, such as PHILLIPS School – Annandale build our buildings from the ground up and were designed specifically for the needs of the children we serve. The designs of our buildings were based on our years of experience in working with the populations we serve and include building and staffing accommodations that may not be available in the public schools such as separate areas for</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>students to regain their composure when they are unavailable for learning. The classroom sizes may not meet the requirements of this regulation but VAISEF programs have been able to safely and effectively provide a quality education to the students we serve. Earlier this week, I was meeting with a parent at PHILLIPS who was considering a program for her daughter. She commented on the quality of the building design and went so far as to say the classrooms appeared to be “just the right size” Meeting this requirement would require our programs to construct additional classrooms to support our current enrollment. The only other way we could meet this regulation would be to reduce the number of students within our programs. These solutions would have a significant fiscal impact on all of our programs as we would have to find a way to raise revenue either for new construction or to accommodate for being able to serve fewer students. The fiscal impact would be so great that many of our programs may not be able to survive in meeting this requirement. The result may be the closure of many of our programs resulting in the loss of jobs in local communities. More importantly, there would be a reduction of services available for the children in Virginia who need them the most.</p>	
<p>Commenter at Public Hearing: Gary Jones, CEO of Youth for Tomorrow in Prince William County and Vice President of the Virginia Association of Independent Specialized Education Facilities (VAISEF) and Chairman of its Government Affairs Committee.</p>	<p>Are these proposed regulations more proscriptive than local zoning ordinances which govern the construction of our facilities? If so, why? Some of these proposed regulations are cost prohibitive to small nonprofit facilities. Without modification relative to the proposed physical plan requirements, some of our facilities may not be able to maintain operations.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Commenter at Public Hearing: Cray Callahan, Education Coordinator, Bridges Treatment Center</p>	<p>671-370-a-2 – “Provide 50 net square feet per occupant space for classrooms...” Our original administration building, housing half of our current educational program was obviously designed and</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>constructed 25+ years ago. It would come short of meeting the requirements contained in the proposed regulation, but has served (sic) us well for many years. In an effort to meet the changing and challenging learning needs and styles of students in a residential school setting, we have recently completed \$40,000 worth of renovations to these classrooms. With these renovations our students have access to new furniture and Smartboard technology. It is my hope that Bridges and other such programs around the Commonwealth will be able to continue to utilize existing building and classroom spaces in order to serve the needs of Virginia students, who for various reasons cannot be served in the public school setting. Passage of the regulations as proposed would significantly impact all of our efforts to serve these children. The fiscal impact on our programs would be considerable. I feel that existing programs such as Bridges should be eligible for a "Grandfather Clause" to continue to serve students in buildings that met various zoning and/or regulatory requirements at the time of their construction.</p>	
<p>Commenter at Public Hearing: Brendan Folmar, Principal of Charterhouse School at UMFS</p>	<p>671-370-A-2 classroom square footage – 50 square feet per occupant in a classroom: Our school and many VAISEF schools serve students in a single classroom with two or more staff supporting students for their educational and behavioral needs. For example, we currently have a classroom with a teacher, two teacher assistants, and one (one-to one) behavior specialist serving 6 students; four staff working with six students. These staff intensive specialized programs provide the positive educational and behavior supports necessary for student success and progress, allotting 50-square feet per occupant would present a challenge. I would recommend that this regulation be re-visited and</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>changed to better meet the needs of our students and specialized programs. 50 square feet per student would be better.</p>	
<p>Commenter at Public Hearing: Wade Puryear, Associate Director of Programs for Elk Hill</p>	<p>The proposed regulations include a requirement (671-370 #2) that schools “provide 50 net square feet per occupant space for classrooms.” This requirement has no specific evidence to support its benefit to students with disabilities and will cause unnecessary detriment to our educational programs and ultimately to our students. The classrooms in our current buildings each barely meet or fall just shy of this requirement when counting teachers and aides as “occupants” and maintaining an 8:1 student to teacher ratio. ...Elk Hill’s school buildings already comply with local zoning ordinances and contain additional staff, separate areas and accommodations that may not be available in public school. Some of these unique accommodations include large open outdoor areas for “self-space,” counselors’ offices, group counseling rooms, and Choices rooms designed for problem solving. Complying with the proposed regulation would mean that Elk Hill would have to expand classrooms or reduce the number of students that we serve. Both of these options would have a huge financial impact on our programs and students. I propose removing the “50 square feet” requirement and replacing it with the term “adequate” as is used regarding other building components in the regulations. If a specific space requirement is deemed necessary, then I would ask that the square footage be reduced and that the requirement only apply to new facilities and not those that have been in successful operation prior to these proposed regulations.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Commenter at Public Hearing, Andrew McCartney, Kellar School, Fairfax</p>	<p>The most relevant example of a regulation that is more specific than it needs to be is 8VAC 671-370, which requires 50 square feet of</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>classroom space per occupant. When I first read this regulation, I had my mathematics students measure the square footage of several of the rooms at The Kellar School. For my eight student classroom to comply with this regulation, it would have to be about the size of our school's café, which regularly hosts groups of 15 or more students comfortably. So while the goal of the regulation—to make sure that there is adequate room for student safety in class—is admirable, the specific regulation would require about twice as much room as my students tend to use in practice.</p> <p>In order to comply with this regulation, we would be forced to either find a new school building or, more practically, reduce the number of students that we serve. And of course if we reduce the number of students we would have to reduce the number of staff as well. We're already a very small school to begin with; one has to wonder how much smaller we can be before we cease to exist altogether! Such a scenario isn't just damaging to our students who rely on the school for so much more than a good education. It would also mean a lot more unemployed teachers, counselors, and support staff, impacting that low unemployment rate that the State of Virginia has fought so hard to keep.</p>	
<p>Commenter at Public Hearing: Kimberli Collet, Director of Education at the Matthew's Center, Manassas, Virginia.</p>	<p>...the proposed regulation that requires 50 sq feet per occupant of a classroom. ... Existing facilities have already met the appropriate local zoning ordinances in order to be licensed to operate. Local zoning ordinances should have authority on this issue. In order to meet this new regulation existing facilities would have to expand their building or reduce capacity.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Commenter at Public Hearing: Cindy Mills, Education Director, The Barry Robinson Center, Norfolk, VA</p>	<p>8VAC20-671-370-A-2 School Facilities and safety. This standard would require 50 net square feet per occupant for classrooms. We plan our classroom and office space carefully in order to meet the specialized needs of our residents.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	<p>We know of no evidence to support the need for this much space for students with disabilities. Our school building is inspected and approved by Norfolk's Division of Building Inspection. This new regulation would require us to do major renovations or construction or reduce the number of residents we would serve and this would be cost prohibitive. Reducing our ability to serve children with disabilities would reduce the number of options and services available for children with disabilities in Virginia.</p>	
<p>Commenter at Public Hearing: Adam Warman, Director of Enrollment, curriculum and Training, The Faison School</p>	<p>Private day schools utilize a variety of environments as instructional spaces within their buildings. In many schools, students spend as much time learning outside of the classroom as they do inside it. Similarly, staff to student ratios vary greatly in private school settings and may even vary from month to month within a school year. Predicting the space needed to account for 50 square feet per occupant in a dynamic learning environment could easily become an impossible task. Because of the diverse needs of learners in private day settings, I suggest the space requirement either be changed to match the language regarding other building components or that the word "classrooms" be changed to "instructional areas" allowing for greater flexibility.</p>	<p>Change as indicate in response to VAISEF for 370 A.2.</p>
<p>Commenter at Public Hearing: Chris Ruble, Newport News Behavioral Health</p>	<p>50 net square foot per occupant is too restrictive.</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>
<p>Commenter at Public Hearing: Jennie Johnson, representing the Virginia Association of Independent Specialized Education Facilities and Timber Ridge School</p>	<p>Concern exists with regulation 671-370-A-2 which requires each classroom have 50 square feet of space per occupant. Many of the VAISEF schools including Timber Ridge School have existing building that are already constructed and comply with local zoning ordinances. To comply with this new regulation would require expensive modifications to the buildings or new construction. As a not for profit school, this would create a hardship for our school and many of our</p>	<p>Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.</p>

	VAISEF schools. I kindly ask the Virginia Department of Education to consider allowing a grandfather clause so that this regulation only applies to new construction that occurs after these regulations pass and does not require us to expand our current classroom space.	
Commenter at Public Hearing: Lane McIntyre, Associate Executive Director of Oakwood School in Fairfax, Virginia.	I am requesting that you eliminate the regulation requiring 50 square feet of space per person per classroom. Quick calculations...for our facility to increase all of our classrooms to that standard would cost us between \$600,000 - \$800,000. That is a lot of money for a small school like ours, and it would not increase the quality of education that we already provide for our students at all. In fact, those of you with a background in Special Education know that for some LD students with sensory issues, too much space is actually detrimental to their ability to concentrate and feel comfortable. If you won't eliminate that regulation all together, I strongly urge you to at least offer a grandfather clause to existing schools. And I would make that grandfather clause applicable even if those schools do renovations to their existing structures, so that schools won't be forced to spend additional money to increase the size of all the classrooms in the building when they pull permits to renovate bathrooms or gymnasiums or computer labs. If you do keep the regulation, please make it applicable only to brand new construction and to brand new schools.	Change as indicate in response to VAISEF for 370 A.2. which is now 370 C.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	370 A. 3. Could be interpreted to mean all schools are required to have laboratories, play areas, and dining areas.	Agree revision needed for clarity. Revised language for 370 A.3. which is now 370 D: "Each school shall provide adequate, safe and properly equipped classrooms and instructional areas, and where appropriate, laboratories, play areas, and dining areas that meet the needs of students and instruction."
Commenter at Public Hearing: Mark Mellusi, The Discovery School of	671-370.A.3 The standard seems to imply that schools are required to have laboratories. Schools that do	Change as indicate in response to VAISEF for 370 A. 3. (370 D.)

<p>Virginia</p>	<p>not have 'laboratories' as separate rooms may nevertheless offer enriching laboratory activities. The standard as written is thus vague and may be taken to imply that existing schools (which already have approved floor plans and space allotments) must add separate laboratory classrooms. <i>Recommended Changes:</i> Change the word 'laboratories' to 'laboratory activities' to suggest that laboratory activities themselves must be adequate, safe, and equipped. However, the space in which the laboratory activities occur can be designated by the school.</p>	
<p>Northstar Academy, Pat West</p>	<p>671-370 E. Object to off campus activities. School personnel cannot enforce to parents "no smoking," they are our employers.</p>	<p>Smoking is covered under section 210.7 and is clarified that smoking is prohibited while on campus and at school sponsored student activities therefore 370 E. is removed.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>370 G. Requiring a lifeguard for all aquatic activities is far more than other regulatory agencies require. Suggest distinguishing between wading, swimming and boating.</p>	<p>Agree language was too encompassing and broader than other regulatory agencies' requirements. Changed to read: 370 G is now "370 J. There shall be a written policy concerning the provision of safeguards for water-related activities and a provision a certified lifeguard supervises all swimming activities."</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>671-370.G <i>'there shall be a written policy concerning safeguards for aquatic-related activities to include supervision by a certified lifeguard'</i> is written too broadly and without regard to what constitutes 'aquatic-related activities' or the actual necessity of a certified lifeguard to be on hand to provide meaningful life-saving assistance. <i>Recommended Changes:</i> Distinguish between wading (water up to two feet or waist level for older children), swimming, and boating activities. Require staff supervision and staff-to-student ratios appropriate to age group and disability condition, and to each type of activity. Require policies that ensure behavioral supervision of students during each type of activity. Require swimming activities in particular to be supervised by a lifeguard. Require schools that use boating activities as part of a recreation program to implement policies and procedures that ensure</p>	<p>Change as indicate in response to VAISEF for 370 G. (Now 370 J).</p>

	adequate staff supervision and the provision of safety equipment as required by law, and allow them to teach safe boating as it is practiced throughout Virginia. Requiring students and staff to wear their life jackets at all times during a boating activity would be a sensible additional provision.	
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-370 School facilities and safety: I – Requiring intercom systems may add an unnecessary cost when physical set up allows for other means of obtaining staff – back-up. Suggest broadening to include emergency access plan rather than specifying mode of communication.	Agree revision warranted. 370 I is now 370 J. Section changed to read: “370 L “There shall be a communication system available to staff at all times in the classroom and during school-sponsored activities.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	380 C. Recommend the number of required tornado drills be the same as required for public schools.	Revised to require at least one tornado drill consistent with public schools. Also added is requirement for at least one earthquake drill annually. “380 C. Each school shall have at least one tornado drill and at least one earthquake drill every school year.”
Rivermont School Alleghany	3 tornado drills a year is too many. Major disruption and only needed once a year.	Changed as indicate in response to VAISEF for 380 C.
Holly Stitham, Rivermont School – Tidewater	671 -380 C 3 tornado drills is too many. 1 per semester is appropriate.	Changed as indicate in response to VAISEF for 380 C.
Nate Crowley, Rivermont Tidewater School	Disagree with 3 tornado drills (would be a distraction)	Changed as indicate in response to VAISEF for 380 C.
Eugene Leftwich/Rivermont Tidewater/Centra	Oppose 3 tornado drills. Disruptive to classes. 2 per semester/year would be best.	Changed as indicate in response to VAISEF for 380 C.
Northstar Academy, Pat West	671- 380.Contingency Plans D. 1 VDOE should offer specific directions and training to assist in dealing with natural disasters and unsafe situations.	No change recommended. The proposed requirement is consistent with other licensing agencies and leaves the amount and depth of training to be given for the school to determine.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-380 Contingency Plans E. Recommend limiting emergency preparedness training to individuals responsible for independent, direct student care.	No change recommended as all staff needs to be prepared for emergencies
The Faison School, Kathy Mathews and Adam Warman	671-380 J. - Change the requirement to apply only to school that are not opened year round. Frequent drill can be traumatic and interrupt instructional time.	Revised for consistency with the <i>Code of Virginia</i> ’s requirement for public schools. School providers would be able to submit a request for exception to the requirement, ex., a school serving children with autism may find that frequent drills can be traumatic or a year-round school. An alternative schedule might be warranted. The new Section 671-30 would allow the licensing agency to make exception to the requirement for good cause.

