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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposed regulation in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety, and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar of Regulations no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his

authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at <https://register.dls.virginia.gov>.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Michael Mullin; Christopher R. Nolen; Steven Popp; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.**

Staff of the Virginia Register: **Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Managing Editor; Erin Comerford, Regulations Analyst**

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

February 2025 through February 2026

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
41:13	January 22, 2025	February 10, 2025
41:14	February 5, 2025	February 24, 2025
41:15	February 19, 2025	March 10, 2025
41:16	March 5, 2025	March 24, 2025
41:17	March 19, 2025	April 7, 2025
41:18	April 2, 2025	April 21, 2025
41:19	April 16, 2025	May 5, 2025
41:20	April 30, 2025	May 19, 2025
41:21	May 14, 2025	June 2, 2025
41:22	May 28, 2025	June 16, 2025
41:23	June 11, 2025	June 30, 2025
41:24	June 25, 2025	July 14, 2025
41:25	July 9, 2025	July 28, 2025
41:26	July 23, 2025	August 11, 2025
42:1	August 6, 2025	August 25, 2025
42:2	August 20, 2025	September 8, 2025
42:3	September 3, 2025	September 22, 2025
42:4	September 17, 2025	October 6, 2025
42:5	October 1, 2025	October 20, 2025
42:6	October 15, 2025	November 3, 2025
42:7	October 29, 2025	November 17, 2025
42:8	November 10, 2025 (Monday)	December 1, 2025
42:9	November 24, 2025 (Monday)	December 15, 2025
42:10	December 9, 2025	December 29, 2025
42:11	December 22, 2025 (Monday)	January 12, 2026
42:12	January 6, 2026 (Tuesday)	January 26, 2026
42:13	January 21, 2026	February 9, 2026
42:14	February 4, 2026	February 23, 2026

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Social Services conducted a periodic review and a small business impact review of **22VAC40-675, Personnel Policies for Local Departments of Social Services**, and determined that this regulation should be amended. The board is publishing its report of findings dated January 7, 2025, to support this decision.

The goal of the regulation is to establish performance standards for the personnel employed in Virginia local departments of social services (LDSS) under the administration of Title 63.2 of the Code of Virginia. Additionally, it is consistent with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900, Subpart F), specific to recruiting, selecting, and advancing employees based on their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment. This regulation establishes standards for (i) LDSS designations as a Level I, II, or III agency; (ii) the development of personnel policies and procedures for an LDSS; (iii) procedures for local jurisdiction personnel policies to deviate from policies and procedures approved by the State Board of Social Services (SBSS); (iv) classification and compensation; (v) recruitment and selection of LDSS employees; (vi) employee status and performance; (vii) equal employment opportunity; (viii) standards of conduct; (ix) grievance procedures; (x) the Hatch Act; and (xi) outside employment.

The regulation is essential to protect public health, safety, and welfare because it establishes the performance standards for employees responsible for child and adult protective services and determining social services benefit eligibility for citizens of the Commonwealth. The regulation has been effective in meeting this goal and is clearly written and easy to understand.

While no public comments were received, the department identified the need for amendments. In 22VAC40-675-10, the definition of "administrative manual" should be updated to remove unnecessary dates and a typographical error.

This regulation applies to the SBSS adoption of regulations to maintain entrance standards of employees hired and employed by LDSSs. It is not applicable to small businesses and therefore will not have an impact on small businesses.

Contact Information: Leighann Smigielski, Senior Human Resources Policy Analyst, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 726-7059, FAX (804) 726-7019, or email r.leighann.smigielski@dss.virginia.gov.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Fast-Track Regulation

Title of Regulation: 8VAC20-81. Regulations Governing Special Education Programs for Children with Disabilities in Virginia (amending 8VAC20-81-10, 8VAC20-81-110).

Statutory Authority: §§ 22.1-16 and 22.1-214 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: February 26, 2025.

Effective Date: March 13, 2025.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, or email jim.chapman@doe.virginia.gov.

Basis: Section 22.1-16 of the Code of Virginia authorizes the Board of Education to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia. Section 22.1-214 of the Code of Virginia gives the board authority over special education programs.

Purpose: The amendments are essential to protect the health, safety, or welfare of citizens by aligning the regulation with Chapters 468 and 502 of the 2024 Acts of the Assembly.

Rationale for Using Fast-Track Rulemaking Process: This regulatory action is expected to be noncontroversial because it is required to keep the regulation in line with changes to the law. The definition of "short-term objectives" proposed by the board is not expected to be controversial.

Substance: The amendment will add a definition for "short-term objectives" as well as require parent and student input as part of the individualized education plan for all relevant students.

Issues: The advantage to this regulatory change is that it ensures that the regulation stays in conformity with the Code of Virginia. There are no disadvantages to the regulatory change.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance

with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 502 of the 2024 Acts of the Assembly,² the Board of Education (board) proposes to include a definition for "short-term objectives" in regard to the individualized education program (IEP) content and to amend 8VAC20-81-110 to include student input (when appropriate) as required in the development of an IEP. An additional amendment is made for clarification.

Background. The regulation defines IEP as a written statement for a child with a disability that is developed, reviewed, and revised in a team meeting in accordance with this chapter. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs.

Short-term objectives. The regulation states that the IEP team shall consider the child's needs for benchmarks or short-term objectives if determined appropriate by the IEP team. Additionally, it states that the IEP shall include a description of benchmarks or short-term objectives. For children with disabilities who take alternate assessments aligned to alternate achievement standards, the IEP shall include a description of benchmarks or short-term objectives.

The current regulation does not include a definition for short-term objectives. The board proposes to define it as measurable intermediate steps that enable an individualized education program (IEP) team to monitor a student's progress toward achieving the annual goals.

Developing the IEP. The current regulation states that in developing each child's IEP, the IEP team shall consider:

- a. The strengths of the child;
- b. The concerns of the parent for enhancing the education of their child;
- c. The results of the initial or most recent evaluation of the child; and
- d. The academic, developmental, and functional needs of the child.

The board proposes to amend this to say that in developing each child's IEP, the IEP team shall consider and document in the IEP:

- a. The strengths of the child;
- b. The concerns of the parent and child, whenever appropriate, for enhancing the education of their child;

c. The results of the initial or most recent evaluation of the child; and

d. The academic, developmental, and functional needs of the child.

Estimated Benefits and Costs: By adding a definition for short-term objectives, there is improved clarity for readers of the regulation. According to the Department of Education (DOE), adding the definition is only clarification and does not change requirements. The current regulation states that the concerns of the parent shall be considered in the development of the IEP. To the extent that adding that the concerns of the child are to be considered in the development of the IEP increases the effectiveness of IEPs, it would be beneficial. DOE has indicated that adding "and document in the IEP" is a clarification of a current requirement.

Businesses and Other Entities Affected. The proposed amendments potentially affect the 185,651 children who have IEPs in Virginia public schools, as well as the 131 public school divisions.³ The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ As the proposed amendments neither increase net costs nor reduce net benefits; no adverse impact is indicated.

Small Businesses⁶ Affected.⁷ The proposed amendments do not adversely affect small businesses.

Localities⁸ Affected.⁹ The proposed amendments neither disproportionately affect particular localities nor increase costs for local governments.

