



Virginia Department of Planning and Budget **Economic Impact Analysis**

8 VAC 20-23 Licensure Regulations for School Personnel
8 VAC 20-543 Regulations Governing the Review and Approval of Education Programs in Virginia
Department of Education
Town Hall Action/Stage: 5662 / 9155
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Summary of the Proposed Amendments to Regulation

The Board of Education (Board) proposes to amend 8 VAC 20-23 *Licensure Regulations for School Personnel* and 8 VAC 20-543 *Regulations Governing the Review and Approval of Education Programs in Virginia* to reflect 2019 and 2020 Acts of Assembly.

Background

Except for the two discretionary changes noted, the proposal essentially inserts text from the legislation described below verbatim into the regulations.

Technical Professional License

Chapter 108 of the 2020 Acts of Assembly states that the Board “shall amend its regulations to require that persons seeking a technical professional license with an endorsement to teach military science have either the appropriate credentials issued by the United States military or a recommendation from a Virginia employing educational agency.” The Board’s proposal incorporates those specific options into *Licensure Regulations for School Personnel*.

Chapter 684 of the 2020 Acts of Assembly states that the Board shall permit any individual who seeks a technical professional license to “substitute the successful completion of an intensive, job-embedded, three-year program of professional development for the nine semester hours of professional studies required for such license,” and the Board proposes to add this statutory text to *Licensure Regulations for School Personnel*. In addition, the board proposes a discretionary change to this text, which would insert “submitted by a Virginia employing

educational agency and preapproved by the Department of Education” after “program of professional development” and before “for the nine semester hours of professional studies required.”

Provisional License

The board also proposes two verbatim changes addressing provisional licensure that directly incorporate statutory text into *Licensure Regulations for School Personnel*. Chapter 639 of the 2020 Acts of Assembly states that the Board “shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher employed in an accredited private elementary or secondary school or a school for students with disabilities that is licensed pursuant to Chapter 16 (§ 22.1-319 et seq.)” This extension would occur “upon receiving from the school administrator of such school (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license.”

In addition, Chapter 640 of the 2020 Acts of Assembly amended Code of Virginia (COV) § 22.1-298.1.F to add an additional factor addressing when the Board shall issue a provisional license. Namely, that issuance may occur “at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year.”

Reprimand

Prior to Chapter 587 of the 2019 Acts of Assembly, 1) COV § 22.1-292.1.A stated that the Board could suspend or revoke an administrative or teaching license for knowingly and willfully committing specified acts related to secure mandatory tests administered to students, and 2) COV § 22.1-304.C stated that in the event that the Board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, the Board could revoke the teacher's license. Chapter 587 adds written reprimand as an additional option for discipline for both of these situations, and the Board proposes to add this option to *Licensure Regulations for School Personnel*.

In addition to the above, the Board also proposes, as a discretionary change, to state in *Licensure Regulations for School Personnel* that it may issue a written reprimand of a license holder:

In accordance with law and at the discretion of the Board of Education after reviewing the specific facts and circumstances of a license holder's case and determining that the license holder's conduct is not sufficiently serious or harmful to merit the withdrawal of a license, any of the reasons that a license may be revoked or suspended listed in 8VAC20-23-720 A and 8VAC20-23-740 A, respectively, except (i) conviction of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 of the Code of Virginia and (ii) any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

Education Preparation Programs

Chapter 870 of the 2020 Acts of Assembly (Chapter 870) states that education preparation programs offered by public institutions of higher education and private institutions of higher education shall ensure that, "as a condition of degree completion, each student enrolled in the education preparation program receives instruction on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion." The board proposes to add this statutory text to *Regulations Governing the Review and Approval of Education Programs in Virginia*.

Estimated Benefits and Costs

Most of the proposed changes consist of close to verbatim insertions of statutory text into the regulations. As noted above, there is one exception in *Technical Professional License*, and one in *Reprimand*. As a result, most of the effects of this regulatory change would result from the enabling legislation and cannot be directly attributed to the proposed regulatory changes by themselves.

Technical Professional License

Military science classes through U.S. military services are taught by teachers who hold the appropriate credentials issued by the U.S. military. All teachers assigned to courses associated with the U.S. military would continue to need the appropriate credential issued by the military. According to DOE, a school division worked with a legislator to sponsor a bill to allow

for the creation of a leadership class that is not associated with the U.S. military programs. For this class, the person seeking a technical professional license with an endorsement to teach military science could have either the appropriate credentials issued by the United States military or a recommendation from a Virginia employing educational agency. This would help school divisions find people qualified to teach a leadership class.