		<p>“380 J. At least one emergency evacuation drill shall be conducted in each building occupied by students at least once per week for the first twenty school days and then once a month for the rest of the school year and more often if necessary.”</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-380 Contingency Plans J Requiring fire drills weekly during the first month of school may trigger significant behavior problems at a time the school is least equipped to address them. Recommend requiring monthly drills and recommend more frequent practice after extended breaks.</p>	<p>See above response to Faison School for 380 J.</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia</p>	<p>8VAC20-671-380.J Residential schools that operate on a year-round basis do not have a ‘first month’ of school in which to conduct evacuation drills. Year-round schools may enroll students at any time during the school year, and do not have a large incoming class in a single month. Only a small percentage of students would be participating in an evacuation drill for the first time in any given month. The staff at these schools does not fall out of practice with evacuation drills over the summer since the schools are year-round. <i>Recommended Changes:</i> Specify that year-round school programs conduct evacuation drills monthly in each building occupied by students, and specify that they are exempt from multiple drills in the first month of school</p>	<p>See above response to Faison School for 380 J.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>400 A Residential programs are allowed to conduct strip searches by other licensing agencies so it is requested that language be added to allow an exception for those programs.</p>	<p>Added language for consistency with other licensing agencies, “except as permitted by other licensing agencies.” This proposed regulation is consistent with other licensing regulations. DSS regulation, 22VAC40-151-790, “<i>strip searches and body cavity searches are prohibited.</i>” DBHDS, 12VAC35-46-890, “<i>strip searches and body cavity searches are prohibited except as permitted by other applicable state regulation, or as ordered by a court of competent jurisdiction.</i>”</p> <p>“400 A. Strip searches and body cavity searches are prohibited except as permitted by other applicable state regulations or as</p>

		ordered by a court of competent jurisdiction.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	410 D Request distinction between students placed for non-educational reasons and those referred by a local school division	Agree change is warranted. 410 D. (now 410 E.) “When the student’s education records are not provided during the application process, with written parental consent, the school shall make a request within five business days of enrollment to the student’s last attended school or the division superintendent or designee.”
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-410 Student application and admission D. Requiring written requests when students are placed by the school division is unnecessary. When the school does have to request records, 5 days may not be realistic. Recommend changing to 15 business days.	See response to VAISEF immediately above for 410 D (now 410 E.)
Northstar Academy, Pat West	671-420 A. The Standard School year and School day should be based on either instructional hour or 180 days as long as either meet the seat hour requirements.	Agree. Revisions made to clarify that the requirement can be satisfied by either 180 instructional days or 990 annual hours of instructional time. Also 420 A. provides that the school day average at least 5 ½ hours and 420 B is deleted. “420 A. Each school shall have a standard school year of at least 180 teaching days or a total of least 990 teaching hours per year. The standard school day for students in grades 1 through 12 shall average at least five and one-half teaching hours or average 27 and one-half hours weekly, excluding breaks for meals and recess, and a minimum of three instructional hours daily for kindergarten.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	420 B Concerned that language requires 5 ½ hours of instruction daily removing flexibility to provide a total of 27 ½ hours weekly with some days longer than others.	See response to Northstar Academy to 420 A. above. B. has been eliminate as it is included in 420 A.
Commenter at Public Hearing: Cindy Mills, Education Director, The Barry Robinson Center, Norfolk, VA	8VAC20-671-420-B . Standard School Year and school day. We understand the need for focused instruction each school day for our students. We would like the flexibility to meet the time requirements for weekly instruction in a way that best meets the needs of our program. That might involve a different number of daily school hours of instruction, but all together for the week, we would provide 27.5 hours of instruction.	See response to Northstar Academy above to 420 A. above. B. has been eliminate as it is included in 420 A.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF	430 A Feel that collaboration with community is important but input in to their programs should be from stakeholders and that the language	Revised and re-titled section to become Community Relationships. A. and B were deleted and replaced with: “Each school shall facilitate cooperative relationships with

recommendations	be changed from evaluating to seeking input.	neighbors, the school system, local law enforcement, local government officials, and the community at large.”
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-430.B. Residential schools that operate on a year-round basis do not have a ‘beginning of school year’ that is synchronized for all or even a majority of the students. <i>Recommended Changes:</i> Specify that school’s (sic) operating on a year-round basis may provide the required information by the time of the initial service plan meeting and must provide the information at least annually thereafter.	See 430 A. response to VAISEF above which included eliminating B.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	440-A-2 -Many of our programs have been in existence for many years and our objectives and goals have allowed us to be successful in working with the children we serve. However, these goals and objectives may not be written in measurable terms. We recommend the removal of the measurable terms language from this regulation so that successful programs do not need to go through the process of rewriting their program goals and objectives.	Changed to read “Goals and objectives shall be written in plain language so as to be understandable to non-educators, including parents.”
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-450.C Many of our students are truly private school students. Parentally placed, privately funded, not eligible for special education, even from out-of-state, the wording of this standard would bind them to Virginia state diploma standards, including SOL testing that has <i>never</i> been offered to them and verified credits that would therefore be <i>impossible</i> to attain. The decision as to whether they will eventually attend public or private school after leaving placement is often not made until the final months of placement. Additionally, the wording of this standard creates conflict with proposed standard 8VAC20-671-310.F, which allows for schools to request and receive approval for alternative staffing plans. The standard as written would potentially trigger accreditation problems for accredited schools in good standing with the accrediting body where there were none before. Specifically, VAISEF has moved in	Agree the word “public” is needed before “Virginia high school.” 450 C. Each school that serves students who anticipate earning a diploma and graduating for a public Virginia high school must follow the requirements for graduation outlined in the Regulations Establishing Standards for Accrediting public Schools in Virginia.”

	<p>recent years to promote greater coordination with DOE licensure standards. An inadvertent consequence of this standard may be to discourage schools from pursuing accreditation altogether. In the words of one renowned railroad entrepreneur, the standard as written will cause 'confusion and delay'. <i>Recommended Changes:</i> Consistently affirm throughout the regulations DOE's recognition that students placed in licensed private special education schools come from a variety of backgrounds and often with needs not directly related to the impetus for DOE licensure. This is to say, the private schools may be licensed as special education schools, but due to their individual missions may serve a broader population. Scrupulously avoid making blanket statements regarding compliance with entire sets additional of (sic) regulations, particularly when the other sets of regulations were developed to guide public agencies, schools systems, and schools. Specify that students must meet course distribution requirements for the diplomas they are seeking. Specify that eligible students must take available SOL tests provided by the public school system.</p>	
<p>The Faison School, Kathy Mathews and Adam Warman</p>	<p>671-460 B. Add "to the extent possible" to the end of the sentence (regarding age appropriate peers)</p>	<p>460 B is now 490 Program of instruction and learning objectives for more logical flow of sections. Language added to renumbered 490 B. for clarity and consistency with the Board of Education's <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i>. "490 B. The instructional program shall be designed to meet the needs of all students enrolled and shall educate students with age appropriate peers unless it can be shown that for a particular child with a disability, the alternative placement is appropriate and documented on the student's IEP, 504 Plan, or IIP."</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>460 D and E are the same regulations</p>	<p>Deleted E as it was a duplicate.</p>

<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-460 Program of Instruction and learning objectives: F, G, H The requirements may limit the ability to teach necessary adaptive skills to students with severe physical and cognitive disabilities. Recommend limiting requirements to those programs of study leading to a standard diploma.</p>	<p>460 F, G, and H are now 490 F, G, and H. F. has been changed to read:</p> <p>“490 F. Each school shall provide a program of instruction that clearly articulates learning outcomes for the core subjects: English, mathematics, science, and history/social science. Schools may use Virginia’s Standards of Learning (SOL).”</p> <p>Participation decisions are made on an individual basis. Students with severe physical and cognitive disabilities may appropriately be candidates for Aligned Standards of Learning which are academic standards reduced in complexity and depth.</p>
<p>Commenter at Public Hearing: Lane McIntyre, Associate Executive Director of Oakwood School in Fairfax, Virginia</p>	<p>671-460 F. There seems to be a broad effort to force private institutions to look and function more and more like public institutions. The result is a slow degradation of the quality of services and the unique impact we can have on the students that we serve. There has been, for many years, a wonderful partnership of private and public educational efforts that has allowed us as a nation to serve the masses, but not neglect those who are unable to learn in a traditional way or to function in a “regular” classroom. This symbiotic relationship has enabled the United States to lead the world in the achievement of educating ALL of our children, not just those who are deemed “normal” as is the case with so many other nations.</p> <p>While not without some pushing and pulling between private and public bodies, it has become accepted that private educational institutions are necessary in the achievement of reaching ALL children. Public institutions are not equipped to serve many of the those challenged students, just as private institutions are not equipped to serve the large quantities of students that public schools can.</p> <p>Unfortunately, the trend is to increasingly demand that private</p>	<p>460 F. is now 490 F. It was changed to read: “Each school shall provide a program of instruction that clearly articulates learning outcomes for the core subjects; English, mathematics, science, and history/social science. School may use Virginia’s Standards of Learning.”</p>

	<p>educators comply with all the same regulations and procedures that are necessary for public educators to serve such a vast number of students. Frankly stated, many of the procedures and protocols in these proposed regulations do just that. The argument is, “well, the public schools are required to do this...” But our schools were founded to do something different from public schools. Many of the efforts to force us to conform to the image of a public institution rob us of our ability to be different in order to serve a different student population.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>460 G Having a student participate in physical education after they have met the credit requirement towards graduation may not be the most efficient use of their academic time. They recommend language consistent with graduation requirements.</p>	<p>460 G. is now 490 G and was Revised to clarify it does not apply if student has met the health and physical education requirements.</p>
<p>Rivermont School Alleghany</p>	<p>671-460 G. Change for consistency with graduation requirements</p>	<p>See response to VAISEF on 460 G. above.</p>
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>460 J Having to employ content endorsed teachers would be a fiscal burden. Recommend using current day school requirement.</p>	<p>460 J has been removed as it is now addressed in “380 A. 1.Schools where students are instructed by content or grade level endorsed teachers shall have available appropriately endorsed special education teachers to case manage IEPs and to provide disability specific technical assistance and instruction. 2. Schools offering only self contained classroom instruction shall have teachers endorsed in either special education general curriculum or special education adapted curriculum depending on the functioning level of the students. Teachers who have maintained disability specific endorsements shall teach students with the named disability endorsement.”</p> <p>The added language is consistent with the current <i>Regulations Governing the Operation of Private Day Schools for Students with Disabilities</i>.</p>
<p>Stacie Thompson, Program Supervisor, Phillips Programs</p>	<p>671-460 J Teacher licensure/endorsement. Requiring teaches to be endorsed in both special education and content areas would eradicate the use of self-contained classrooms. Our</p>	<p>See response to VAISEF for 460 J. immediately above which allows self contained classroom instruction. 460 J has been removed as it is now addressed in “380 A.</p>

	<p>students have difficulty with transitions, self-regulation, social skills and organizational skills. The self contained model is a big part of why the students are successful and learning. Reconsider teacher endorsements requirements.</p>	
<p>Amy Taylor, Phillips Programs</p>	<p>...Not all students are able to meet curriculum needs at the pace required. Our students require special accommodations and modifications during their day to be successful. I teach in a self-contained room. There is no way for me to be certified in each educational category. My students are not able to transition to other classes and have several teachers during the day. They need the consistency of a classroom to be successful. They are not able to follow the curriculum at a normal pace set as they struggle to retain information. Lessons are slowed down to maximize the amount of information they are able to learn. The reasons why students have IEPs are because they each require INDIVIDUALIZED EDUCATION PLANS to be successful. ...Learning in school is much more than textbook information. We MUST teach our students survival skills. My students need daily prompts to be dressed appropriate, how to act appropriate, how to count money, how to address letters, how to wash their clothing, how to prepare simple foods, how to shop with a budget....and so much more. Our students are being robbed of the education they deserve. I get that we need to teach English, Writing, Math, History, Science....I understand this importance.....but when do we look at preparing our students to be the best independent citizens that give back to their communities and are able to be successful adults???Special Education Teachers are a special breed of teachers. ... Education is about the student.</p>	<p>See response to VAISEF for 460 J. immediately above which allows self contained classroom instruction. 460 J has been removed as it is now addressed in "380 A.</p>
<p>Commenter at Public Hearing: Mark Mellusi, The Discovery School of</p>	<p>671-460.J It is vital for small, private schools in rural counties such as ours to have the option to have</p>	<p>See response to VAISEF for 460 J. immediately above which allows self contained classroom instruction. 460 J has been</p>

<p>Virginia</p>	<p>licensed teachers teach outside of their endorsement areas, when the prospective teacher has the ability to teach the content area and the desire to undertake professional development. It is simply not feasible to expect schools in these locales to attract a large enough pool of applicants who 1) meet all of the endorsement requirements and 2) have the ability to handle the personal demands of working with our population of students, and to guarantee that those personnel would be available 100% of the time. The standard as written will drive schools to seek out teachers solely based on credentials at the time of hire, at the expense of being able to hire teachers who have the interpersonal skills suitable to the job and who are willing to develop professionally. This result would cause many students' education to suffer.</p> <p><i>Recommended Changes:</i> Allow private schools to request to have teachers engage in professional development activities on the job that help improve the skills needed to instruct the population served by the school. This provision could be made for schools that seek alternate staffing plans as outlined in proposed 8VAC20-671-310.F.</p>	<p>removed as it is now addressed in "380 A.</p>
<p>Commenter at Public Hearing: Cindy Mills, Education Director, The Barry Robinson Center, Norfolk, VA</p>	<p>8VAC20-671-470. Individualized Education Program (IEP) This regulation does not address the serious problem of local school divisions not ensuring educational services (and a free and appropriate public education [FAPE] for special education students) for students who are placed into a residential treatment facility under a physician's order and for non-educational reasons. Many parents are now placing their children in treatment facilities when less restrictive community based services have not been successful in keeping the child or the adolescent safe and able to attend school and be maintained in the home and community. These placements often occur in the midst of crisis or emergency situations.</p>	<p>671-470 These proposed regulations do not place requirements on public schools. They are written specifically for private schools for students with disabilities. The commenter's concern is now being studied by the VDOE special education staff. Stakeholders may expect Guidelines that will outline the procedures for ensuring the child's education when placed in a private facility for non-educational reasons.</p>

	<p>These parents are trying to get the care their children need so they can come back home and rejoin the family and their regular activities to include returning to their home school. In order for parents to place their child in a residential placement, the child must demonstrate extreme or dangerous behaviors over time and parents are often at their wits end in knowing how to help their children. They are not avoiding their child's public school placement, they are trying to find help so their child can safely and productively return home and to their school. That is most certainly the goal for a therapeutic placement in a residential facility. We would recommend that this regulation include guidance for those situations when a child is admitted under a physician's order for non-educational reasons in a residential facility. This would include the expectation that the local school division is responsible for working with the private facility in a timely matter (sic) to ensure there is active communication and continuity in the child's educational program. This would also include financial support to follow the student while enrolled in school at the residential facility until he or she is able to return home.</p>	
<p>VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations</p>	<p>671-480-A- We recommend specifying whether it is 30 business or calendar days for the development of the IIP.</p>	<p>480 A. now 470 A. Individualized Instruction Program (IIP) was revised as shown below to indicate business days from enrollment not admission. "Students not determined eligible for special education and those placed by their parents shall have an Individualized Instruction Program (IIP) developed within 30 business days of enrollment that describes strengths and needs of the student, current level of functioning, goals and objectives, course of study, and postsecondary goals for students 14 years of age and older."</p>
<p>Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell</p>	<p>671-480 Individualized Instruction Program (IIP): A – 60 days is a more reasonable amount of time to develop an IIP for a student needing a thorough assessment or one with significant behavioral issues.</p>	<p>See response to VAISEF regarding IIP above. If the school determines that more time is needed for a specific student they could request an exception.</p>