Projected Impact on Employment. The proposed amendments do not appear to affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not appear to affect the use and value of private property or real estate development costs.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² See <https://legacylis.virginia.gov/cgi-bin/legp604.exe?241+ful+CHAP0502>.

³ Data source: DOE.

⁴ Pursuant to § 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. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁶ Pursuant to § 2.2-4007.04, 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."

⁷ If the proposed regulatory action may have an adverse effect on small businesses, § 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 § 2.2-4007.1 of the Code of Virginia, 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.

⁸ "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.

⁹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The State Board of Education thanks the Department of Planning and Budget for its thorough economic impact analysis concerning this action.

Summary:

Pursuant to Chapters 468 and 502 of the 2024 Acts of Assembly, the amendments (i) add a definition for "short-term objectives" and (ii) include parent and student input as required in an individualized education plan for all relevant students.

8VAC20-81-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Act" means the Individuals with Disabilities Education Improvement Act, P.L. 108-446, December 3, 2004, § 1400 et seq. (34 CFR 300.4)

"Age of eligibility" means all eligible children with disabilities who have not graduated with a standard or advanced studies high school diploma who, because of such disabilities, are in need of special education and related services, and whose second birthday falls on or before September 30, and who have not reached their 22nd birthday on or before September 30 (two to 21, inclusive) in accordance with the Code of Virginia. A child with a disability whose 22nd birthday is after September 30 remains eligible for the remainder of the school year. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.101(a) and 34 CFR 300.102(a)(3)(ii))

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"Age of majority" means the age when the procedural safeguards and other rights afforded to the parent of a student with a disability transfer to the student. In Virginia, the age of majority is 18 years of age. (§ 1-204 of the Code of Virginia; 34 CFR 300.520)

"Agree" or "agreement" —~~see~~ See the definition for "consent."

"Alternate assessment" means the state assessment program and any school divisionwide assessment to the extent that the school division has one for measuring student performance against alternate achievement standards for students with significant intellectual disabilities who are unable to participate in statewide Standards of Learning testing, even with accommodations. (34 CFR 300.320(a)(2)(ii) and 34 CFR 300.704(b)(4)(x))

"Alternative assessment" means the state assessment program for measuring student performance on grade level standards for students with disabilities who are unable to participate in statewide Standards of Learning testing, even with accommodations.

"Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted or the replacement of that device. (34 CFR 300.5)

"Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes: (34 CFR 300.6)

1. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
6. Training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals who provide services to employ or are otherwise substantially involved in the major life functions of that child.

"At no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged to students without disabilities or their parent as part of the regular education program. (34 CFR 300.39(b)(1))

"Audiology" means services provided by a qualified audiologist licensed by the Board of Audiology and Speech-Language Pathology and includes: (Regulations Governing the Practice of Audiology and Speech-Language Pathology, 18VAC30-20; 34 CFR 300.34(c)(1))

1. Identification of children with hearing loss;
2. Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
3. Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
4. Creation and administration of programs for prevention of hearing loss;
5. Counseling and guidance of children, parents, and teachers regarding hearing loss; and
6. Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

"Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before ~~age~~ three years of age, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. A child who manifests the characteristics of autism after ~~age~~ three years of age could be identified as having autism if the criteria in this definition are satisfied. (34 CFR 300.8(c)(1))

"Behavioral 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 with the learning of others or behaviors that require disciplinary action.

"Business day" means Monday through Friday, except for federal and state holidays, unless holidays are specifically included in the designation of business days, as in 8VAC20-81-150 B 4 a (2). (34 CFR 300.11)

"Calendar days" means consecutive days, inclusive of Saturdays and Sundays, unless otherwise designated as a business day or a school day. (34 CFR 300.11)

"Career and technical education" means organized educational activities that offer a sequence of courses that: (20 USC § 2301 et seq.)

1. Provides individuals with the rigorous and challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers other than careers requiring a master's or doctoral degree in current or emerging employment sectors;
2. May include the provision of skills or courses necessary to enroll in a sequence of courses that meet the ~~requirements of this subdivision~~ description in this definition; or
3. Provides, at the postsecondary level, for a one-year certificate, an associate degree, or industry-recognized credential and includes competency-based applied learning that contributes to academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupational-specific skills.

"Caseload" means the number of students served by special education personnel.

"Change in identification" means a change in the categorical determination of the child's disability by the group that determines eligibility.

"Change in placement" or "change of placement" means when the local educational agency places the child in a setting that is distinguishable from the educational environment to which the child was previously assigned and includes: (34 CFR 300.102(a)(3)(iii), 34 CFR 300.532(b)(2)(ii), and 34 CFR 300.536)

1. The child's initial placement from general education to special education and related services;
2. The expulsion or long-term removal of a student with a disability;
3. The placement change that results from a change in the identification of a disability;
4. The change from a public school to a private day, residential, or state-operated program; from a private day, residential, or state-operated program to a public school; or to a placement in a separate facility for educational purposes;
5. Termination of all special education and related services; or
6. Graduation with a standard or advanced studies high school diploma.

A "change in placement" also means any change in the educational setting for a child with a disability that does not replicate the elements of the educational program of the child's previous setting.

"Change in placement" or "change of placement," for the purposes of discipline, means: (34 CFR 300.536)

1. A removal of a student from the student's current educational placement is for more than 10 consecutive school days; or
2. The student is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of factors such as:
 - a. The length of each removal;
 - b. The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals;
 - c. The total amount of time the student is removed; or
 - d. The proximity of the removals to one another.

"Chapter" means ~~these regulations~~ Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).

"Charter schools" means any school meeting the requirements for charter as set forth in the Code of Virginia. (§§ 22.1-212.5 through 22.1-212.16 of the Code of Virginia; 34 CFR 300.7)

"Child" means any person who ~~shall~~ has not ~~have~~ reached his 22nd birthday by September 30 of the current year.

"Child with a disability" means a child evaluated in accordance with the provisions of this chapter as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disability (referred to in this part as "emotional disability"), an orthopedic impairment, autism, traumatic brain injury, ~~an other~~ another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities who, by reason thereof, needs special education and related services. This also includes developmental delay if the local educational agency recognizes this category as a disability in accordance with 8VAC20-81-80 M 3. If it is determined through an appropriate evaluation that a child has one of the disabilities identified but only needs a related service and not special education, the child is not a child with a disability under this part. If the related service required by the child is considered special education rather than a related service under Virginia standards, the child would be determined to be a child with a disability. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.8(a)(1) and 34 CFR 300.8(a)(2)(i) and (ii))

"Collaboration" means interaction among professionals as they work toward a common goal. Teachers do not necessarily have to engage in ~~co-teaching~~ coteaching in order to collaborate.