Allowing any individual who seeks a technical professional license to substitute the successful completion of an intensive, job-embedded, three-year program of professional development submitted by a Virginia employing educational agency and preapproved by the Department of Education (DOE) for the nine semester hours of professional studies required for such license creates an alternative path to obtaining a technical professional license, which may in turn lead to more individuals earning this license.

Provisional License

The enabling of the extension, or essentially the one-time renewal of a provisional license, is beneficial for teachers who have difficulty fulfilling all of the requirements for full licensure. In practice, these teachers are granted extra time to fulfill all such requirements. Given the ongoing teacher shortage,¹ the increase in time allowed with a Provisional License helps alleviate the shortage to a degree.

Reprimand

The introduction of the written reprimand produces an additional possible punishment that is less harsh than suspension or revocation of the administrative or teaching license. Though a reprimand does not remove licensure, it still can have concrete repercussions.

The main repercussion or effect of the issuance of a written reprimand against a license holder is the reporting of the reprimand. Like other licensure actions, the reprimand would be reported to division superintendents in Virginia through a monthly memo. It also would be posted on the DOE website and reported to other states and territories through a national clearinghouse, the National Association of State Directors of Teacher Education and Certification (NASDTEC). Reporting through the clearinghouse ensures that other states are made aware of the matter in determining whether to issue a license to the individual in the other

¹ Source: DOE. See https://www.doe.virginia.gov/teaching/workforce_data/index.shtml and <https://www.education.virginia.gov/media/governorvirginiagov/secretary-of-education/pdf/final-acts-report.pdf>

state and, if the individual already holds a license in another state, would inform the other state and allow such jurisdiction(s) to decide if the matter warranted action against the other state license. As all school divisions in the Commonwealth are local education agency members of NASDTEC, they are able to search the Clearinghouse and determine if applicants or employees have had actions against their license (including a written reprimand, once in force) and may consider the reprimand and the conduct underlying the reprimand when making hiring and employment decisions.

Education Preparation Programs

As stated above, Chapter 870 states that education preparation programs offered by institutions of higher education shall ensure that, as a condition of degree completion, each student enrolled in the education preparation program receives instruction on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion. The Fiscal Impact Statement² for Chapter 870 found that some institutions reported that the new requirements would not materially increase their costs. Presumably, these intuitions already covered the required topics. Other institutions estimated that providing the newly required instruction would cost \$50,000 to \$100,000.

Businesses and Other Entities Affected

The 132 local public school divisions in the Commonwealth would be affected, as well as colleges and universities with educator preparation programs. The Virginia colleges and universities with approved educator preparation programs are: Averett University, Bluefield College, Bridgewater College, Christopher Newport University, Eastern Mennonite University, Emory and Henry College, Ferrum College, George Mason University, Hampton University, Hollins University, James Madison University, Liberty University, Longwood University, Mary Baldwin University, Marymount University, Norfolk State University, Old Dominion University, Radford University, Randolph College, Randolph-Macon College, Regent University, Roanoke

² See <https://lis.virginia.gov/cgi-bin/legp604.exe?201+oth+HB894FER122+PDF>

College, Shenandoah University, Southern Virginia University,³ Sweet Briar College, University of Lynchburg, University of Mary Washington, University of Richmond, University of Virginia, University of Virginia's College at Wise, Virginia Commonwealth University, Virginia State University, Virginia Tech, Virginia Union University, Virginia Wesleyan University, Washington and Lee University,⁴ and William & Mary.

Chapter 870 may create costs for those institutions of higher education whose education preparation programs were not already providing instruction on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion. The Board's proposed amendments that are not directly from legislation do not create cost.

Small Businesses⁵ Affected:

The proposed amendments do not appear to adversely affect small businesses.

Localities⁶ Affected⁷

The proposal affects all Virginia localities in that all have public schools. Localities that have school divisions that are particularly affected by teacher shortages may be particularly affected by the changes that introduce new paths to licensure or extend the length of provisional licensure. The proposal would not likely substantively increase costs for local governments.

Projected Impact on Employment

Chapter 870 may lead to increased employment for instructors of positive behavior interventions and supports, crisis prevention and de-escalation, the use of physical restraint and seclusion, and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion. The other legislation and proposed amendments not directly from legislation do not substantially affect employment.

³ Washington and Lee University and Southern Virginia University have partnered to form the Rockbridge Teacher Education Consortium. See <https://columns.wlu.edu/rockbridge-county-universities-form-teacher-education-consortium/>

⁴ Ibid

⁵ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁶ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁷ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

Chapter 870 may increase costs for some education preparation programs offered by private institutions of higher education. This may slightly reduce their value.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.