Northstar Academy, Pat West	671-480 A. Individualized Instruction Program (IIP) Recommend 30 business days and change date of admission to date of enrollment.	See response to VAISEF regarding IIP above.
Northstar Academy, Pat West	671-480 D Individualized Instruction Program (IIP) Age of student should be included.	Changed to indicate the student's participation is "as appropriate." 470 D (formerly 480 D) no states: "The IIP shall be reviewed at least annually by a team that includes the school administrator or teacher, other staff as appropriate, parent, and student as appropriate."
The Faison School, Kathy Mathews and Adam Warman	671- 500, 510, 520 - Add bullet point to end of elementary, middle and secondary sections: "When a student's IEP/IIP team determines that developmental prerequisites are missing and required to advance and make progress in English, mathematics, science, and history/social science, this instructional time can be counted towards and applied to the aforementioned instructional time requirements." The developmental approach is appropriate for students who are unable to speak, communicate, make eye-contact, and follow directions.	Section A is deleted from 500, 510, and 520 to provide greater flexibility. A prefatory statement is provided for 500, 510 and 520. "In addition to the applicable requirements under 8VAC20671-490, the following shall apply:" Developmental prerequisite instruction should be addressed in the IEP.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-500, 510, 520 These requirements are overly prescriptive and potentially limiting for students with individualized needs and/or extreme behavioral challenges. Recommend removing the requirements.	Section A is deleted from 500, 510, and 520 to provide greater flexibility. Developmental prerequisite instruction should be addressed in the IEP.
Northstar Academy, Pat West	671 – 500, 510, 520 Instruction Program for Elementary school Grades, Middle School Grades, and Secondary School Grades Regulations is too broad and needs clarification regarding additional instruction in reading. If this in addition 140 clock hours for secondary students it would require additional staff and lengthening school day.	No change made regarding requirement for additional instruction in reading in the three sections. School officials would be able to use uniquely designed instruction based on individual student needs which could be incorporated throughout the school instructional program and the school day.
Commenter at Public Hearing: Cynthia Culley, Assistant Head of School, Northstar Academy	671-500, 510, and 520 If the additional instructional time in reading is in addition to 140 clock hours it would require additional staff and a longer school day for Northstar.	See response to Northstar Academy immediately above.
VAISEF* Plus 78 individuals who posted comments	520 language does not take in to account students working on special diplomas and provision of functional	Add a new section was added; "520 D. A curriculum that includes occupational readiness and functional skills

supporting the VAISEF recommendations	living skills and community based instruction.	training including community based instruction shall be available for students as the need is determined by the IEP or IIP.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	520 C. previous regulations included practical arts in addition to fine arts. Clarify why this is not still the case.	The term “practical arts” is no longer used in the Board’s accrediting standards.
Rivermont School Alleghany	671-520 Question ultimate responsibility for guidance and counseling and asking if this is a public school function.	F. Revised for clarification that guidance counselors are not required. The section which is now G reads: “520 G. Staff shall provide guidance and counseling to assist students in meeting graduation requirements.”
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-520 Instructional program for secondary school grades: F. Recommend defining more explicitly who can fill role to provide guidance or counseling.	See response to Rivermont immediately above to 520 F (now 520 G)
Rev. Eddy Aliff, Virginia Assembly of Independent Baptist	671-540 Transition Services Questioning why a child has to transition back to a public school. Parent should make final determination of how child should be educated. Requested clarifying explanation of section if it has been misconstrued.	This section is directed at publicly placed students with disabilities and addresses transition services that are required by federal and state regulations. It does not mean that a parent must make plans to put their child in a public school if they choose to have the child educated privately.
Northstar Academy, Pat West	671-550 Extracurricular and Other School Activities B. As a school with a no-cut policy, it would be cost prohibitive to require hiring additional personnel or a change to the policy which is in contradiction to the school’s philosophy.	550_B. The requirement exceeds public school requirements therefore it is as shown. “CPR and first aid certified staff shall accompany student on school sponsored activities.” <i>Schools that are part of a residential facility are required by other licensing agencies to have all staff certified and many day schools have determined it prudent to require all staff to be trained in CPR and first aid.</i>
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	570 C. term “outside school” is vague and needs to be clarified	“Outside school” has been removed as it did cause confusion. The section is now states: “Work assignments or employment, including rates of pay, shall be approved by the school administrator with the consent of the parent.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	580 - question necessity of having specific regulation on virtual courses suggesting that if regulations is necessary it that that virtual courses can only be offered through accredited providers as outlined in	Language for this section is replaced as suggested by VAISEF. 580 A. “Virtual courses may only be offered through accredited providers as outlined in VAC§22.1-212.23 and §22.1-253.112:3 of the <i>Code of Virginia</i> .

	VAC §22.1-212.23 and VAC §22.1-253. 113.3	B. The virtual learning shall be proctored by a licensed teacher or appropriately trained paraprofessional who is supervised by a licensed teacher. The teacher or paraprofessional shall be available to the student.”
Rivermont School Alleghany	671-580 Change to state virtual courses can only be offered through accredited providers.	See above response to VAISEF on 580.
Commenter at Public Hearing: Jennie Johnson, representing the Virginia Association of Independent Specialized Education Facilities and Timber Ridge School	Regulation 671-580. Virtual Learning. First I would like to thank Virginia DOE for continuing to develop standards and regulations that prepare the students of the commonwealth with 21 st Century skills. I agree and support the graduation requirement that ensures all students pursuing a standard or advance4d studies diploma must take a virtual course. Under this proposed regulation, however, section 3 requires that virtual learning shall be supervised by a licensed teacher or a person eligible to hold a Virginia teaching license. It is my understanding that the virtual courses are taught by a licensed teacher. I would recommend that the language be changed to include support staff and paraprofessionals. The last point that I would like to make in regard to this requirement is that the private schools may encounter hardships paying for the virtual classes. For example we can access Virtual Virginia for our students at a cost of \$500.00 per credit course. We have been advised to attempt to work with our local LEAs to access the courses for our mandated student's (sic) but that does not help the schools that serve non-mandated students. I would kindly ask that the Virginia Department of Education consider allowing the private schools that are licensed by Virginia DOE and accredited by a Virginia DOE approved accrediting body or bodies, to consider allowing the private schools access to these courses at no cost or significantly reduced cost for our students.	See above response to VAISEF on 580.
The Faison School, Kathy Mathews and Adam	671-590 D. Change from textbooks and instructional materials to: “Each	590 has been amended: “A. Each school shall provide instructional materials and equipment

Warman	school shall provide materials necessary to support instruction Virginia's Standards of Learning and IEP goals."	necessary to support the instructional program including the goals and objectives established for individual students. B. Students shall receive instruction on the use of classroom equipment as appropriate and demonstrate applicable safety competencies before being allowed to use such equipment." C and D are deleted.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	620 B Requesting clarification that notification of the local school division is required only for special education students receiving in-school suspension and not for general education students Further requested changing 24 hour notification to end of next business day.	The school division of a publicly placed student must be notified in order to comply with federal procedures regarding suspension and expulsion of students with disabilities. No change to 24 hour notification recommended. Revised to apply only to publicly placed student: "620 B. When a publicly placed student is suspended, including in-school suspension, or expelled, the student's home school division shall be notified within 24 hours."
Rivermont School Alleghany	671-620 B. Should state these people need to be notified by the end of the next business or school day.	See above response to VAISEF regarding 620 B.
Northstar Academy, Pat West	671-620 Student Conduct B. Communication between private and public school concerning student behavior is imperative but recommend a 24-48 hour window to report.	See above response to VAISEF regarding 620 B.
Rivermont School Alleghany	671-640 Recommend part A and part B with A covering students placed in time-out and B covering those who choose to be in time out. For the safety of staff and students, time out areas need to have locks on them that are spring loaded so they can only remain locked if a staff member is holding it.	Commenter is actually speaking to students in seclusion and not those in time-out. The doors are addressed for time out in 640 as follows in 2: "A door to a time-out room shall not be locked nor secured in a manner that prevents a student from opening it." Seclusion room doors are addressed in 660 D.6. "The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the staff member steps away from it. The room must meet specifications including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency."
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671 -640 Time-out. A2 recommend allowing door to be secured in an emergency situation as long as student is monitored, the room meets specification to ensure safety, and documentation requirements are in place.	See above response to Rivermont School Alleghany as what is referenced is seclusion.
Commenter at Public Hearing: Jennie Johnson, representing the Virginia	Regulation 671-650-A-1, 3, and 10. Prohibitions: The first point I would like to address deals with the fact	671-650 It is agreed restraint, seclusion, body cavity searches should be removed from this section

<p>Association of Independent Specialized Education Facilities and Timber Ridge School</p>	<p>that we have conflicting regulatory issues for the residential schools from other licensing entities. For example, strip searches and prone restraints are allowed by other licensing agencies. In fact, Timber Ridge Schools (sic) licensing agency, Virginia Department of Behavioral Health has told us to do strip searches following the strict guidelines to ensure the safety of all students that have a known history bringing contraband on to the campus. Now granted we only do these strip searches with a very small percentage of our students. So my questions would be does the proposed regulations that we are commenting to today supersede the regulations of Virginia Department of Behavioral Health? Physical restraint and seclusion is listed under this regulation 671-650-A-1 Prohibitions with an exception that they can be used when necessary to protect the student or others from harm. As is written this is confusing and it may be clearer if physical restraint and seclusion be removed from the prohibitions section. In the next regulation, 671-660-D – 1 through D -3, Managing student behavior in emergency situations, this proposed regulation clearly outlines the acceptable conditions for allowing the use of restraint. Regulation 671-660-D-1 does states (sic) however, that restraints and seclusion is prohibited. I would recommend that prohibited be removed from that section and state that the use of physical restraint and seclusion is only used under the following conditions: which have been outline (sic) in D-through 3. Also under this regulation, we believe that the only appropriate use of physical restraint and seclusion is in an emergency situation where a student is posing imminent risk to themselves or others. I would recommend that you remove the language relating to sever property damage.</p>	<p>There are times when those actions are necessary. Sections revised for clarity and consistency with the other licensing agencies.</p>
<p>VAISEF* Plus 78 individuals who</p>	<p>650 A. 1-2 Recommended removing restraint and seclusion from</p>	<p>Restraint including prone restraint and seclusion were removed from the list of</p>

posted comments supporting the VAISEF recommendations	prohibitions since they are allow in emergencies. Also objected to prohibition of prone restraint suggesting it be allowed when another licensing agency allows it or if part of commercial training program protocol.	prohibitions. See above response to Jennie Johnson regarding prohibitions.
Rivermont School Alleghany	671-650 A1. Restraint and seclusion should be removed from prohibitions since it is clearly defined in 660 D when they can be used.	See above response to Jennie Johnson regarding prohibitions.
The Faison School, Kathy Mathews and Adam Warman	671- 650 A. 2. -Remove prohibition for prone restraints as best practice methodologies stress individual approach that is safest for that person.	Agree. See above response to Jennie Johnson regarding prohibitions
Rivermont School Alleghany	671-660 A 2 If prone restraints are prohibited then supine and lying restraints should be considered prohibited as well.	See above response to Jennie Johnson regarding prohibitions
Commenter at Public Hearing: Adam Warman, Director of Enrollment, Curriculum and Training, The Faison School	Prone restraints have been combined with mechanical and pharmacological restraints in the current document. Determining the safest way to manage a crisis or stop imminently dangerous behavior for individuals using a broad brush is ineffective and potentially dangerous. Physical and psychological conditions exist that can potentially make face up, side or standing restraints more intrusive and dangerous for a person than a prone restraint. The true culprits in restraint that lead to serious injury or death are placing pressure on body organs and joints, interruption of breathing, and underlying health issues that cause cardiac arrest, stroke, or other serious medical issues. None of those concerns are remedied by prohibiting prone restraints and, in fact, those same concerns can be exasperated (sic) by this prohibition.	Agree. See above response to Jennie Johnson regarding prohibitions
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	650 A.4 Concerned that allowing unrestricted contacts could result in task avoidance.	Change word “with” to “from” to indicate this is not a student led decision. It does not prohibit the school from providing schedules suggesting convenient, least disruptive times. “650 A4. Limitations on contacts and visits from the student’s probations officer, social worker, or placing agency representative.”
The Faison School, Kathy	671- 650 A. 9 - Replace aversive	A.9. is deleted as it covered under A.5 which

Mathews and Adam Warman	with harmful or “painful”	prohibits any action that is humiliating, degrading or abusive.
Commenter at Public Hearing: Adam Warman, Director of Enrollment, Curriculum and Training, The Faison School	“Aversive stimuli” are prohibited, which is an overly inclusive term. Therefore we suggest changing to a more precise term that encapsulates the spirit of the prohibition is “harmful or painful stimuli.”	See response immediately above to Faison School.
Rivermont School Alleghany	671-660 D.1. Language should be modified to state: “causing severe property damage that may result in injury to student.”	Language added. 660 D11 is now “660 B.1 Physical restraint and seclusion is allowed only in an emergency situation for a time period that is necessary to contain the behavior of the student so that the student no longer presents an immediate threat of causing physical injury to self or other or causing severe property damage that may result in personal injury.”
The Faison School, Kathy Mathews and Adam Warman	Remove “or causing severe property damage” D. 3 a.	See 660 D 1 response to Rivermont Alleghany.
Commenter at Public Hearing: Adam Warman, Director of Enrollment, Curriculum and Training, The Faison School	Recommend the removal of the language that allows restraint and seclusion to be used in cases of property damage. While property damage can lead to an imminently dangerous situation, the destruction of books, doors, walls, computers, windows or other property is not inherently dangerous. Only when the student or another person is in imminent physical danger should restraint or seclusion be utilized and even then only for the shortest duration possible.	See 660 D 1 response to Rivermont Alleghany.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-660 Managing student behavior in emergency situations: D change wording. If they are allowable in an emergency situation then they are not prohibited.	Agree. Removed from prohibitions.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	660 D 3.f. Serious incidences in residential facilities should be handled through the agency licensing the residential facility and not these regulations.	If the restraint or seclusion occurs in the school these regulations apply it occurs outside the school it should be handled through the agency licensing the facility. 660 D 3.F. is now 660 B.7. “The parent and student’s home school division and placing agency, as appropriate, shall be informed immediately but not later than 24 hours of each incident of physical restraint or seclusion.”
The Faison School, Kathy Mathews and Adam Warman	671-660 D 3f. - Change notification to “within 24 hours of the occurrence and make available to the licensing agency upon request”	See response to VAISEF immediately above.
The Faison School, Kathy	671-660 D 3 - .Add “In the absence	660 B 8.includes requiring documentation of