"Complaint" means a request that the Virginia Department of Education investigate an alleged violation by a public agency of a right of a parent of a child who is eligible or suspected to

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be eligible for special education and related services based on federal and state law and regulations governing special education or a right of such child. A complaint is a statement of some disagreement with procedures or process regarding any matter relative to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education. (34 CFR 300.151)

"Comprehensive Services Act" (~~or "CSA"~~) means the Comprehensive Services Act for At-Risk Youth and Families that establishes the collaborative administration and funding system for services for certain at-risk youths and their families. (Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia)

"Consent" means: (34 CFR 300.9)

1. The ~~parents~~ parent or eligible student has been fully informed of all information relevant to the activity for which consent is sought in the parent's or eligible student's native language or other mode of communication;
2. The parent or eligible student understands and agrees, in writing, to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom; and
3. The parent or eligible student understands that the granting of consent is voluntary on the part of the parent or eligible student and may be revoked any time.
 - a. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked. Revocation ceases to be relevant after the activity for which consent was obtained was completed.)
 - b. If a parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the local educational agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

The meaning of the term "consent" is not the same as the meaning of the term "agree" or "agreement." "Agree" or "agreement" refers to an understanding between the parent and the local educational agency about a particular matter and as required in this chapter. There is no requirement that an agreement be in writing, unless stated in this chapter. The local educational agency and parent should document their agreement.

"Controlled substance" means a drug or other substance identified under Schedule I, II, III, IV, or V in § 202(c) of the Controlled Substances Act, 21 USC § 812(c). (34 CFR 300.530(i)(1))

"Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (34 CFR 300.10)

"Correctional facility" means any state facility of the Virginia Department of Corrections or the Virginia Department of Juvenile Justice, any regional or local detention home, or any regional or local jail. (§§ 16.1-228 and 53.1-1 of the Code of Virginia)

"Coteaching" means a service delivery option with two or more professionals sharing responsibility for a group of students for some or all of the school day in order to combine their expertise to meet student needs.

"Counseling services" means services provided by qualified visiting teachers, social workers, psychologists, guidance counselors, or other qualified personnel. (34 CFR 300.34(c)(2); Licensure Regulations for School Personnel (8VAC20-22))

"Dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for or is readily capable of causing death or bodily injury, except that such term does not include a pocket knife with a blade of less than three inches in length. (18 USC § 930(g)(2); § 18.2-308.1 of the Code of Virginia)

"Day" means calendar day unless otherwise indicated as business day or school day. (34 CFR 300.11)

"Deaf-blindness" means simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. (34 CFR 300.8(c)(2))

"Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects the child's educational performance. (34 CFR 300.8(c)(3))

"Destruction of information" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. (34 CFR 300.611(a))

"Developmental delay" means a disability affecting a child ages two years of age by September 30 through six years of age, inclusive: (34 CFR 300.8(b); 34 CFR 300.306(b))

1. Who (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development or (ii) has an established physical or mental

condition that has a high probability of resulting in developmental delay;

2. The delay is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency; and
3. The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group.

"Direct services" means services provided to a child with a disability directly by the Virginia Department of Education, by contract, or through other arrangements. (34 CFR 300.175)

"Due process hearing" means an administrative procedure conducted by an impartial special education hearing officer to resolve disagreements regarding the identification, evaluation, educational placement and services, and the provision of a free appropriate public education that arise between a parent and a public agency. A due process hearing involves the appointment of an impartial special education hearing officer who conducts the hearing, reviews evidence, and determines what is educationally appropriate for the child with a disability. (34 CFR 300.507)

"Early identification and assessment of disabilities in children" means the implementation of a formal plan for identifying a disability as early as possible in a child's life. (34 CFR 300.34(c)(3))

"Education record" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term ~~also~~ has the same meaning as "scholastic record." In addition to written records, ~~this also~~ "education record" includes electronic exchanges between school personnel and parent regarding matters associated with the child's educational program (e.g., scheduling of meetings or notices). This term also includes the type of records covered under the definition of "education record" in the regulations implementing the Family Education Rights and Privacy Act. (20 USC § 1232g(a)(3); § 22.1-289 of the Code of Virginia; 34 CFR 300.611(b))

"Educational placement" means the overall instructional setting in which the student receives ~~his~~ education, including the special education and related services provided. Each local educational agency shall ensure that the parents of a child with a disability are members of the group that makes decisions on the educational placement of their child. (34 CFR 300.327)

"Educational service agencies and other public institutions or agencies" include: (34 CFR 300.12)

1. Regional public multiservice agencies authorized by state law to develop, manage, and provide services or programs to local educational agencies;

2. ~~Recognized~~ An agency recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state;

3. Any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and

4. Entities that meet the definition of intermediate educational unit in § 1402(23) of the Act as in effect prior to June 4, 1997.

"Eligible student" means a child with a disability who reaches the age of majority and to whom the procedural safeguards and other rights afforded to the parent are transferred.

"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))

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.

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 in this section.

"Equipment" means machinery, utilities, and built-in equipment and any necessary enclosures or structures to house machinery, utilities, or equipment and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials. (34 CFR 300.14)

"Evaluation" means procedures used in accordance with this chapter to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. (34 CFR 300.15)

"Excess costs" means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary

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school or secondary school student, as may be appropriate, and that shall be computed after deducting: (34 CFR 300.16)

1. Amounts received:
 - a. Under Part B of the Act;
 - b. Under Part A of Title I of the ESEA; and
 - c. Under Parts A and B of Title III of the ESEA; and
2. Any state or local funds expended for programs that would qualify for assistance under any of the parts described in subdivision 1 a of this definition, but excluding any amounts for capital outlay or debt service.

"Extended school year services" for the purposes of this chapter means special education and related services that: (34 CFR 300.106(b))

1. Are provided to a child with a disability:
 - a. Beyond the normal school year of the local educational agency;
 - b. In accordance with the child's individualized education program;
 - c. At no cost to the parent of the child; and
2. Meet the standards established by the Virginia Department of Education.

"Federal core academic subjects" means English, reading or language arts, mathematics, science, foreign language (languages other than English), civics and government, economics, arts, history, and geography. (20 USC § 7801(11))

"Federal financial assistance" means any grant, loan, contract, or any other arrangement by which the U.S. Department of Education provides or otherwise makes available assistance in the form of funds, services of federal personnel, or real and personal property. (34 CFR 104.3(h))

"Free appropriate public education" or "FAPE" means special education and related services that: (34 CFR 300.17)

1. Are provided at public expense, under public supervision and direction, and without charge;
2. Meet the standards of the Virginia Board of Education;
3. Include an appropriate preschool, elementary school, middle school, or secondary school education in Virginia; and
4. Are provided in conformity with an individualized education program that meets the requirements of this chapter.

"Functional behavioral assessment" means a process to determine the underlying cause or functions of a child's behavior that impede the learning of the child with a disability or the learning of the child's peers. A functional behavioral assessment may include a review of existing data or new testing data or evaluation as determined by the IEP team.

"General curriculum" means the same curriculum used with children without disabilities adopted by a local educational agency, schools within the local educational agency or, where applicable, the Virginia Department of Education for all children from preschool through secondary school. The term relates to content of the curriculum and not to the setting in which it is taught.

"Hearing impairment" means an impairment in hearing in one or both ears, with or without amplification, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section. (34 CFR 300.8(c)(5))

"Highly qualified special education teacher" means a teacher has met the requirements as specified in 34 CFR 300.18 for special education teachers in general, for special education teachers teaching core academic subjects, for special education teachers teaching to alternate achievement standards, or for special education teachers teaching multiple subjects as it applies to their teaching assignment. (34 CFR 300.18)

"Home-based instruction" means services that are delivered in the home setting (or other agreed upon setting) in accordance with the child's individualized education program.

"Homebound instruction" means academic instruction provided to students who are confined at home or in a health care facility for periods that would prevent normal school attendance based upon certification of need by a licensed physician or licensed clinical psychologist. For a child with a disability, the IEP team shall determine the delivery of services, including the number of hours of services. (Regulations Establishing Standards for Accrediting Public Schools in Virginia, 8VAC20-131-180)

"Home instruction" means instruction of a child ~~or children~~ by a parent, guardian, or other person having control or charge of such child ~~or children~~ as an alternative to attendance in a public or private school in accordance with the provisions of the Code of Virginia. This instruction may also be termed home schooling. (§ 22.1-254.1 of the Code of Virginia)

"Homeless children" has the meaning given the term "homeless children and youth" in § 725 (42 USC § 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 USC § 11431 et seq. and listed below: (34 CFR 300.19)

The term "homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence within the meaning of § 103(a)(1) of the McKinney-Vento Homeless Assistance Act and includes the following:

1. Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to a lack of alternative adequate accommodations; are living in emergency or transitional

shelters; are abandoned in hospitals; or are awaiting foster care placement;

2. Children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings within the meaning of § 103(a)(2)(C);

3. Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

4. Migratory children (as such term is defined in § 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless because the children are living in circumstances described in subdivisions 1 through 3 of this definition.

The term "unaccompanied youth" includes a youth not in the physical custody of a parent or guardian.

"Home tutoring" means instruction by a tutor or teacher with qualifications prescribed by the Virginia Board of Education, as an alternative to attendance in a public or private school and approved by the division superintendent in accordance with the provisions of the Code of Virginia. This tutoring is not home instruction as defined in the Code of Virginia. (§ 22.1-254 of the Code of Virginia)

"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. (34 CFR 300.530(i)(2))

"Impartial special education hearing officer" means a person, selected from a list maintained by the Office of the Executive Secretary of the Supreme Court of Virginia to conduct a due process hearing.

"Implementation plan" means the plan developed by the local educational agency designed to operationalize the decision of the hearing officer in cases that are fully adjudicated.

"Independent educational evaluation" means an evaluation conducted by a qualified examiner ~~or examiners~~ who ~~are~~ is not employed by the local educational agency responsible for the education of the child in question. (34 CFR 300.502(a)(3)(i))

"Individualized education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in a team meeting in accordance with this chapter. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs. (34 CFR 300.22)

"Individualized education program team" means a group of individuals described in 8VAC20-81-110 that is responsible

for developing, reviewing, or revising an IEP for a child with a disability. (34 CFR 300.23)

"Individualized family service plan (IFSP) under Part C of the Act" means a written plan for providing early intervention services to an infant or toddler with a disability eligible under Part C and to the child's family. (34 CFR 303.24; 20 USC § 636)

"Infant and toddler with a disability" means a child, ~~ages from~~ from birth to two years of age, inclusive, whose birthday falls on or before September 30, or who is eligible to receive services in the Part C early intervention system up to ~~age~~ three years of age, and who: (§ 2.2-5300 of the Code of Virginia; 34 CFR 300.25)

1. Has delayed functioning;
2. Manifests atypical development or behavior;
3. Has behavioral disorders that interfere with acquisition of developmental skills; or
4. Has a diagnosed physical or mental condition that has a high probability of resulting in delay, even though no current delay exists.

"Informed parental consent": ~~— see "Consent~~ See the definition of "consent."

"Initial placement" means the first placement for the child to receive special education and related services in either a local educational agency, other educational service agency, or other public agency or institution for the purpose of providing special education or related services.

"Intellectual disability" means the definition formerly known as "mental retardation" and means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance. (34 CFR 300.8(c)(6))

"Interpreting services" as used with respect to children who are deaf or hard of hearing, means services provided by personnel who meet the qualifications set forth under 8VAC20-81-40 and includes oral transliteration services, cued speech/language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell and interpreting services for children who are deaf-blind. A child who is not deaf or hard of hearing, but who has language deficits, may receive interpreting services as directed by the child's ~~Individualized Education Program~~ individualized education program. (Regulations Governing Interpreter Services for the Deaf and Hard of Hearing 22VAC20-30; 34 CFR 300.34(c)(4)(i))

"Least restrictive environment" (~~or "LRE"~~) means that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care

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facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (34 CFR 300.114 through 34 CFR 300.120)

"Level I services" means the provision of special education to children with disabilities for less than 50% of ~~their~~ the instructional school day (excluding intermission for meals). The time that a child receives special education services is calculated on the basis of special education services described in the individualized education program, rather than the location of services.

"Level II services" means the provision of special education to children with disabilities for 50% or more of the instructional school day (excluding intermission for meals). The time that a child receives special education services is calculated on the basis of special education services described in the individualized education program, rather than the location of services.

"Limited English proficient" when used with respect to an individual means an individual: (20 USC § 7801(25); 34 CFR 300.27)

1. Who is ~~aged~~ two through 21 years of age;
2. Who is enrolled or preparing to enroll in an elementary school or secondary school; or
3. Who:
 - a. Was not born in the United States or whose native language is a language other than English;
 - b. Is a Native American or Alaska Native, or a native resident of the outlying areas, and comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
 - c. Is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
4. Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
 - a. The ability to meet Virginia's proficient level of achievement on Virginia's assessments;
 - b. The ability to successfully achieve in classrooms where the language of instruction is English; or
 - c. The opportunity to participate fully in society.

"Local educational agency" means a local school division governed by a local school board, a state-operated program that is funded and administered by the Commonwealth of Virginia, or the Virginia School for the Deaf and the Blind at Staunton.

Neither state-operated programs nor the Virginia School for the Deaf and the Blind at Staunton are considered a school division as that term is used in these regulations. (§ 22.1-346 C of the Code of Virginia; 34 CFR 300.28)

"Long-term placement" if used in reference to state-operated programs as outlined in 8VAC20-81-30 H means those hospital placements that are not expected to change in status or condition because of the child's medical needs.

"Manifestation determination review" means a process to review all relevant information and the relationship between the child's disability and the behavior subject to the disciplinary action.

"Medical services" means services provided by a licensed physician or nurse practitioner to determine a child's medically related disability that results in the child's need for special education and related services. (§ 22.1-270 of the Code of Virginia; 34 CFR 300.34(c)(5))

"Mental retardation" —~~see "Intellectual"~~ See the definition of "intellectual" disability.

"Multiple disabilities" means simultaneous impairments (such as intellectual disability with blindness, intellectual disability with orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness. (34 CFR 300.8(c)(7))

"National Instructional Materials Access Center" or "NIMAC" means the national center established to do the following: (34 CFR 300.172)

1. Receive and maintain a catalog of print instructional materials prepared in the NIMAS, as established by the U.S. Secretary of Education, made available to such center by the textbook publishing industry, state educational agencies, and local educational agencies;
2. Provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the NIMAC may prescribe; and
3. Develop, adopt, and publish procedures to protect against copyright infringement, with respect to print instructional materials provided in accordance with the Act.