Mathews and Adam Warman	of a behavior intervention plan less restrictive interventions that were unsuccessfully attempted prior to using physical restraint must also be described.”	less restrictive interventions that were unsuccessfully tried prior to using physical restraints.
Northstar Academy, Pat West	671-660 Managing Student Behavior in Emergency Situations F. Communication between private and public school concerning student behavior is imperative but recommend a 24-48 hour window to report.	Wording was changed for 660 D 3.F. which is now 660 B.7. “The parent and student’s home school division and placing agency, as appropriate, shall be informed immediately but not later than 24 hours of each incident of physical restraint or seclusion
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-700 Serious incident reports: A – Recommend inclusion of public school and licensing agency notification only for incidents requiring hospitalization or involving suspected abuse or neglect.	The definition of serious incident includes only accidents or injuries requiring attention by a physician and hospitalization. Reworded to state: “700 A. Any serious incident, accident, or injury to a student that occurs at the school or school-sponsored activity shall be reported immediately, but not later than 24 hours of the occurrence to the parent, and licensing agency. For publicly placed students, the home school division and the placing agency shall also be notified.”
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-700.A. A residential school licensed by DSS is currently required to make serious incident reports within 24 hours (22VAC40-151-960). ... The types of problem referred to 671-700.A would occur as part of the residential domain for our schoolFor instance, our school uses medication administrators and trained residential staff to administer medications to students; academic staff do not participate in medication administration. Additionally, physical restraints do not occur in the academic setting, but may occur in the residential setting. Multiple layers of regulatory jurisdiction will potentially lead confusion and predictably lower compliance rates. <i>Recommended Changes:</i> Exempt residential schools from 971-700.A when they are already following a comparable Serious Incident Report procedure required by another state licensing agency such as DSS.	Although a number of residential facilities have “School” as part of their name, only serious incidents that occur during the academic day and within the academic program (school) would be reported to VDOE. Revised the time period for reporting of serious incidents for consistency with other licensing agencies as shown in above response to Virginia Institute of Autism.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	760 B. If fireproof file cabinets which are best practice are required, a grace period to allow programs to budget for expensive cabinets is recommended.	760 B. Changed “fireproof to “fire resistant’ for consistency with requirement of other licensing agencies. New language reads: “Educational records of currently enrolled students shall be maintained in fire-resistant cabinets and protected from unauthorized disclosure.”

Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-760 Maintenance of student records: B – Recommend locked cabinets not necessarily costly fireproof ones.	See response to VAISEF regarding 760 B. above.
Northstar Academy, Pat West	671 – 760 Maintenance of Students Records B. Fire proof cabinets are cost prohibitive.	See response to VAISEF regarding 760 B. above.
Virginia Institute of Autism; Rorie Hunter, Ethan Long, and Cresse Morrell	671-760 Maintenance of student records: K.2. Five days is too short. Recommend a 15 business day requirement.	760 K. 2. Has been deleted. No timelines are given in K. It now states: “Transfer of records. When a privately placed student graduates or leaves school, education records shall be offered to the eligible student or parent. The records of a publicly placed student who graduates or leaves school shall be transferred to the child’s home school.”
Commenter at Public Hearing: Mark Mellusi, The Discovery School of Virginia	671-760.K.2 This standard has confusing grammar, an inconsistent shift between active and passive voices, and may be lacking at least one verb. <i>Recommended Changes:</i> Consider replacing ‘When a student transfers to another school, the sending school shall transfer the student’s complete education record to the new school within five business days of the request, and provide notification of the records transfer to the parent, guardian, and placing agency.	760 K. 2. Has been deleted. K now states only: “Transfer of records. When a privately placed student graduates or leaves school, education records shall be offered to the eligible student or parent. The records of a publicly placed student who graduates or leaves school shall be transferred to the child’s home school.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Add an appeals process to promote consistency amongst regulators	Added at 150. 5. “The licensing agency shall provide a process for school officials to file an appeal when there is disagreement with the licensing agency’s identification of noncompliance with these regulations.”
Joanne Webster, Virginia council for Private Education (VCPE)	Recommends an appeals process for times when there is a disagreement with the regulator on compliance issues.	See response to VAISEF immediately above. Appeals process added at 150. 5.
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	Recommend when minor issues require intensive labor to correct, a finding of substantial compliance be given and not a non-compliance finding.	<u>Substantial compliance has been added to the definitions and referenced under the issuance of a triennial license.</u> The definition is “Substantial compliance means that while there may be noncompliance with one or more regulations that represent minimum risk, compliance clearly and obviously exist with most of the regulations as a whole.”
VAISEF* Plus 78 individuals who posted comments supporting the VAISEF recommendations	FAPE for students who are parentally placed in residential programs for non-educational reasons should be regulated in these regulations requiring the	These proposed regulations do not place requirements on public schools. They are written specifically for private schools for students with disabilities. The issue concerning parental placement for non-

	provision of services in the school setting and not through homebound instruction.	educational reasons is a matter for the Board's <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia</i> . The commenter's concern is now being studied by the VDOE special education staff. Stakeholders may expect Guidelines that will outline the procedures for ensuring the child's education when placed in a private facility for non-educational reasons.
Michael S. Triggs, The Hughes Center	In support of VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Wade Puryear, Elk Hill	Repeated (copied) VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Warren Bull, Specialized Youth Services of Virginia	Support VAISEF's position regarding the proposed changes Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kimberly M. Lindblad, LCSW	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Stacie Thompson, Program Supervisor, Phillips Programs	Support of VAISEF position paper Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Cray Callahan, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Steven Glenn, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Chris Quigg, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Gretchen Vaughn, Special Education Teacher, Bridges	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Ray Paige, Special Education Teacher, Bridges Treatment	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terrelle Stewart	VAISEF Recommendations. Please take these recommendations into account especially the recommendations that address staffing issues	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Liz Allen, Rivermont School-Chase City	Supports VAISEF's recommendations, request for clarification, comments on inconsistencies and requests. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Deborah Morgan, Specialized Youth Services of VA	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Nathan Sullivan, Sp. Ed. Teacher, Bridges Treatment Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.

Lisa Cornelius, Sp. Ed. Teacher, Bridges Treatment Center	Please read/consider VAISEF recommendations Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jason Daniluk, Sp. Ed. Teacher, Bridges	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Dr. Lloyd Tannenbaum, Rivermont Schools	"Proposed regulations pertaining to room size."	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Heidi Sheets, Rivermont School/Chase City	Support of VAISEF recommendations	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
David Blaiklock, Education Program Coordinator, PHILLIPS Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Patricia West, Northstar Academy	In Support of VAISEF's Recommendation Paper Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Takicha Lee, PHILLIPS Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Michael Mbugi, Phillips Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Peter Schaffer	Parent of SPED student and working in the field, VAISEF Recommendations present meaningful comments addressing issues.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Cindy Culley, Director of Admissions – Northstar Academy	In support of VAISEF Recommendations Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Debbie Pell, Executive Director, The Dominion School	Fully supports comments in relation to Proposed Regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Dr. John Lamanna, Timber Ridge School	Supports the VAISEF position statements. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
James R. Weaver, CFO, The Dominion School	Fully supports VAISEF's position on the Proposed Regulations Copied VAISEF statement (<i>ended with clarification 671-G</i>)	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Brandee Cutlip, Phillips Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Tony Costanzo, Science Teacher at The Dominion School	Supports VAISEF's position Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Amy Calahan, Rivermont School-Chase City	Supports the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Stephen Jurentkuff, LCSW, Specialized Youth Services of Virginia	Supports the VAISEF recommendations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.

Lauren, Phillips Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Beth Hulfish Phillips Programs	Copied VAISEF statement (<i>different format</i>)	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kimberli A. Collett, Director of Education Matthews Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Sue Horstmann, M.Ed. The Dominion School	Support the following VAISEF position statement on the proposed regulations. Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Holly Stitham, Rivermont School – Tidewater	Supports VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Anjolle M. Scott, Rivermont	Supports VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Canice Nuckols, Grafton Integrated Health Network	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Rorie Hunter, Director of Education , Virginia Institute of Autism	VIA supports position statement submitted by VAISEF which aligns with the letter submitted to Dr. Ruffin	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jim McGee, Rivermont Schools	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Brandon Timmons, Rivermont School Hampton	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Vanessa Bhalia, Rivermont Schools	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Janet Floyd, Rivermont school -Rockbridge	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terry Templeton*	Please reconsider Vaisef Recommendations Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Patricia Gee, Rivermont School Chase City	Support VAISEF’s recommendations, request for clarification, comments on inconsistencies and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Annette Williams, Rivermont School/Chase City	Support VAISEF’s recommendations, request for clarification, comments on inconsistencies and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Sammy Mitchell, Jr. Centra/Rivermont Schools	Support VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Sharon Yasemsky, Centra/Rivermont School - Tidewater	Approve/agree with the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Winnie Woods – Brown,	Support the VAISEF statements	Each of the VAISEF recommendations is

Rivermont Schools		responded to above in the order in which it appears in the proposed regulations.
Dublin Brooks, Rivermont School – Chase City	Support VAISEF’s recommendations, request for clarification, comments on inconsistencies and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Brandy Edmonds, Rivermont Chase City	Copied VAISEF statement on clarification, inconsistency, and request.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terra Garrett, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Anna Kate Murphy, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Judie Holton, Rivermont	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Eugene Leftwich/Rivermont Tidewater/Centra	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kerry Knott, CEO – Harbor Point Behavioral Health Center	Support of VAISEF position on proposed regulations	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Lauren Odom/Rivermont School Tidewater	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Angela Stambaugh	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jordyn Hardy, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Amy Hartswick, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Trixie Herbert, PHILLIPS Programs	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Stacie Waldman, The Kellar School of Inova Kellar Center	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Marianne Stinson/Rivermont LPC (Tidewater)	Support the VAISEF statements	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kathryn Russell	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Erica Wells, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Drew Edwards, Centra Health	Please read/consider VAISEF recommendations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Joanne Webster, Virginia	Supports the comprehensive	Each of the VAISEF recommendations is

Council for Private Education	comments submitted on behalf of our member organization, VAISEF.	responded to above in the order in which it appears in the proposed regulations.
Andrew McCartney, Kellar School	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Jenny Oxendine, Rivermont School Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Melissa Shuler – Rivermont Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Alice Gillespie, Rivermont/Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
(Therapist) Rivermont School – Fredericksburg	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Mark Mellusi, The Discovery School of Virginia	Support VAISEF response to proposed regulations. Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Chip Case, Discovery School of Virginia	Support VAISEF response to proposed regulations. Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Kenny Day, The Kellar School	Copied VAISEF statement.	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Joi Chisholm-Thaxton, Harbor Point Behavioral Health Center	Agree with position submitted by VAISEF and believe their vision is instrumental in assisting private schools who support students with disabilities	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Leslie Rick, The Kellar School	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Terry Templeton/Rivermont school – Dan River*	Copied VAISEF statement	Each of the VAISEF recommendations is responded to above in the order in which it appears in the proposed regulations.
Nancy Ford, Phillips Programs	<i>No comments given</i>	N/A
Cheryl McGarvey, Rivermont Chase City	<i>No comments given</i>	N/A
M. Mclvor	Diploma	Diplomas are addressed in 671-610

Public Comments

These comments were submitted to the Board of Education in response to sections regarding the management of student behavior in the *Proposed Regulations Governing the Operation of Private Schools for Students with Disabilities*, (8VAC20-671 et. seq). The comments were submitted after the Board of Education’s meeting on April 25, 2013. The deletion of restraint and seclusion in §671-650, Prohibitions, may have caused misunderstanding that they would be allowed. This was never the case as they were expressly prohibited in §671-660, Managing student behavior in emergency situations, where restraint and seclusion are allowed only in an emergency situation.

Commenter	Comment	Agency Response
<p>Maureen Hollowell Virginia Coalition for Students with Disabilities The Virginia Coalition of Students with Disabilities</p> <p>Autism National Committee, national Autism Society Central Virginia Autism Society of Northern Virginia Autistic Self-Advocacy Network, Central Virginia Chapter</p> <p>Blue Ridge Independent Living Center, Inc., Roanoke</p> <p>Children and Adults with Attention Deficit/Hyperactivity Disorder, national</p> <p>CJR Enterprises, LLC, Stephenson</p> <p>disAbility Resource Center of the Rappahannock, Inc. Down Syndrome Association of Greater Richmond</p> <p>Down Syndrome Association of Northern Virginia</p> <p>Endependence Center, Inc., Norfolk</p> <p>ENDependence Center of Northern Virginia, Inc.</p> <p>Fairfax Alliance for Appropriate Public Education</p> <p>Grafton Integrated Health Network, Winchester</p> <p>Independence Empowerment Center,</p>	<p>Recommendation: In proposed 8 VAC20-671-650 (Prohibitions), restore the proposed language prohibiting “application of aversive stimuli.”</p> <p>Recommendation: In proposed 8 VAC20-671-650 (Prohibitions), restore the proposed language prohibiting prone face down restraint and add a prohibition on “restraint that is life-threatening, including restraint that restricts breathing.”</p> <p>Recommendation: In 8 VAC 20-671-660, strengthen the language so the use of restraint and seclusion is prohibited unless there is an emergency threatening an immediate danger of physical injury and less restrictive measures have failed or would be ineffective to resolve the situation. Also clarify that restraint/seclusion may be used for violent property destruction that threatens immediate risk of physical harm and danger.</p> <p>Currently, the regulation does not require less restrictive measures to have failed or be deemed ineffective; and permits the use of restraint/seclusion for “severe property damage that may result in personal injury.” Finally, continue the existing prohibitions on placing a person in a room from which they cannot exit in residential programs and the proposed ban on placing any child in a room where the door is locked or blocked by furniture, equipment, etc.</p> <p>Recommendation: Amend</p>	<p>§671-650. Prohibitions. Restored all prohibitions, including "aversive stimuli."</p> <p>§671-10. Definitions. A definition of aversive stimuli has been added. "Aversive stimuli" means any action used to punish a student or to eliminate, reduce, or discourage the problem behavior by use of any of the following or any other actions that are painful, humiliating, degrading, or abusive....</p> <p>§671-650. Prohibitions. Restored all prohibitions, including prone “face down” restraints, mechanical restraints, pharmacological restraints, and any other restraint that restricts breathing or harms the child or interferes with the child’s ability to communicate.</p> <p>§671-660. B. Revised language: Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p> <p>§671-660. B. 7. The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the</p>