"National Instructional Materials Accessibility Standard" or "NIMAS" means the standard established by the ~~United States~~ U.S. Secretary of Education to be used in the preparation of electronic files suitable and used solely for efficient conversion of print instructional materials into specialized formats. (34 CFR 300.172)

"Native language" if used with reference to an individual of limited English proficiency, means the language normally used

by that individual, or, in the case of a child, the language normally used by the parent of the child, except in all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication). (34 CFR 300.29)

"Nonacademic services and extracurricular services" may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the local educational agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the local educational agency and assistance in making outside employment available. (34 CFR 300.107(b))

"Notice" means written statements in English or in the primary language of the home of the parent, or, if the language or other mode of communication of the parent is not a written language, oral communication in the primary language of the home of the parent. If an individual is deaf or blind, or has no written language, the mode of communication would be that normally used by the individual (such as sign language, Braille, or oral communication). (34 CFR 300.503(c))

"Occupational therapy" means services provided by a qualified occupational therapist or services provided under the direction or supervision of a qualified occupational therapist and includes: (Regulations Governing the Licensure of Occupational Therapists (18VAC85-80-10 et seq.); 34 CFR 300.34(c)(6))

1. Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
2. Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
3. Preventing, through early intervention, initial or further impairment or loss of function.

"Orientation and mobility services" means services provided to blind or visually impaired children by qualified personnel to enable those children to attain systematic orientation to and safe movement within their environments in school, home, and community; and includes travel training instruction, and teaching children the following, as appropriate: (34 CFR 300.34(c)(7))

1. Spatial and environmental concepts and use of information received by the senses (e.g., sound, temperature, and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

2. To use the long cane or service animal to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;
3. To understand and use remaining vision and distance low vision aids; and
4. Other concepts, techniques, and tools.

"Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis and bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). (34 CFR 300.8(c)(8))

"Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia and Tourette syndrome that adversely affects a child's educational performance. (34 CFR 300.8(c)(9))

"Paraprofessional," also known as paraeducator, means an appropriately trained employee who assists and is supervised by qualified professional staff in meeting the requirements of this chapter. (34 CFR 300.156(b)(2)(iii))

"Parent" means: (§ 20-124.6 and § 22.1-213.1 of the Code of Virginia; 34 CFR 99.4 and 34 CFR 300.30)

1. Persons who meet the definition of "parent":
 - a. A biological or adoptive parent of a child;
 - b. A foster parent, even if the biological or adoptive parent's rights have not been terminated, but subject to subdivision 8 of this definition;
 - c. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not a guardian ad litem, or the state if the child is a ward of the state);
 - d. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;
 - e. If no party qualified under subdivisions 1 a through 1 d of this definition can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with requirements detailed under 8VAC20-81-220; or
 - f. A minor who is emancipated under § 16.1-333 of the Code of Virginia.

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2. If a judicial decree or order identifies a specific person under subdivisions 1 a through 1 e of this subsection to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person shall be determined to be the "parent" for purposes of this definition.

3. "Parent" does not include local or state agencies or their agents, including local departments of social services, even if the child is in the custody of such an agency.

4. The biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified under this section to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent's ~~or parents'~~ authority to make educational decisions on the child's behalf has been extinguished pursuant to § 16.1-277.01, 16.1-277.02, or 16.1-283 of the Code of Virginia or a comparable law in another state.

5. Noncustodial parents whose parental rights have not been terminated are entitled to all parent rights and responsibilities available under this chapter, including access to their child's records.

6. Custodial stepparents have the right to access the child's record. Noncustodial stepparents do not have the right to access the child's record.

7. A validly married minor who has not pursued emancipation under § 16.1-333 of the Code of Virginia may assert implied emancipation based on the minor's marriage record and, thus, assumes responsibilities of "parent" under this chapter.

8. The local educational agency shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent under this section, and the local educational agency is entitled to rely upon the actions of the foster parent under this section until such time that the biological or adoptive parent attempts to act as the parent.

"Parent counseling and training" means assisting parents in understanding the special needs of their child, providing parents with information about child development, and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP. (34 CFR 300.34(c)(8))

"Participating agency" means a state or local agency (including a Comprehensive Services Act team), other than the local educational agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student. The term also means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained under Part B of the Act. (34 CFR 300.611(c), 34 CFR 300.324(c) and 34 CFR 300.321(b)(3))

"Personally identifiable" means information that contains the following: (34 CFR 300.32)

1. The name of the child, the child's parent, or other family member;
2. The address of the child;
3. A personal identifier, such as the child's social security number or student number; or
4. A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

"Physical education" means the development of: (34 CFR 300.39(b)(2))

1. Physical and motor fitness;
2. Fundamental motor skills and patterns; and
3. Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). The term includes special physical education, adapted physical education, movement education, and motor development.

"Physical therapy" means services provided by a qualified physical therapist or under the direction or supervision of a qualified physical therapist upon medical referral and direction. (Regulations Governing the Practice of Physical Therapy, 18VAC112-20; 34 CFR 300.34(c)(9))

"Private school children with disabilities" means children with disabilities enrolled by their parent in private, including religious, schools or facilities that meet the definition of elementary school or secondary school as defined in this section other than children with disabilities who are placed in a private school by a local school division or a Comprehensive Services Act team in accordance with 8VAC20-81-150. (34 CFR 300.130)

"Program" means the special education and related services, including accommodations, modifications, supplementary aids, and services, as determined by a child's individualized education program.

"Psychological services" means those services provided by a qualified psychologist or under the direction or supervision of a qualified psychologist, including: (34 CFR 300.34(c)(10))

1. Administering psychological and educational tests; and other assessment procedures;
2. Interpreting assessment results;
3. Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
4. Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

5. Planning and managing a program of psychological services, including psychological counseling for children and parents; and
6. Assisting in developing positive behavioral intervention strategies.

"Public agency" means the state educational agency, a local educational agency, an educational service agency or other public institution, or nonprofit public charter schools that are not otherwise included as a local educational agency or an educational service agency or other public institution and any other political subdivision of the Commonwealth that is responsible for providing education to children with disabilities.

"Public expense" means that the local educational agency either pays for the full cost of the service or evaluation or ensures that the service or evaluation is otherwise provided at no cost to the parent. (34 CFR 300.502(a)(3)(ii))

"Public notice" means the process by which certain information is made available to the general public. Public notice procedures may include newspaper advertisements, radio announcements, television features and announcements, handbills, brochures, electronic means, and other methods that are likely to succeed in providing information to the public.

"Qualified person who has a disability" means a "qualified handicapped person" as defined in the federal regulations implementing the Rehabilitation Act of 1973, as amended. (29 USC § 701 et seq.)

"Recreation" includes: (34 CFR 30.34(c)(11))

1. Assessment of leisure function;
2. Therapeutic recreation services;
3. Recreation program in schools and community agencies; and
4. Leisure education.

"Reevaluation" means completion of a new evaluation in accordance with this chapter. (34 CFR 300.303)

"Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended. (34 CFR 300.34(c)(12))

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education and includes speech-language pathology and audiology services; interpreting services; psychological

services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Related services also includes school health services and school nurse services; social work services in schools; and parent counseling and training. Related services do not include a medical device that is surgically implanted, including cochlear implants, the optimization of device functioning (e.g., mapping), maintenance of the device, or the replacement of that device. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services (such as artistic and cultural programs; and art, music, and dance therapy), if they are required to assist a child with a disability to benefit from special education. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.34(a) and (b))

Nothing in this section:

1. Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services that are determined by the IEP team to be necessary for the child to receive FAPE;
2. Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
3. Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly.

"School day" means any day, including a partial day, that children are in attendance at school for instructional purposes. The term has the same meaning for all children in school, including children with and without disabilities. (34 CFR 300.11)

"School health services and school nurse services" means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person. (Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia; 34 CFR 300.34(c)(13))

"Scientifically based research" means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs and includes research that: (20 USC § 9501(18); 34 CFR 300.35)

1. Employs systematic, empirical methods that draw on observation or experiment;

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2. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

3. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

4. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

5. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

6. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

"Screening" means those processes that are used routinely with all children to identify previously unrecognized needs and that may result in a referral for special education and related services or other referral or intervention.

"Section 504" means that section of the Rehabilitation Act of 1973, as amended, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance. (29 USC § 701 et seq.)

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (18 USC § 1365(h)(3); 34 CFR 300.530(i)(3))

"Services plan" means a written statement that describes the special education and related services the local educational agency will provide to a parentally placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, and is developed and implemented in accordance with 8VAC20-81-150. (34 CFR 300.37)

"Short-term objectives" means measurable intermediate steps that enable an IEP team to monitor a student's progress toward achieving the annual goals.

"Social work services in schools" means those services provided by a school social worker or qualified visiting teacher, including: (Licensure Regulations for School Personnel, 8VAC20-22-660); 34 CFR 300.34(c)(14))

1. Preparing a social or developmental history on a child with a disability;

2. Group and individual counseling with the child and family;

3. Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;

4. Mobilizing school and community resources to enable the child to learn as effectively as possible in the child's educational program; and

5. Assisting in developing positive behavioral intervention strategies for the child.

A local educational agency, in its discretion, may expand the role of a school social worker or visiting teacher beyond those services identified in this definition, as long as the expansion is consistent with other state laws and regulations, including licensure.

"Special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of a child with a disability, including instruction conducted in a classroom, in the home, in hospitals, in institutions, and in other settings, and instruction in physical education. The term includes each of the following if it meets the requirements of the definition of special education: (§ 22.1-213 of the Code of Virginia; 34 CFR 300.39)

1. Speech-language pathology services or any other related service, if the service is considered special education rather than a related service under state standards;

2. Vocational education; and

3. Travel training.

"Special education hearing officer" has the same meaning as the term "impartial hearing officer" as that term is used in the Act and its federal implementing regulations.

"Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction: (34 CFR 300.39(b)(3))

1. To address the unique needs of the child that result from the child's disability; and

2. To ensure access of the child to the general curriculum, so that the child can meet the educational standards that apply to all children within the jurisdiction of the local educational agency.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions

such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disabilities; of emotional disabilities; or of environmental, cultural, or economic disadvantage. (§ 22.1-213 of the Code of Virginia; 34 CFR 300.8(c)(10))

Dyslexia is distinguished from other learning disabilities due to its weakness occurring at the phonological level. Dyslexia is a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

"Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, expressive or receptive language impairment, or voice impairment that adversely affects a child's educational performance. (34 CFR 300.8(c)(11))

"Speech-language pathology services" means the following: (34 CFR 300.34(c)(15))

1. Identification of children with speech or language impairments;
2. Diagnosis and appraisal of specific speech or language impairments;
3. Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
4. Provision of speech and language services for the habilitation or prevention of communicative impairments; and
5. Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

"State assessment program" means the state assessment program in Virginia under the Act that is the component of the state assessment system used for accountability.

"State educational agency" means the Virginia Department of Education. (34 CFR 300.41)

"State-operated programs" means programs that provide educational services to children and youth who reside in facilities according to the admissions policies and procedures of those facilities that are the responsibility of state boards,

agencies, or institutions. (§§ 22.1-7, 22.1-340 and 22.1-345 of the Code of Virginia)

"Supplementary aids and services" means aids, services, and other supports that are provided in general education classes or other education-related settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate in accordance with this chapter. (34 CFR 300.42)

"Surrogate parent" means a person appointed in accordance with procedures set forth in this chapter to ensure that children are afforded the protection of procedural safeguards and the provision of a free appropriate public education. (34 CFR 300.519)

"Timely manner" if used with reference to the requirement for National Instructional Materials Accessibility Standard, means that the local educational agency shall take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials. (34 CFR 300.172(b)(4))

"Transition from Part C (Early Intervention Program for Infants and Toddlers with Disabilities) services" means the steps identified in the Individualized Family Services Plan (IFSP) to be taken to support the transition of the child to: (34 CFR 300.124)

1. Early childhood special education to the extent that those services are appropriate; or
2. Other services that may be available, if appropriate.

"Transition services" if used with reference to secondary transition means a coordinated set of activities for a student with a disability that is designed within a results-oriented process that: (34 CFR 300.43)

1. Is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

Transition services for students with disabilities may be special education if provided as specially designed instruction or related services if they are required to assist a student with a disability to benefit from special education.

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"Transportation" includes: (34 CFR 300.34(c)(16))

1. Travel to and from school and between schools;
2. Travel in and around school buildings; and
3. Specialized equipment (such as special or adapted buses, lifts, and ramps); if required to provide special transportation for a child with a disability.

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force or by other medical conditions, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative; or to brain injuries induced by birth trauma. (34 CFR 300.8(c)(12))

"Travel training" means providing instruction, as appropriate, to children with significant cognitive disabilities; and any other children with disabilities who require this instruction; to enable ~~them~~ the child to: (34 CFR 300.39(b)(4))

1. Develop an awareness of the environment in which ~~they~~ live the child lives; and
2. Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

"Universal design" has the meaning given the term in § 3 of the Assistive Technology Act of 1998, as amended, 29 USC § 3002. The term "universal design" means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies. (34 CFR 300.44)

"Virginia School for the Deaf and the Blind at Staunton" means the Virginia school under the operational control of the Virginia Board of Education. The Superintendent of Public Instruction shall approve the education programs of this school. (§ 22.1-346 of the Code of Virginia)

"Visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. (34 CFR 300.8(c)(13))

"Vocational education," for the purposes of special education, means organized educational programs that are directly related

to the preparation of individuals for paid or unpaid employment or for additional preparation for a career not requiring a baccalaureate or advanced degree, and includes career and technical education. (34 CFR 300.39(b)(5))

"Ward of the state" means a child who, as determined by the state where the child resides, is: (34 CFR 300.45)

1. A foster child;
2. A ward of the state; or
3. In the custody of a public child welfare agency.

"Ward of the state" does not include a foster child who has a foster parent who meets the definition of a "parent."

"Weapon" means dangerous weapon under 18 USC § 930(g)(2). (34 CFR 530(i)(4))

8VAC20-81-110. Individualized education program.

A. Responsibility. The local educational agency shall ensure that an IEP is developed and implemented for each child with a disability served by that local educational agency, including a child placed in a private special education school by: (34 CFR 300.112)

1. A local school division; or
2. A noneducational placement by a Comprehensive Services Act team that includes the school division. The local school division's responsibility is limited to special education and related services.