Commenter	Comment	Agency Response
<p>Manassas Junction Center for Independent Living, Inc., Wise Legal Aid Justice Center, JustChildren Program, statewide Mathews County Special Education Advisory Committee National Association of Councils on Developmental The Virginia Coalition of Students with Disabilities, national Parents of Autistic Children of Northern Virginia PELE Special Education Advocacy Clinic, Williamsburg The Arc of Augusta The Arc of Central Virginia The Arc of Greater Williamsburg The Arc of North Central Virginia The Arc of Northern Virginia The Arc of the Virginia Peninsula, Inc. The Arc of Virginia, statewide The Arc South of the James, Colonial Heights The WHOLE in Autism, LLC, Centreville Virginia Association of Centers for Independent Living, statewide Virginia Board for People with The Virginia Coalition of Students with Disabilities, statewide Virginia Down Syndrome Alliance, statewide Voices for Virginia's Children, statewide Virginia Office for Protection and Advocacy, statewide Wrightslaw, national</p>	<p>proposed 8VAC20-671-630 (Behavior intervention) so that it defines positive behavioral interventions as evidence-based practices, instruction, and assistance that improve academic and social outcomes, rather than defining it in terms of teaching children to manage their own behavior. Specifically, require that each school develop and implement written policies and procedures that emphasize positive behavior interventions, meaning a schoolwide systematic approach to embed evidence-based practices and data-driven decision making to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students, including those with the most complex and intensive behavioral needs; and encompasses a range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrence of challenging behaviors, and teach appropriate behaviors to students.</p> <p>Recommendation: Eliminate proposed 8VAC20-671-630 (E) that would permit the inclusion of restraint, seclusion, and potentially aversive in a formal behavior management programs. Replace it with a provision forbidding the inclusion of restraint and seclusion in any student's behavior management plan (and ban aversive, as stated above).</p>	<p>staff member steps away from it. The room must meet specification including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency.</p> <p>§671-490. Program of Instruction and Learning Objectives. Added: K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.</p> <p>§671-620. A. New requirement added: Each school shall provide a schoolwide environment that reinforces appropriate behaviors and assists students in becoming actively engaged in their own learning, academic, and behavioral success.</p> <p>§671-630. A. Each school shall develop and implement written policies and procedures that emphasize positive behavior interventions. The end of the statement was deleted: "that focus on teaching and supporting students to practice methods to manage their own behavior."</p> <p>§671-630. C. Staff shall consider behavior management data in their annual review of the school's policies and procedures.</p> <p>§671-630. E. was replaced with new language: Parents shall be provided access to the school's behavior management policy and procedures upon enrollment and at the beginning of each school year, and provided a written copy upon request.</p> <p>§671-660. New requirement has been added: B. 2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more</p>

Commenter	Comment	Agency Response
	<p>Recommendation: Amend proposed 8VAC20-671-630 (Behavior intervention) to make clear that parents must consent to a behavioral intervention plan for their child, including children who are privately placed by their parents rather than placed at public expense.</p> <p>Recommendation: In proposed 8 VAC20-671-650 (Prohibitions), add a clause prohibiting the use of restraint or seclusion that prevents a child from communicating distress or danger.</p> <p>Recommendation: In 8 VAC 20-671-660, new B. 7, states that parents must receive oral or other notification within 24 hours, followed by a written report within 2 days including the information required in the B.8. documentation, including the date, time, staff involved, justification for restraint/seclusion, less restrictive interventions that were unsuccessfully attempted prior to using restraint/seclusion, duration and description of the methods of restraint used. The written notification should also include a description of the behavioral antecedents that occurred before the child engaged in dangerous behavior that led to emergency use of restraint/seclusion.</p>	<p>appropriate behavior; and (b) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.</p> <p>§671-630. Behavior intervention. The section does not address behavior intervention plans. The following section speaks to behavior plans.</p> <p>§671-660. Managing student behavior in emergency situations. A new requirement has been added: B. 2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more appropriate behavior; and (b) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.</p> <p>§671-650. Prohibitions 2. was amended to: Prone "face down" restraints, mechanical restraints, pharmacological restraints, and any other restraint that restricts breathing or harms the child <i>or interferes with the child's ability to communicate</i>;</p> <p>§671-660. B. Requirement has been revised to: 9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.</p> <p>§671-660. B.10. was amended to: Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the physical restraint or seclusion, behavior antecedents, less restrictive interventions that were unsuccessfully attempted prior</p>

Commenter	Comment	Agency Response
	<p>Recommendation: Add a new provision requiring that after each use of restraint or seclusion, the school shall convene a debriefing or review meeting to review the incident, consider relevant information, plan to prevent and reduce reoccurrence of the use of physical restraint and seclusion, and recommend appropriate positive behavioral interventions and support.</p> <p>Recommendation: Add a new provision requiring the collection and reporting to the Virginia Department of Education the following data each year: the total number of incidents in which restraint or seclusion was imposed upon a student; and the total number of incidents in which restraint or seclusion resulted in injury to students or school personnel.</p> <p>Recommendation: Adopt definitions of mechanical and pharmacological restraint. (A) Define Mechanical Restraint to mean the use of devices as a means of restricting a student's freedom of movement, and does not mean does not mean devices used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed,</p>	<p>to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date. The written report shall be available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.</p> <p>§671-660. New requirement added: B. 1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.</p> <p>§671-660. B.11. New requirement has been added: Schools shall collect and annually report to the Virginia Department of Education the number of times restraints and seclusion were used during the school year.</p> <p>§671-700 C. addresses serious incident reports. It states: The licensing agency shall review reports of serious incidents and investigate as appropriate.</p> <p>§671-10. Definitions. Definitions have been added: "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:</p>

Commenter	Comment	Agency Response
	<p>including-- (1) restraints for medical immobilization; (2) adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or (3) vehicle safety restraints when used as intended during the transport of a student in a moving vehicle. (B) Define pharmacological restraint as a drug or medication used on a student to control behavior or restrict freedom of movement that is not--(1) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under Virginia law, for the standard treatment of a student's medical or psychiatric condition; and (2) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under Virginia law.</p> <p>Recommendation: Retain the current draft 8VAC20-671-620 (Student Conduct) requiring private schools to have policies to prevent disability harassment and procedures for enforcement.</p>	<p>1. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to all greater freedom of mobility than would be possible without the use of such devices or mechanical supports;</p> <p>2. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;</p> <p>3. Restraints for medical immobilization; or</p> <p>4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.</p> <p>U.S. Department of Education, (<i>Restraint and Seclusion: Resource Document, 2012</i>)</p> <p>"Pharmacological restraints" means a drug or medication used on a student to control behavior or restrict freedom of movement that is not (1) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition; and (2) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority. (<i>Keeping All Students Safe Act, 2011</i>)</p> <p>§671-620. No change was made concerning comment.</p>
<p>Bob and Helen Welch Parents of a child with a disability</p>	<p>Questioned if the proposed regulations apply to public schools and requested copies of regulations that govern special education students in Virginia's public schools, specifically Fairfax.</p>	<p>The proposed regulations do not apply to public schools. Mailed copy of the Board of Education's <i>Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 8VAC20-81-10.</i></p>
<p>Karla Lopez</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Sheogorath</p>	<p>Supports the comments of The Virginia Coalition of Students with</p>	<p>See responses to The Virginia Coalition of Students with</p>

Commenter	Comment	Agency Response
	Disabilities	Disabilities.
Catherine Meade	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Tricia Smigel	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Daniel Wade	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Heidi L. Lawyer Virginia Board for People with The Virginia Coalition of Students with Disabilities	<p>Supports the comments made by The Virginia Coalition of Students with Disabilities and the Virginia Office for Protection and Advocacy (VOPA).</p> <p>Opposes proposed language which would allow “aversive stimuli” and of prone, face-down restraints.</p> <p>Recommends that VDOE revise the regulations to ensure that the use of seclusion and restraint is only used in emergencies which pose an immediate danger of physical harm to self or others and only after less restrictive measures have failed or have been determined to be ineffective.</p> <p>Supports The Virginia Coalition of Students with Disabilities' recommendations that the regulations should be more specific in addressing behavioral interventions including the following: redefinition and adoption of evidence-based positive behavioral interventions; development of person-centered behavioral plans based on professional assessments which include both the student and family/guardian; systematic approaches to embed evidence-based practices and data-driven decisions, and prohibition on including seclusion, restraint, and aversive stimuli as part of any behavioral plan.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p> <p>§671-650. Prohibitions. All prohibitions have been restored to this section. The section includes: Application of aversive stimuli, prone "face down" restraints, mechanical restraints, pharmacological restraints and any other restraint that restricts breathing or harms the child or interferes with the child's ability to communicate.</p> <p>It was never the intent of the Virginia Department of Education to allow those practices unless in an extreme emergency situation.</p> <p>See responses to The Virginia Coalition of Students with Disabilities.</p>
Nathan Habel, M.Ed., BCBA, LBA The Faison School for Autism	In instances of imminent danger it is critical for well-trained professionals to be able to utilize supervised seclusion and/or physical restraint (including prone restraint to ensure	§671-660. A. Each school shall have written policies and procedures made available annually to students, parents, and placing agencies that

Commenter	Comment	Agency Response
	<p>the safety of both students and staff members.</p> <p>It is paramount that individuals who serve students with disabilities who may engage in imminent dangerous behavior receive appropriate training and that restraint and seclusion not be utilized as a behavior intervention technique and only as a last resort.</p> <p>The manner in which restraint and seclusion is being presented by several advocacy groups to the general public is inappropriate and unfounded.</p> <p>It should be the goal of any special educator and behavior analyst to utilize the least restrictive treatments and interventions possible when working with students that emit dangerous behavior.</p> <p>To ignore the fact that students emit behavior which presents imminent danger to themselves and others and to hinder the use of appropriate safety measures is irresponsible.</p> <p>If restraint and seclusion were restricted in private day schools, it would be impossible for many students to receive appropriate education in a school setting, which would in turn lead to more restrictive treatment settings for these students, including hospitalization and what has previously been referred to as institutionalization.</p>	<p>include, but are not limited to: 3. A statement that behavior management techniques are applied in order of their degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained personnel.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p> <p>§671-650. Prohibitions. Prohibits restraint and seclusion. They can only be used in an extreme emergency. All prohibitions have been restored to this section.</p>
<p>Eli Newcomb CABAS Certified Teacher Assistant Director The Faison School</p>	<p>Many of those making comments have neglected to consider the needs of the most challenged individuals served in private schools and have failed to fully read and interpret the specific language and context for a few of the proposed items. Many have discounted the repercussions of an educational system that can no longer serve severely aggressive and self-injurious individuals in the private school setting.</p>	<p>§671-660. Managing student behavior in emergency situations. Continues to allow the use of restraint and seclusion only in an emergency situation. The language has been strengthened and reworded as follows: B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have</p>

Commenter	Comment	Agency Response
	<p>I write to express my full support for these proposed regulations as written.</p> <p>When staff are properly overseen, internally and externally, restrictive procedures such as restraint and seclusion can most definitely be carried out safely, ethically, and for the express purpose of keeping students and teachers safe.</p> <p>As written, I believe the proposed regulations adequately stipulate the necessary conditions (i.e., Imminent Danger) to utilize these procedures and I feel confident that the Department of Education is positioned to evaluate school practices ongoing as it pertains to this matter.</p>	<p>been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
<p>Nicole Dooley Attorney, JustChildren Legal Aid Justice Center</p>	<p>Only adopt regulations that explicitly limit the use of restraint and seclusion to a last resort option to prevent physical injury in an emergency situation where there is immediate danger of physical harm and less restrictive measures have failed or would be ineffective to resolve the situation.</p> <p>Eliminate the proposed regulation permitting the inclusion of restraint, seclusion, and potentially aversive in a formal behavior management program.</p> <p>Clarify this issue by including a provision forbidding the inclusion of restraint, seclusion, or aversive in any student's formal behavior management plan or IEP.</p>	<p>§671-650. Prohibitions. The original list of prohibitions was restored in this section. Restraint and seclusion are prohibited.</p> <p>§671-660. Managing student behavior in emergency situations, states: B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p> <p>§671-660. Managing student behavior in emergency situations. The section does not provide provision for restraint, seclusion, or aversive stimuli in a formal behavior management plan. Development of IEPs is the responsibility of public schools, not private schools.</p>

Commenter	Comment	Agency Response
	<p>Add a new provision requiring the collection and reporting to the Department of Education of the following data each year: the total number of incidents in which restraint or seclusion was imposed upon a student; and the total number of incidents in which restraint or seclusion resulted in injury to students or school personnel.</p>	<p>§671-660. Managing student behavior in emergency situations. Added: B. 11. Schools shall collect and annually report to the Virginia Department of Education the number of times restraints and seclusion were used during the school year.</p>
Missa Jones	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
Angee Hall	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
Melissa Waugh Special Education Attorney	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>The regulations should ban restraints that threaten life or impede breathing, especially prone restraint. Restraint and seclusion should only be used in emergencies where it is absolutely necessary to prevent physical injury to someone – never injury to property if there is no immediate threat of injury to a person. They should never be part of a student’s behavioral plan. Parents should receive oral and written notice of their use within 24 hours, so that medical attention can be sought for any latent injuries that could be life threatening. Parents should be part of a debriefing process following the use of restraint/seclusion so that strategies can be developed to eliminate the necessity of these techniques in the future.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p> <p>§671-650. Prohibitions. The original list of prohibitions was restored in this section. Restraint, seclusion, and aversive are prohibited.</p> <p>§671-660. Managing student behavior in emergency situations. B. Deleted language concerning property damage.</p> <p>§671-660. Managing student behavior in emergency situations. B. 9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student’s home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.</p> <p>§671-660. Managing student behavior in emergency situations. B. 10. Each application of physical restraint or seclusion shall be fully documented in the student’s record including date, time, staff involved, justification for the physical restraint or seclusion, behavior antecedents, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of</p>

Commenter	Comment	Agency Response
	<p>VDOE should restore the initial proposal to ban aversive stimuli—such as chemical sprays, electric shock, placing children in freezing cold, and excessively loud noises. Aversive stimuli are painful, inhumane, and should never be used.</p>	<p>method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date. Added to statement: The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.</p> <p>§671-10. Definitions. The definition of "aversive stimuli" has been added.</p> <p>§671-650. Prohibitions. Application of aversive stimuli is prohibited. It was never the intent of the Department of Education to allow aversive stimuli.</p>
<p>Mary Ann Bergeron Executive Director Virginia Association of Community Services Boards (VACSB) Grandmother of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Should ban restraints that threaten life or impede breathing, including prone restraint. Restraint and seclusion should be used only in emergencies where they are absolutely necessary to prevent physical injury to someone. They should never be part of the student's behavioral plans.</p> <p>Should guarantee that parents receive oral and written notice of their use, and be part of a debriefing process. Restraints should never stop children from communicating medical distress.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p> <p>§671-650. Prohibitions. The section identifies all prohibited actions, including any harmful restraint or seclusion, except when it is necessary to protect the student or others from personal harm, injury, or death and other less restrictive interventions were unsuccessful. Prone "face down" restraints, mechanical restraints, and pharmacological restraints and any other restraint that restricts breathing or harms the child or interferes with the child's ability to communicate.</p> <p>§671-660. Managing student behavior in emergency situations. B. 9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.</p> <p>§671-660. Managing student behavior in emergency situations. B. 10. The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent</p>