B. Accountability.

1. At the beginning of each school year, each local educational agency shall have an IEP in effect for each child with a disability within its jurisdiction, with the exception of children placed in a private school by parents when a free appropriate public education is not at issue. (34 CFR 300.323(a))

2. Each local educational agency shall ensure that an IEP: (34 CFR 300.323(c))

- a. Is in effect before special education and related services are provided to an eligible child;
- b. Is developed within 30 calendar days of the date of the initial determination that the child needs special education and related services;
- c. Is developed within 30 calendar days of the date the eligibility group determines that the child remains eligible for special education and related services following reevaluation, if the IEP team determines that changes are needed to the child's IEP, or if the parent requests it; and
- d. Is implemented as soon as possible following parental consent to the IEP.

3. Each local educational agency shall ensure that: (34 CFR 300.323(d))

- a. The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and
- b. Teachers and providers are informed of:
 - (1) Their specific responsibilities related to implementing the child's IEP; and
 - (2) The specific accommodations, modifications, and supports that shall be provided for the child in accordance with the IEP.

4. Each local educational agency is responsible for initiating and conducting meetings to develop, review, and revise the IEP of a child with a disability.

5. Each local educational agency shall ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals are being achieved and to revise its provisions, as appropriate, to address: (34 CFR 300.324(b))

- a. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;
- b. The results of any reevaluation conducted under this chapter;
- c. Information about the child provided to or by the parent;
- d. The child's anticipated needs; or
- e. Other matters.

6. Each local educational agency shall provide special education and related services to a child with a disability in accordance with the child's IEP. (34 CFR 300.323(c)(2))

7. Nothing in this section limits a parent's right to ask for revisions of the child's IEP if the parent feels that the efforts required by this chapter are not being met.

8. To the extent possible, the local educational agency shall encourage the consolidation of reevaluation and IEP team meetings for the child. (34 CFR 300.324(a)(5))

9. In making changes to a child's IEP after the annual IEP team meeting for the school year, the parent and the local educational agency may agree not to convene an IEP team meeting for the purposes of making those changes; and instead may develop a written document to amend or modify the child's current IEP. (34 CFR 300.324(a)(4) and (6))

- a. If changes are made to the child's IEP, the local educational agency shall ensure that the child's IEP team is informed of those changes.
- b. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.
- c. This meeting is not a substitute for the required annual IEP meeting.

C. IEP team.

1. General. The local educational agency shall ensure that the IEP team for each child with a disability includes: (34 CFR 300.321(a), (c) and (d))

- a. The parent of the child;
- b. Not less than one regular education teacher of the child (if the child is or may be participating in the regular educational environment);
- c. Not less than one special education teacher of the child or, if appropriate, not less than one special education provider of the child. For a child whose only disability is speech-language impairment, the special education provider shall be the speech-language pathologist;
- d. A representative of the local educational agency who is:
 - (1) Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
 - (2) Knowledgeable about the general education curriculum; and
 - (3) Knowledgeable about the availability of resources of the local education agency. A local educational agency may designate another member of the IEP team to serve simultaneously as the agency representative if the individual meets the above criteria in this subdivision;
- e. An individual who can interpret the instructional implications of evaluation results. This individual may be a member of the team serving in another capacity, other than the parent of the child;
- f. At the discretion of the parent or local educational agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate. The determination of knowledge or special expertise of any individual shall be made by the party (parent or local educational agency) who invited the individual to be a member of the team; and
- g. Whenever appropriate, the child.

2. The local educational agency determines the school personnel to fill the roles of the required IEP team members in subdivisions 1 b through 1 e of this subsection.

3. Secondary transition service participants. (34 CFR 300.321(b))

- a. The local educational agency shall invite a student with a disability of any age to attend the student's IEP meeting if a purpose of the meeting will be the consideration of:
 - (1) The student's postsecondary goals;
 - (2) The needed transition services for the student; or
 - (3) Both.
- b. If the student does not attend the IEP meeting, the local educational agency shall take other steps to ensure that the student's preferences and interests are considered.

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c. To the extent appropriate and with the consent of the parent or a child who has reached the age of majority, the local educational agency shall invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the local educational agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.

4. Part C transition participants. In the case of a child who was previously served under Part C of the Act, the local educational agency shall, at the parent's request, invite the Part C service coordinator or other representatives of the Part C system to the initial IEP meeting to assist with the smooth transition of services. (34 CFR 300.321(f))

D. IEP team attendance. (34 CFR 300.321(e))

1. A required member of the IEP team described in subdivisions C 1 b through C 1 e of this section is not required to attend an IEP team meeting, in whole or in part, if the parent and the local educational agency agree, in writing, that the attendance of this member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

2. A required member of the IEP team may be excused from attending the IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services, if:

- a. The parent and the local educational agency consent in writing to the excusal; and
- b. The member submits, in writing, to the parent and the IEP team input into the development of the IEP prior to the meeting.

E. Parent participation.

1. Each local educational agency shall take steps to ensure that one or both of the parents of the child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including: (34 CFR 300.322(a))

- a. Notifying the parent of the meeting early enough to ensure that they will have an opportunity to attend; and
- b. Scheduling the meeting at a mutually agreed on time and place.

2. Notice. (34 CFR 300.322(b))

- a. General notice. The notice given to the parent:
 - (1) May be in writing; or given by telephone or in person with proper documentation;
 - (2) Shall indicate the purpose, date, time, and location of the meeting, and who will be in attendance; and
 - (3) Shall inform the parent of the provisions relating to the participation of other individuals on the IEP team who

have knowledge or special expertise about the child under subdivision C 1 f of this section.

b. Additional notice requirements are provided if transition services are under consideration.

(1) For Part C transition, the notice shall inform the parents of the provisions relating to the participation of the Part C service coordinator or other representative of the Part C system under subdivision C 4 of this section.

(2) For secondary transition, the notice shall also:

- (a) Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child;
- (b) Indicate that the local educational agency will invite the student; and
- (c) Identify any other agency that will be invited to send a representative.

3. If neither parent can attend, the local educational agency shall use other methods to ensure parent participation, including individual or conference telephone calls and audio conferences. If the local educational agency uses an alternative means of meeting participation that results in additional costs, the local educational agency is responsible for those costs. (34 CFR 300.322(c))

4. A meeting may be conducted without a parent in attendance if the local educational agency is unable to convince the parent that they should attend. In this case, the local educational agency shall have a record of the attempts to arrange a mutually agreed on time and place, such as: (34 CFR 300.322(d))

- a. Detailed records of telephone calls made or attempted and the results of those calls;
- b. Copies of correspondence (written, electronic, or facsimile) sent to the parent and any responses received; or
- c. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

5. The local educational agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. (34 CFR 300.322(e))

6. At the IEP meeting, the IEP team shall provide the parent of a child with a disability with a written description of the factors in subdivisions F 1 and F 2 of this section that will be considered during the IEP meeting. The description shall be written in language understandable by the general public and provided in the native language of the parent or other mode of communication used by the ~~parent(s)~~ parent, unless it is clearly not feasible to do so.