Commenter	Comment	Agency Response
	<p>VDOE should restore the initial proposal to ban aversive stimuli – such as chemical sprays, electric shock, placing children in freezing cold, and excessively loud noises. Aversive stimuli are painful, inhumane, and should never be used.</p> <p>Please use your role in public policy to protect children with disabilities from these dangerous practices and adopt The Virginia Coalition of Students with Disabilities' comments on behalf of the VACSB.</p>	<p>and student, as appropriate, to discuss the matter with school staff.</p> <p>§671-650. Prohibitions. The original list of prohibitions has been restored in this section, including restraint, aversive stimuli, and seclusion.</p> <p>See responses to The Virginia Coalition of Students with Disabilities</p>
<p>Helen Ragazzi MD Virginia Chapter of the American Academy of Pediatrics</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Scott Zeiter Grafton Integrated Health Network</p>	<p>Attached White Paper regarding ethical issues surrounding the use of seclusion and restraint and other aversive practices in private and public schools within the Commonwealth.</p>	<p>§671-650. Prohibitions. The original list of prohibitions has been restored. Aversive behavior interventions, restraint and seclusion are prohibited and can only be used in emergency situations.</p>
<p>Martha Wingfield Cousin of a man with The Virginia Coalition of Students with Disabilities</p>	<p>Do not allow the use of prone restraint and aversive behavior interventions in private schools for people with disabilities.</p>	<p>§671-650. Prohibitions. The original list of prohibitions has been restored. Aversive behavior interventions, restraint and seclusion are prohibited and can only be used in emergency situations.</p>
<p>Ken Jurman</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p>	<p>See response to The Virginia Coalition of Students with Disabilities.</p>
<p>Sean Campbell Parent of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Requests that regulations require written notification of parents of the use of restraints and seclusion.</p> <p>No child should be exposed to aversive stimuli.</p>	<p>See response to The Virginia Coalition of Students with Disabilities.</p> <p>§671-660. Managing student behavior in emergency situations. Requirement added: B.9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.</p> <p>§671-660. Managing student behavior in emergency situations. Added new requirement:</p>

Commenter	Comment	Agency Response
		<p>B. 10. The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.</p> <p>§671-650. Prohibitions. The original list of prohibitions has been restored. Aversive behavior interventions are prohibited.</p>
Jill Buzby	Supports the comments of The Virginia Coalition of Students with Disabilities.	See response to The Virginia Coalition of Students with Disabilities.
Sue Nelson Sargeant Educator	Recommends notification of parents of alleged abuse against their child by a school employee at the same time DSS is notified.	<p>§671-660. Managing student behavior in emergency situations.</p> <p>B. 9. Requirement added: The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.</p> <p>§671-690. Suspected child abuse and neglect.</p> <p>A. Written policies and procedures related to child abuse and neglect shall comply with the requirements of § 63.2-1509 of the [Code of Virginia] and distributed to all staff members. Policies and procedures shall include:</p> <ol style="list-style-type: none"> 1. Handling accusations against staff; and 2. Reporting as soon as possible, but no later than 24 hours after having a suspicion of a reportable offense of child abuse and neglect to the proper authorities and cooperating with child protective services during any investigation. <p>B. Any case of suspected child abuse or neglect occurring at the school or on a school-sponsored event or excursion shall be reported immediately to the student's parent, and licensing agency. For publicly placed students, the home school division and the placing agency shall also be notified.</p>
Teresa B. Snow	Proposes an end to cruel treatment of special needs children that inflicts	§671-650. Prohibitions. The original list of prohibitions has been restored

Commenter	Comment	Agency Response
	pain, causes suffering and death.	in this section. Aversive behavior interventions, restraint and seclusion are prohibited and can only be used in emergency situations.
Sharon DeBoever Virginia Dept. of Social Services	<p>Recommends that restraint and seclusion not be allowed in private schools.</p> <p>We should be looking to equalize programming and intervention strategies between private and public schools.</p>	<p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
Christine P. Powell Parent of a child with a disability	Supports the comments of The Virginia Coalition of Students with Disabilities.	See responses to The Virginia Coalition of Students with Disabilities.
Sandra Esposito	If educators are going to be allowed to restrain, recommends use of cameras in schools to verify and document use of restraint, and that the records be maintained for a minimum of one year.	§671-670. Videotaping. There is no express connection to restraints in this section. Schools are not precluded from using cameras.
Gwen Leech Parent of a child with a disability	<p>Opposes removal of the prohibition of prone restraint and aversive behavior interventions.</p> <p>Expressed concern that the use of these interventions could easily be mismanaged and overused by unskilled caregivers.</p>	<p>§671-650. Prohibitions. The original listing of prohibitions has been restored in this section. Prone face down restraints and the application of aversive stimuli are expressly prohibited.</p> <p>§ 671-660. Managing student behavior in emergency situations. B. 6. Physical restraint may only be implemented, monitored, or discontinued by staff who have received proper training.</p>
Amy Arnett	Supports the comments of The Virginia Coalition of Students with Disabilities.	See responses to The Virginia Coalition of Students with Disabilities.
Patricia E. Roberts, Esquire Clinical Associate Professor of Law and Director, PELE Special Education Advocacy Clinic – William and Mary Law School	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Restraint and seclusion should never be part of the student's behavior management plan.</p>	See responses to The Virginia Coalition of Students with Disabilities.
Susan St. Amand Parent of a child with a	Opposes the use of aversive, prone restraint and other restraints that	§671-650. Prohibitions. A. 9. Application of aversive stimuli

Commenter	Comment	Agency Response
<p>disability</p>	<p>impede breathing.</p> <p>The regulations do not fully protect the parent's right to know or to be able to have a debriefing where they work with the school to make changes.</p> <p>They must be limited to emergencies where they are absolutely necessary to protect someone from physical harm.</p>	<p>has been restored as a prohibition. The definition of "aversive stimuli" has been added to §671-10.</p> <p>§671-650. A.2. Prone "face down" restraint has been restored as a prohibition and any other restraint that restricts breathing or interferes with the child's ability to communicate.</p> <p>§671-660. Managing student behavior in emergency situations. Added:</p> <p>B. 9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.</p> <p>B. 10. Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the physical restraint or seclusion, behavior antecedents, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date.</p> <p>Added new requirement: The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial</p>

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		explanation for why other interventions were deemed inadequate or inappropriate.
Estelle Syretz Parent of a child with a disability	<p>Oppose allowing the use of prone restraint and aversive.</p> <p>Regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.</p> <p>Opposes the removal of prohibitions on private schools for any state approved placement using prone restraint or aversive.</p>	<p>§671-650. Prohibitions.</p> <p>A. 9. Application of aversive stimuli has been restored as a prohibition. A definition of aversive stimuli has been added to §650.10.</p> <p>A. 2. Prone "face down" restraint has been restored as a prohibition.</p> <p>The Virginia Department of Education never attempted to allow restraint or seclusion unless in an emergency situation.</p>
Read2Achieve	Against the use of restraints and aversions when dealing with children with special needs.	<p>§671-660. Managing student behavior in emergency situations.</p> <p>B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
Roberta McIntosh Educator Parent of a child with a disability	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Banning methods should be in place and educating personnel in BCBA therapies in how to deal with behavior should be a priority in educating all school personnel.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p> <p>§671-490. Program of instruction and learning objectives.</p> <p>K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.</p>
Cynthia Gregory Parent of a child with a disability	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Children in every setting should be treated with dignity and respect and given the supports necessary to thrive.</p>	<p>See response to The Virginia Coalition of Students with Disabilities.</p> <p>§671-650. Prohibitions. Any action that is humiliating, degrading, or abusive is prohibited.</p> <p>§671-620. Student conduct.</p> <p>A. Each school shall provide a schoolwide environment that reinforces appropriate behaviors and assists students in becoming actively</p>

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		engaged in their own learning, academic, and behavioral success.
<p>Adam Warman, M.S. BCBA, LBA Director of Enrollment, Curriculum and Training at The Faison School for Autism</p>	<p>Proposes that in cases of imminent danger, it is vital for service providers to be able to intervene in a way that ensures the safety of everyone involved in the situation.</p> <p>The use of prone restraint is one of the safest types of physical restraints available in current practice, when implemented by trained staff.</p> <p>It is important for any training package to include the ideas of using the least restrictive treatment approach and of weighing the risk of intervention against the risk of the current imminently dangerous behavior.</p>	<p>§671-650. Prohibitions. The original list of prohibitions has been restored.</p> <p>§671-650. Prohibitions. The original listing of prohibitions has been restored in this section. Prone "face down" restraint is expressly listed as being prohibited and any other restraint that restricts breathing, or interferes with the child's ability to communicate.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
<p>Gwen Smith Parent of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Educate students with care and dignity while keeping staff safe when challenging situations arise.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Iris Anongos</p>	<p>Opposes the use of prone restrain and aversive stimuli and does not want prohibition deleted from the current requirements that forbid private schools from using those tactics.</p>	<p>§671-650. Prohibition. Prohibition language was restored to original section and expressly prohibits the use aversive.</p>
<p>Katrina VanHuss Parent of a child with a disability</p>	<p>Opposes the removal or easing of prohibition of restraints on disabled children.</p>	<p>§671-650. Prohibition. The prohibition of prone "face down" restraint has been restored. Restraints prohibited except in emergency situations to protect the student and others from personal harm, injury or death and other less restrictive interventions were unsuccessful.</p>
<p>Maxine and Richard Popik</p>	<p>Supports the comments of The Virginia Coalition of Students with</p>	<p>See responses to The Virginia Coalition of Students with</p>

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	Disabilities.	Disabilities.
Karen Jackson Director, Faith Inclusion Network	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Elizabeth Lennox Parent of a child with a disability	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Brenda Cookus	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Jeffrey S. Katz, Ph.D.	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Ceebro (unidentified email)	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
S. Renee Salas Virginia Board for People with The Virginia Coalition of Students with Disabilities	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Sandy Chung, MD President Fairfax Pediatric Associates, PC	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Christine Cadwallader	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Dacia Juhn	Untrained and unregulated individuals using dangerous procedures is not the answer. Meltdowns are an attempt to communicate. A safe and consistent protocol needs to be put in place.	§671-660. Managing student behavior in emergency situations. B. 6. Physical restraint may only be implemented, monitored, or discontinued by staff who have received proper training.
James Allan Jorgensen	Move forward towards fair and humane life for all humanity.	Changes should provide further indication and reiteration of intent to treat everyone fairly and humanely.
Denise Callahan Parent of a child with a disability	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Ray Snow Grandparent of a child with a disability	Requests reconsideration of the proposal to allow isolation and restraint.	§671-650. Prohibitions. The original list of prohibitions has been restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions."
Melissa Scott	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Laura L. Philpot Parent of a child with a	Urges the board of education to reject the application of adverse	§671-650. Prohibitions. The original listing of prohibitions has been

Commenter	Comment	Agency Response
disability	stimuli, restraints and seclusion.	restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions."
Stephanie Smith Lee	Supports the comments of The Virginia Coalition of Students with Disabilities. Many states are taking action to eliminate or severely limit restraints, seclusion and aversive practices.	See responses to The Virginia Coalition of Students with Disabilities. §671-650. Prohibitions. The original list of prohibitions has been restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions."
Kelly H. Fulk	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Ike Logan	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Vania O'Keefe	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Marlene Mandulak	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Keith Snow	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Linda Ciancio-Brown Parent Resource Center Coordinator – Hopewell	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Carolyn Peifer	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Elin Cortijo-Doval, Ph.D.	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Bill and Vanessa Brownley The Brownley Law Group	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Gary Farrar	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Dawn Peifer	Supports the comments of The Virginia Coalition of Students with Disabilities	See responses to The Virginia Coalition of Students with Disabilities.
Karen Marlo Parent of a child with a disability	Expressed a concern that regulations in no way hinder the ability of these schools to teach kids with special needs and would not	The proposed regulations continue to allow staff flexibility and creativeness in delivering services to students. The changes to the proposed

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	<p>want regulations that hinder innovation. Allow private schools the flexibility not available in public schools.</p> <p>Supports regulations with no further revisions.</p>	<p>regulations add greater protection for the safety of all students who attend private schools for students with disabilities.</p>
<p>Nichole Pangle Executive Director – ARC of Northern Shenandoah Valley</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Paul Kunberger</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Janet Lilly Parent of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p> <p>Communication needs to improve. Teachers shouldn't ignore individuals who know these kids best. The schools should work with parents and not against to serve these special individuals.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p> <p>§671-450. Student achievement expectations. A. Schools shall develop strategies to address the learning, behavior, and communication needs of individual students in collaboration with the parent.</p>
<p>Elizabeth Edens Paraprofessional Colonial Heights Public Schools Parent of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities. Protect this population of individuals in our community from being subjected to such cruel and inhumane practices.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Eleanor Stickleby Parent of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities. Opposes deletion of current regulatory requirements that protect students from harmful restraints, seclusion, and aversive interventions.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Karen A. Singleton, MD, MPH Parent of a child with a disability</p>	<p>Expressed concern about the development of regulations in regard to the use of restraint, seclusion, and aversive practices among disabled school children. Proposes that any use of restraints should be documented, closely monitored, and appropriate training should be provided to staff. The use of aversive should be forbidden. Transparency is critical with open lines of communication with parents. Opposes prone restraint and</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>

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	<p>aversive practices.</p> <p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p>	
<p>Bradford Hulcher Parent of a child with a disability</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Requests a change in language of the proposed regulations to remove the use of restraint, seclusion, or aversive for students with disabilities.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Rob Woomer</p>	<p>Restraints are dangerous and should never be part of an integral part of a behavioral plan unless directly supervised by a qualified physician.</p> <p>Do not allow schools to restrain children without full consent and knowledge of the parent.</p> <p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Sue Taylor Parent of children with The Virginia Coalition of Students with Disabilities</p>	<p>Supports the use of positive behavior support, such as TOVA.</p>	<p>The Department of Education does not endorse any one particular behavior management program. A school would not be allowed to use any program that violates the Board of Education's regulations.</p>
<p>Beth Troutman</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities.</p> <p>Expressed concern use of restraint and seclusion for students with disabilities may be discriminatory and be a violation of ADA.</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Angela Cimmino, Pharm.D.</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Elizabeth Sayre</p>	<p>Opposes the inclusion of the proposed language governing the use of restraint, seclusion, and aversive with children with disabilities in private schools.</p>	<p>§671-650. Prohibitions. The original list of prohibitions has been restored in this section.</p> <p>There was never an attempt to allow any of the actions listed under "Prohibitions."</p>
<p>Mary Ann Wolfgang</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>
<p>David Cordell</p>	<p>Supports the comments of The Virginia Coalition of Students with Disabilities</p>	<p>See responses to The Virginia Coalition of Students with Disabilities.</p>

Commenter	Comment	Agency Response
Joy Prickett	Opposes use of aversive behavior interventions, prone restraint, and seclusion in private institutions.	<p>§671-650. Prohibitions. The original list of prohibitions has been restored in this section.</p> <p>There was never an attempt to allow any of the actions listed under "Prohibitions."</p> <p>§671-10. The definition of "aversive stimuli" has been added.</p>
Juliet Hiznay	<p>Expressed concern of how private educational facilities would view changes in the regulations.</p> <p>The risk of abuse is high for students unable to communicate, potential damage is too great.</p> <p>Agrees with language of Just Children. Suggests that prohibitions be restored in the regulations.</p>	Private school feedback indicates the schools have no problem with restoration of language within the prohibition section that was removed only because it was duplicative of language that prohibited the actions elsewhere in the proposed regulations. Added definitions provide further clarity to all. Private schools' first priority is safety of all students.
Angela A. Ciolfi Legal Director, JustChildren Program Legal Aid Justice Center	<p>The proposed regulations appear to provide a high degree of latitude to providers to use harmful techniques.</p> <p>We hope the clear prohibitions will be restored before they go to the board on a final vote.</p>	See responses to The Virginia Coalition of Students with Disabilities.
Sheri B. Langham	<p>Request to restore the proposed language prohibiting application of aversive stimuli.</p> <p>Restore the proposed language prohibiting prone face down restraint and add a prohibition on "restraint that is life-threatening, including restraint that restricts breathing".</p> <p>Strengthen the language so the use of restraint and seclusion is prohibited unless there is an emergency threatening an immediate danger of physical injury and less restrictive measures have failed or would be ineffective to resolve the situation.</p>	<p>§671- 650. Prohibitions. A. 9. Application of aversive stimuli has been restored as a prohibition.</p> <p>§671-10. Definitions. The definition of "aversive stimuli" has been added.</p> <p>§671-650. Prohibitions. Prone "face down" restraint has been restored as a prohibition and any other restraint that restricts breathing, or interferes with the child's ability to communicate has been added.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other</p>

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	<p>Revise the definition of positive behavioral interventions.</p> <p>Add language to forbid the inclusion of restraint and seclusion in any student's formal behavior management program, ban aversive, and never permit restraint/seclusion for maladaptive behaviors.</p> <p>Restraint and seclusion are emergency interventions to be used only in crises in which they are necessary to prevent an imminent threat of physical injury. Ban restraint or seclusion that prevents a child from communicating distress or danger.</p>	<p>interventions were deemed inadequate or inappropriate.</p> <p>There is no definition stated for "positive behavioral interventions."</p> <p>§671-630. Behavior intervention. E. Deleted language from proposed regulation.</p> <p>§671-660. Managing student behavior in emergency situations. B. 2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more appropriate behavior; and (b) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.</p> <p>See the responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Victoria Ducheneauz Grandparent of children with The Virginia Coalition of Students with Disabilities</p>	<p>Request to restore the proposed language prohibiting application of aversive stimuli.</p> <p>Restore the proposed language prohibiting prone face down restraint and add a prohibition on "restraint that is life-threatening, including restraint that restricts breathing".</p> <p>Strengthen the language so the use of restraint and seclusion is prohibited unless there is an emergency threatening an immediate danger of physical injury and less restrictive measures have failed or would be ineffective to resolve the situation.</p> <p>Revise the definition of positive behavioral interventions.</p>	<p>§671-650. Prohibitions. The original list of prohibitions has been restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions."</p> <p>See the responses to The Virginia Coalition of Students with Disabilities.</p>

Commenter	Comment	Agency Response
	<p>Add language to forbid the inclusion of restraint and seclusion in any student's formal behavior management program, ban aversive, and never permit restraint/seclusion for maladaptive behaviors.</p> <p>Restraint and seclusion are emergency interventions to be used only in crises in which they are necessary to prevent an imminent threat of physical injury.</p> <p>Ban restraint or seclusion that prevents a child from communicating distress or danger.</p>	
MJ Dean	Opposes deletion of requirements that protect students from harmful restraints, seclusion and aversive interventions.	§671- 650. Prohibitions. Prohibitions have been restored in this section to include restraints, aversive stimuli, and seclusion. §671- 10. Definition of "aversive stimuli" has been added.
Allison Thurman	Opposes deletion of requirements that protect students from harmful restraints, seclusion and aversive interventions. Doing so is harmful and counter to evidence based practice.	§671- 650. Prohibitions. Prohibitions have been restored in this section to include restraints, aversive stimuli, and seclusion. §671- 10. Definition of "aversive stimuli" has been added.
Michelle Redmond Parent of a student with a disability	Reconsider deletion of requirements that protects students from harmful restraints, seclusion, and aversive interventions.	§671- 650. Prohibitions. Prohibitions have been restored in this section to include restraints, aversive stimuli, and seclusion. §671- 10. Definition of "aversive stimuli" has been added.
Marcia Fisher	Opposes removal of prohibition against the use of prone and aversive restraints in any educational setting.	§671-650. Prohibitions. Restraints, including prone "face down" restraints, aversive stimuli, and seclusion have been restored in this section.
Richard Foster	<p>The use of restraint should be the rare exception and not the rule. It should be carefully documented and should only be used within carefully proscribed (sic) policy. Parents should be notified whenever this occurs and an intervention meeting should be held with school and parents to discuss the situation.</p> <p>The restraint should be filmed or otherwise documented. Restraint devices and procedures should be designed to be the least restrictive possible and not life-threatening</p>	§671-660. Managing student behavior in emergency situations. B.10. Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the physical restraint or seclusion, behavior antecedents, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report

Commenter	Comment	Agency Response
	<p>under any circumstance.</p> <p>No one should be left in restraint for extended periods of time or on a regular basis. It should only be used for a brief behavioral intervention and only in the most severe of circumstances.</p>	<p>and date, and reviewer's signature and date. The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.</p> <p>§671-670. Videotaping. Filming is not a requirement.</p> <p>§671-660. Managing student behavior in emergency situations. B.1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.</p>
Paula C. Durbin-Westby	<p>Opposed to changes that would allow restraints, aversive, and seclusion to be used on children in private special education schools.</p> <p>The proposed changes will sanction abuse of Virginia's private students, while keeping regulations in place that attempt to protect public school students.</p> <p>The proposed changes single out Virginia's private school students for a "look the other way" policy that will endanger these students' well-being and safety.</p>	<p>§671-650. Prohibitions. Restraints, aversive stimuli, and seclusion have been restored in this section and expressly listed as prohibitions.</p> <p>Review the responses to The Virginia Coalition of Students with Disabilities.</p>
Cyndi Pitonyak Coordinator Positive Behavior Interventions & Supports Montgomery County Public Schools	Opposes deletion of the current regulatory requirements that protect students from harmful restraints, seclusion, and aversive interventions designed to address problem behavior.	<p>§671-650. Prohibitions. Restraint, aversive stimuli, and seclusion were restored to this section.</p> <p>§671-650. Restraint, aversive stimuli, and seclusion are also prohibited in this section.</p> <p>Review the responses to The Virginia Coalition of Students with Disabilities.</p>
Eleanor Stickley	Do not delete requirements that	§671-650. Prohibitions.

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Parent of a child with a disability	protect students from harmful restraints, seclusion, and aversive interventions.	Application of aversive stimuli has been restored as a prohibition. §671-10. Definitions. The definition of aversive stimuli has been added.
Alison Bell Parent of a student with a disability	Prohibit the use of prone restraint and aversive in Virginia's private schools for all children, including those with disabilities.	§671-650. Prohibitions. Application of aversive stimuli, restraint, and seclusion has been restored. §671-10. The definition of aversive stimuli has been added.
Ian Ford	There are different rights applied to people with disabilities and those without disabilities. The State is considering allowing application of aversive stimuli-such as introduction of foul or burning substances, deprivation of senses, and excessively loud sounds – and allowing prone restraint that impede breathing. Discrimination on the basis of disability will be legal. Torture of children will be legal.	§671-650. Prohibitions. Application of aversive stimuli, restraint, and seclusion has been restored under prohibitions. §671-660. Managing student behavior in emergency situations. The section also prohibits restraint and seclusion. Restraint and seclusion can only be used in emergency situations.
Vincent Caballero Certified Special Education Advocate COPAA Member	Opposes the use of restraint as a method of circumventing behaviors that would be more appropriately addressed and ameliorated with the use of positive behavior interventions. Restraint is too aversive and does nothing to provide adaptive behavior.	§671-650. Prohibitions. The original list of prohibitions has been restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions." §671-10. Definitions. The definition of "aversive stimuli" has been added.
Stacy Smith	Request to not delete requirements that protect students from harmful methods. Requested that the public be provided with research that demonstrates the effectiveness of abusive restraints, seclusion, and aversive stimuli.	§671-650. Prohibitions. The original list of prohibitions has been restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions." §671-10. Definitions. The definition of "aversive stimuli" has been added.
Allyson Hough Mahmood	Do not delete requirements that protect students from harmful restraints, seclusion and aversive interventions. Doing so is harmful and counter to evidence based practice.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli.

Commenter	Comment	Agency Response
Jill Ryland, MD Pediatric Partnership, P.C.	Do not delete requirements that protect students from harmful restraints, seclusion, and aversive interventions.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli.
Kimberly Lett disAbility Resource Center Program Manager and Deputy Director and parent of a student with a disability	<p>The proposed regulations would allow the “application of aversive stimuli” and restraints that could impede breathing.</p> <p>The regulations lack specificity about when restraint and seclusion can be used.</p> <p>Without guidelines and proper staff training, this could result in the use of these methods in situations other than when there is imminent danger of physical injury and when less restrictive measures have failed.</p> <p>The proposed regulations need to be changed or amended with regards to aversive stimuli, restraints, and guidelines for use of any action staff take to calm students in their care.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint and seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p> <p>A. 3. Schools are required to have policies and procedures and to develop and implement behavior management in order of their degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained personnel.</p>
Nancy P. Hemenway INCIID Executive Director	It is not acceptable that any regulations would allow application of aversive stimuli such as introduction of foul or burning substances, deprivation of senses, excessively loud sounds; allow restraints that impede breathing (as a prone restraint does); or use any type of isolation or seclusion. Opposes the proposed regulations related to aversive stimuli, restraints that impede breathing, or use of any type of isolation.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
George Rathbone, EdM., NCC, CCBT, CBIS, PFSF Director Developmental Support Associates, LLC	<p>There is no place for “support rooms” in our schools.</p> <p>Prone restraint should not be used in the community or in schools. Suggests that those authorized to</p>	<p>“Support rooms” are allowed only under the conditions stated in §671-660. B. 7. Managing student behavior in emergency situations.</p> <p>B. 7. The door to any room in which</p>

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	<p>use physical restraint in schools should be required to practice regularly under supervision.</p> <p>The use of aversive substances to treat behavioral issues is unnecessary, ineffective, and inhumane.</p>	<p>a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the staff member steps away from it. The room must meet specification including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency.</p> <p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>Recognized behavior management program that include restraint protocols have a required schedule for refresher training. Regular practice is not expressly addressed in the regulations.</p>
<p>Ken Yasnowsky Parent of a child with a disability</p>	<p>Do not allow the use of prone restraint and aversive in private (or public) schools.</p> <p>Do not delete requirement that forbid private schools from using those tactics.</p> <p>Schools must develop safe and humane ways to teach children proper behavior.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
<p>Maria Scholnick Santa Cruz Parent Love Connection and parent of a child with a disability</p>	<p>Opposes deletion of the current regulatory requirements that protect students from harmful restraint, seclusion, and adverse interventions.</p>	<p>§671-650. Prohibitions. The original list of prohibitions has been restored in this section. There was never an attempt to allow any of the actions listed under "Prohibitions."</p>
<p>Pete Wright, Pam Wright, and Sue O'Connor Wrightslaw</p> <p>Darrel Tiller Mason</p> <p>Candace Cortiella Advocacy Institute</p> <p>Patricia E. Roberts Clinical Associate</p>	<p>The regulations would permit the use of aversive stimuli by removing a planned prohibition from the draft regulations.</p> <p>Concerned that the regulations do not require that less restrictive interventions be used or deemed ineffective before restraint/seclusion are used.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency</p>

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<p>Professor of Law Director, Clinical Programs and PELE Special Education Advocacy Clinic – William and Mary Law School</p> <p>JustChildren Legal Aid Justice Center Jamie Ruppman Past President – Virginia Chapter Autism Society of America Past President – Fairfax County Advisory Committee for Students with The Virginia Coalition of Students with Disabilities and Past Chairperson – Northern Virginia Association for Learning The Virginia Coalition of Students with Disabilities</p> <p>William B. Reichhardt Adrienne E. Volenik Bill and Vanessa Brownley Melissa K. Waugh Sheree Brown – Kaplan, Founder and Chair – Fairfax Alliance for Appropriate Public Education (FAAPE) Cheryl Poe Patrick Sensiba Jane Burnette Jessica Butler</p>	<p>Concerned that the regulations would permit the use of restraint/seclusion for property damage that “may” threaten physical injury.</p>	<p>situation-and is necessary to protect the student or another person from imminent danger of physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate. The last statement was revised to delete reference to "causing severe property damage that may result in personal injury."</p> <p>See the responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Jamie Liban Executive Director The Arc of Virginia</p>	<p>The Board should not delete current regulatory requirements that protect students from harmful restraints, seclusion and aversive interventions.</p> <p>The changes to the regulations would be harmful to people with intellectual and developmental disabilities because they:</p> <p>Allow the application of aversive stimuli such as introduction of foul or burning substances, deprivation of senses, and excessively loud sounds.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation-and is necessary to protect the student or another person from imminent danger of physical harm after less intrusive interventions have been attempted and failed to</p>

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	<p>Allow restraints that impede breathing</p> <p>Lack clarity about when restraint and seclusion could be used which could result in their use in situations other than when there is imminent danger of physical injury and when less restrictive measures have failed or would be ineffective</p> <p>Allow the use of restraint and seclusion for severe property damage that may result in personal injury.</p> <p>The Arc is opposed to all aversive procedures, such as deprivation, seclusion and isolation.</p> <p>The Arc is opposed to the use of life-threatening, prone restraint, which impedes learning.</p> <p>Do not delete current regulatory requirements that protect students from harmful restraints, seclusion and aversive interventions.</p>	<p>manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
<p>Maureen Devaney – VA TASH Special Education Teacher Christiansburg High School, Montgomery County Public Schools</p> <p>Liz Altieri – Professor, Special Education Program Area, School of Teacher Ed and Leadership, Radford University</p> <p>Melissa Ainsworth – Doctoral Student in Special Education, parent</p> <p>Cornelia L. Izen – Assistant Professor of Special Education, George Mason University</p>	<p>Requests reconsideration of the use of restraints, seclusion, and aversive stimuli for people with disabilities in schools.</p> <p>Instead of resorting to inhumane actions such as seclusion, aversive, and restraints, there needs to be a Functional Behavior Plan or Adaptive Behavior Plan to figure out why the student is acting out and a positive behavior support plan to address and teach acceptable behaviors.</p> <p>Team members working with students need to be highly trained in positive behavior support plans and not how to restrain a child.</p> <p>Consider input before making changes which take equality and civil rights out of Virginia schools.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation-and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p> <p>§671-660. Managing student</p>

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<p>Jessica Morris – Autism Specialist, Montgomery County Public Schools</p> <p>Brad Powers – Special Education Teacher, Montgomery County Public Schools</p> <p>Suzanne Ripley – Director, Accessing Disability Services</p>		<p>behavior in emergency situations.</p> <p>B. 2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more appropriate behavior; and (b) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.</p>
<p>Mary W. Grimm, M. Ed Educator, Parent Advocate and Educational Consultant to The Arc of Virginia</p>	<p>Vote against restraint, seclusion and aversion.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation-and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
<p>Wendy Holland, CAM</p>	<p>Do not delete regulatory requirements that protect students from harmful restraints, seclusion, and aversive interventions.</p> <p>Amendments should be added to proposed regulations to better protect students.</p> <p>The proposed regulations:</p> <p>Allow the application of aversive stimuli such as introduction of foul or burning substances, deprivation of senses, and excessively loud sounds.</p> <p>Allow restraints that impede breathing</p> <p>Lacks clarity about when restraint</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations B. Physical restraint or seclusion is allowed only in an emergency situation-and is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed</p>

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	<p>and seclusion could be used which could result in their use in situations other than when there is imminent danger of physical injury and when less restrictive measures have failed or would be ineffective.</p> <p>Allow the use of restraint and seclusion for severe property damage that may result in personal injury.</p>	<p>inadequate or inappropriate.</p> <p>Restraint is not allowed for property damage.</p>
<p>Liane Rozzell Founder Families & Allies of Virginia's Youth</p>	<p>Request to restore the bans on prone restraints and aversive behavioral interventions in the proposed regulations. Removing them may endanger these students as well as staff in the schools.</p> <p>The use of aversive interventions is also problematic, as it can escalate a bad situation and does nothing to positively teach a youth to modulate their behavior. Seclusion, restraints and aversive interventions increase their risk. Schools should use many proven methods of reducing conflict, teaching and supporting positive behaviors, and increasing students' connection with their learning community.</p> <p>Oppose allowing the use of prone restraints and aversive. The regulations governing private schools should not delete the current requirements that forbid private schools from using these tactics.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation-and is necessary to protect the student or another person from imminent danger of physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p> <p>§671-490. Program of instruction and learning objectives. K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.</p> <p>§671-620. Student conduct. A. Each school shall provide a schoolwide environment that reinforces appropriate behaviors and assists students in becoming actively engaged in their own learning, academic, and behavioral success.</p>

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<p>Austin Mulloy, Ph.D. Assistant Professor Department of Special Education and Disability Policy School of Education Virginia Commonwealth University</p>	<p>Do not delete the requirements that protect students from harmful restraints, seclusion and aversive interventions.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation-and is necessary to protect the student or another person from imminent danger of physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
<p>Andrea Carpenter</p>	<p>Opposes the proposed regulations.</p>	<p>Refer to the responses to The Virginia Coalition of Students with Disabilities.</p>
<p>Susan Schilling Parent of a child with a disability</p>	<p>Opposes the use of restraints in school.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
<p>Deidre Hammon Senior Advocate Center for Self Determination, Inc.</p>	<p>Opposes the use of aversive interventions, including seclusion, in school. Requests that teachers learn how to use positive behavioral interventions.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B.1 and B.2. Requires staff to develop positive behavioral strategies.</p>
<p>Mindy Schwartz Katz, MS, ACC ADHD/Life Coach</p>	<p>Do not delete requirements that protect students from harmful restraints, seclusion and aversive interventions.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
<p>Ray Fowler Board Member ArcNSV</p>	<p>Continue preventing restraints, seclusion and unhealthy interventions for the disabled populations of Virginia.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>

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Marilyn Matula	<p>Do not vote to disregard COPAA's Declaration of Principles Opposing the Use of Restraint, Seclusion and Aversive Interventions or delete requirements that protect students.</p> <p>I stand in direct opposition to these proposed regulation changes.</p> <p>These new regulations are in direct conflict with current evidence based practice.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing</p> <p>§671-490. Program of instruction and learning objectives. K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.</p>
Liz Uebelhoer DD Case Manager disability Resource Center	<p>Concerned about the possible deletion of requirements that protect students from harmful restraints, seclusion and aversive interventions.</p> <p>ABA therapy and other behavior interventions work and should be used on any student with behavior issues before further action is taken.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing</p> <p>§671-450. Student achievement expectations. A. Schools shall identify and develop strategies to address the learning, behavior, and communication needs of individual students in collaboration with the parent.</p>
Jennifer Lockwood President, Stafford County Special Education PTA Parent of a child with a disability	<p>Do not delete requirements that protect students from harmful restraints, seclusion and aversive interventions.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and the application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Tania L. Whiteleather Special education attorney	<p>Do not delete requirements which protect students from harmful restraints, seclusions, and aversive interventions.</p> <p>The deletion of such requirements would be harmful to children; as such practices – restraints, seclusions, and aversive interventions—are counter to respected evidence-based practices.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Lucy Beadnell Director of Advocacy Arc of Northern Virginia	<p>Supports maintaining current prohibitions on prone restraint and aversive interventions.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Virginia Mackintosh, Ph.D. Assistant Professor of	<p>Do not remove the prohibitions on using prone restraints and aversive behavior interventions.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and</p>

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Psychology University of Mary Washington	There are safer and more effective alternatives to using prone restraints and aversive behavior interventions. We should be moving toward more thoughtful and humane approaches.	application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing
Alice McKay Cooper	Proposed regulations could result in inhumane practices. Urges the rejection of proposals to allow time for consideration of better alternatives.	Consideration was delayed one month with all comments considered.
Kim Shanks Parent of a child with a disability	Opposes use of restraint in private schools.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Amy Burman	<p>Do not delete requirements that forbid private schools from using prone restraints and aversive behavior interventions.</p> <p>Expressed concern about humane treatment of people with disabilities, especially true of children in residential programs who have no one to stand up for them and whose voices go unheard.</p> <p>Keep the current requirements against prone restraint and aversive behavior interventions in place.</p>	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Tierney Temple Fairchild, Ph.D. Socratic Solutions, Inc.	<p>Concerned about the deletion of restrictions on use of prone restraint and aversive.</p> <p>Please follow best practices in this area, as they are available to protect our students. We need thoughtful consideration of any changes that could potentially harm even one child.</p>	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Tammy Burns	Opposes allowing the use of prone restraint and aversive. Regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Kate Flinn Parent of a child with a disability	<p>Say no to allowing the use of prone restraint.</p> <p>Routine force is never the best route to take, especially with children, and especially with special needs</p>	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing

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	<p>children and allowing or even encouraging force to be used as a strategy to address instructional problems or inappropriate behaviors is a step backward.</p> <p>Educating and training teachers, staff, aides, and administrators in positive behavior interventions and supports when working with special needs children is a best practices solution, and will be a long term solution to creating a positive, compassionate atmosphere.</p>	<p>§671-490. Program of instruction and learning objectives. K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.</p> <p>§671-660. Managing student behavior in emergency situations. B.1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.</p>
<p>Gail Dolan, MD, FAAP Bristow Pediatrics</p>	<p>Expressed concern for changing the current regulations regarding restraint and seclusion practices for disabled students in private schools in Virginia.</p> <p>Proper regulatory requirements that protect students from harmful restraints, seclusion and aversive interventions be maintained.</p> <p>These students are some of the least able to advocate for themselves, so we need to advocate for them and ensure their safety.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing</p>
<p>Wendi K. Strickland ASOL Autism Matoaca High School Chesterfield County Public Schools</p>	<p>Oppose allowing the use of prone restraint and aversive.</p> <p>The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.</p> <p>Hopes that Virginia addresses issues and deficits regarding the support of people with disabilities in a way that is positive, person centered, and takes steps toward the full equality of individuals who have disabilities.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-490. Program of instruction and learning objectives. K. Each school shall implement evidence-based practices to improve academic, behavior, and social outcomes for all students.</p>
<p>Clemnita</p>	<p>Against the ruling of changing the</p>	<p>§671-650. Prohibitions.</p>

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Unidentified email Parent of a child with a disability	regulations that will not protect our children from harm.	Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
L.S. Cantrell J.T. Nix, Jr. J.T. Nix, III L.J. Cantrell	Request that the Virginia Department of Education not remove the current requirements that protect students from harmful restraints, seclusion and aversive interventions.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Leslie O'Neal Parent of a child with a disability	Oppose allowing the use of prone restraints and aversive. The regulations governing private schools should not delete the requirements that forbid private schools from using these tactics.	§671-650. Prohibitions. Language was restored regarding restraint, seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Jesse Senechal Assistant Director for Research and Evaluation Virginia Commonwealth University	Oppose allowing the use of prone restraints and aversive in private schools licensed by the state of Virginia. Do not vote to remove these prohibitions.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Mira Levine	Opposes removal of the regulation banning the use of prone restraints and aversive. We need to protect the civil rights of people with disabilities who are so vulnerable and often lack the ability to speak for themselves or access help if needed.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Anh Nguyen	Expresses opposition to allowing the use of prone restraint and aversive. The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Medina Wilkerson Parent of a child with a disability	Oppose the use of restraints and aversive in private schools. Do not delete the current requirements that forbid private schools from using such abusive tactics as restraints and aversive.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Patricia Knicely Member Arc of Virginia	Oppose prone restraint and aversive proposed as a change to the current policy at private schools.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added

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		language to clarify prohibition of any restraint that impedes breathing.
Sue Randolph, RN, CCM Deputy Executive Director The Arc of Greater Prince William/INSIGHT, Inc.	Opposed the repeal of requirements that allow for aversive strategies and prone restraints to be used on children. They are completely unnecessary when skilled, well trained staff is intervening during crisis situations.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
V. Colleen Miller Executive Director Virginia Office for Protection and Advocacy	<p>Concerned with the proposed regulations relating to private residential and day program schools.</p> <p>Concerned that the proposed changes to the regulations appear to allow private school providers to use seclusion, restraint, and aversive stimuli.</p> <p>Recommend the regulations restore the language prohibiting application of aversive stimuli. The regulations should also prohibit the use of prone and face-down restraint in all situations.</p> <p>We urge the Department of Education to prohibit all use of seclusion and restraint in these regulations.</p> <p>At a minimum, the regulations must contain stronger language limiting the use of restraint and seclusion to those situations where there is imminent danger of physical injury and only when less restrictive measures have failed.</p> <p>The regulations should make clear that seclusion and restraint may never be used to protect them against harm to property.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, prone restraint, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-10. Definitions. A definition for aversive stimuli has been added and both mechanical and pharmacological restraints are defined.</p> <p>§671-660. Managing student behavior in emergency situations. B. Physical restraint or seclusion is allowed only in an emergency situation and is necessary to protect the student or another person from imminent danger of physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.</p>
Joanne Groover	<p>Express thoughts on the proposed use of prone restraints and aversive.</p> <p>Raised questions on how staff would be monitored and held accountable.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p> <p>§671-660. Managing student behavior in emergency situations. B. 10. Each application of physical restraint or seclusion shall be fully</p>

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		documented in the student's record including date, time, staff involved, justification for the physical restraint or seclusion, behavior antecedents, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date. The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.
Debe Fults Executive Directory, disAbilityResource Center of the Rappahannock, Inc.	Oppose allowing the use of prone restraints and aversive. The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Samantha Richardson-Epps	Oppose allowing the use of prone restraint and aversive on students with disabilities placed in private schools licensed by the state. The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics. Add more special needs and sensitivity training.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing. §671-350. Staff development. This section addresses staff development and training. Additional training could be required for a school as the need is determined through the Virginia Department of Education's monitoring of a school.
Mary Ann Cisne Educator	Oppose removal of the prohibitions of prone restraint and aversive used in private school settings. Suggest that no public money be used in settings that use these techniques.	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.
Heidi Poon	No prone restraints or aversive	§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any

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Joseph Patrick Anthony Parent of a child with a disability	<p>Oppose allowing the use of prone restrains and aversive.</p> <p>The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.</p>	<p>restraint that impedes breathing.</p> <p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Neal L. Waters Attorney at Law Scott/Kroner, PLC	<p>Oppose the proposed changes to the regulations which would permit the use of prone restraints and aversive interventions by private schools licensed by the Commonwealth.</p> <p>Questions if private schools cannot educate students without such methods should the schools be licensed at all.</p> <p>Oppose the adoption of regulations which would permit the use of prone restraints and aversive interventions by private school operators.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Melinda Whitehurst	<p>Oppose allowing the use prone restraint and aversive.</p> <p>The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Mary Anna Dunn	<p>Oppose allowing the use of prone restraint and aversive.</p> <p>The regulations governing private schools should not delete the current requirements that forbid private schools from using those tactics.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>
Laura Lewis	<p>Agree with the proposed legislation to allow for licensing for private and residential facilities by the Virginia Department of Education, opening up options for these students that would not have a place to be educated.</p>	<p>The proposed regulations hold private schools for students with disabilities to greater accountability for student safety and student learning.</p>
Juliet Hiznay	<p>Several important safeguards for students have been deleted from the draft to accommodate consistency with other agencies. Supports prohibitions restored in the regulations.</p>	<p>§671-650. Prohibitions. Language was restored regarding restraint and seclusion, and application of aversive stimuli. Added language to clarify prohibition of any restraint that impedes breathing.</p>

Commenter	Comment	Agency Response
	<p>Concerned about the deletion of the prohibitions on aversive stimuli and strip and body cavity searches. Clarify the very limited circumstances under which this might be considered acceptable, if at all. This is a human rights issue.</p> <p>No provisions for the nature or extent of the training requirements for those who engage in restraint and seclusion practices.</p> <p>There should be a regulatory provision that imposes a requirement that a functional behavior analysis (FBA) be performed by a BCBA after a given number of restraint and seclusion incidents have occurred within a given period of time with a specific student.</p> <p>Definition of "Time Out" not sufficiently clear. What is an open location?</p>	<p>Strip and body cavity search was restored to the "Prohibition" section.</p> <p>§671-660. Managing student behavior in emergency situations. B. 6. Physical restraint may only be implemented, monitored, or discontinued by staff who has received proper training.</p> <p>§671-660. Managing student behavior in emergency situations. B.1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them. B.2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for: (a) teaching and supporting more appropriate behavior; and (b) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.</p> <p>An open location is any area the student can leave on his own.</p>

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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

These are new regulations to govern the operation of all private schools for students with disabilities, including private day schools and schools in children's residential facilities and group homes. There are no existing regulations that govern all private schools for students with disabilities.