7. The local educational agency shall give the parent a copy of the child's IEP at no cost to the parent at the IEP meeting,

or within a reasonable period of time after the IEP meeting, not to exceed 10 calendar days. (34 CFR 300.322(f))

8. If the local educational agency elects to use a draft version of an IEP in any IEP team meeting, such draft shall be developed and a copy shall be provided to the parent at least two business days in advance of the IEP meeting.

F. Development, review, and revision of the IEP. (34 CFR 300.324(a))

1. In developing each child's IEP, the IEP team shall consider and document in the IEP:

- a. The strengths of the child;
- b. The concerns of the parent, and child whenever appropriate, for enhancing the education of ~~their~~ the child;
- c. The results of the initial or most recent evaluation of the child; and
- d. The academic, developmental, and functional needs of the child.

2. The IEP team also shall: (34 CFR 300.324(a))

- a. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions, strategies, and supports to address the behavior;
- b. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
- c. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the child;
- d. Consider the communication needs of the child;
- e. Consider the child's needs for benchmarks or short-term objectives;
- f. In the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- g. Consider whether the child requires assistive technology devices and services.

3. If, in considering the special factors, the IEP team determines that a child needs a particular device or service, including an intervention, accommodation, or other program modification in order for the child to receive a free appropriate public education, the IEP team shall include a

statement to that effect in the child's IEP. (34 CFR 300.324(b)(2))

4. The regular education teacher of a child with a disability, as a member of the IEP team, shall participate, to the extent appropriate, in the development, review, and revision of the child's IEP, including assisting in the determination of: (34 CFR 300.324(a)(3))

- a. Appropriate positive behavioral interventions and supports and other strategies for the child; and
- b. Supplementary aids and services, accommodations, program modifications, or supports for school personnel that will be provided for the child.

5. Nothing in this section shall be construed to require: (34 CFR 300.320(d))

- a. The IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP; or
- b. That additional information be included in the child's IEP beyond what is explicitly required in this chapter.

6. The IEP team shall consider all factors identified under a free appropriate public education in 8VAC20-81-100, as appropriate, and work toward consensus. If the IEP team cannot reach consensus, the local educational agency shall provide the parent with prior written notice of the local educational agency's proposals or refusals, or both, regarding the child's educational placement or provision of a free appropriate public education in accordance with 8VAC20-81-170 C.

G. Content of the individualized education program. The IEP for each child with a disability shall include:

1. A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general curriculum or, for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities. (34 CFR 300.320(a)(1))

- a. The statement shall be written in objective measurable terms, to the extent possible. Test scores, if appropriate, shall be self-explanatory or an explanation shall be included.
- b. The present level of performance shall directly relate to the other components of the IEP.

2. A statement of measurable annual goals, including academic and functional goals designed to: (34 CFR 300.320(a)(2))

- a. Meet the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum, or for preschool children, as appropriate, to participate in appropriate activities; and

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b. Meet each of the child's other educational needs that result from the child's disability.

3. If determined appropriate by the IEP team, as outlined in subdivision F 2 of this section, a description of benchmarks or short-term objectives. For children with disabilities who take alternate assessments aligned to alternate achievement standards, the IEP shall include a description of benchmarks or short-term objectives. (34 CFR 300.320(a)(2))

The IEP team shall document its consideration of the inclusion in the child's IEP of benchmarks or short-term objectives.

4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided for the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child: (34 CFR 300.320(a)(4))

- a. To advance appropriately toward attaining the annual goals;
- b. To be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
- c. To be educated and participate with other children with disabilities and children without disabilities in the activities described in this section.

5. An explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and in the activities described in this section. (34 CFR 300.320(a)(5))

6. The following information concerning state and divisionwide assessments shall be included: (34 CFR 300.320(a)(6))

- a. A statement of any individual appropriate accommodations or modifications that are necessary to measure the child's academic achievement and functional performance, in accordance with the guidelines approved by the Board of Education, in the administration of state assessments of student achievement that are needed in order for the child to participate in the assessment;
- b. If the IEP team determines that the child must take an alternate assessment instead of a particular state assessment of student achievement (or part of an assessment), a statement of:
 - (1) Why the child cannot participate in the regular assessment;
 - (2) Why the particular assessment selected is appropriate for the child, including that the child meets the criteria for the alternate assessment; and
 - (3) How the child's nonparticipation in the assessment will impact the child's promotion; graduation with a modified

standard, standard, or advanced studies diploma; or other matters.

c. A statement that the child shall participate in either a state assessment for all children that is part of the state assessment program or the state's alternate assessment;

d. A statement of any individual appropriate accommodations or modifications approved for use in the administration of divisionwide assessments of student achievement that are needed in order for the child to participate in the assessment;

e. If the IEP team determines that the child must take an alternate assessment instead of a particular divisionwide assessment of student achievement (or part of an assessment), a statement of:

- (1) Why the child cannot participate in the regular assessment;
- (2) Why the particular alternate assessment selected is appropriate for the child; and
- (3) How the child's nonparticipation in the assessment will impact the child's courses; promotion; graduation with a modified standard, standard, or advanced studies diploma; or other matters.

7. The projected dates (month, day, and year) for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications. (34 CFR 300.320(a)(7))

8. A statement of: (34 CFR 300.320(a)(3))

- a. How the child's progress toward the annual goals will be measured; and
- b. When periodic reports on the progress the child is making toward meeting the annual goals will be provided; for example, through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, and at least as often as parents are informed of the progress of ~~the~~ children without disabilities.

9. Initial transition services (34 CFR 300.101(b) and 34 CFR 300.323(b))

- a. In the case of a ~~preschool-aged~~ preschool-age child with a disability, ~~age two~~ (on or before September 30) through ~~age five~~ years of age (on or before September 30), whose parent ~~elect~~ elects to receive services under Part B of the Act, the local educational agency shall develop an IEP.
- b. The IEP team shall consider an IFSP that contains the IFSP content described under Part C of the Act (§ 1431 et seq.) including:
 - (1) A statement regarding natural environments; and
 - (2) A component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills.
- c. These components of the child's IFSP may be incorporated into the child's IEP.

10. Secondary transition services. (34 CFR 300.43 and 34 CFR 300.320(b))

a. Prior to the child entering secondary school but not later than the first IEP to be in effect when the child turns 14 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include age-appropriate:

(1) Measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and

(2) Transition services, including courses of study, needed to assist the child in reaching those goals. Transition services shall be based on the individual child's needs, taking into account the child's strengths, preferences, and interests.

b. Beginning not later than the first IEP to be in effect when the child turns 16 years of age, or younger if determined appropriate by the IEP team, and updated annually, in addition to the requirements of subdivision 10 a of this subsection, the IEP shall also include a statement, if appropriate, of interagency responsibilities or any linkages.

c. For a child pursuing a modified standard diploma, the IEP team shall consider the child's need for occupational readiness upon school completion, including consideration of courses to prepare the child as a career and technical education program completer.

11. Beginning at least one year before a student reaches the age of majority, the student's IEP shall include a statement that the student and parent have been informed of the rights under this chapter, if any, that will transfer to the student on reaching the age of majority. (34 CFR 300.320(c))

H. Agency responsibilities for secondary transition services. (34 CFR 300.324(c))

1. If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP of a student with a disability, the local educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

2. Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

I. Additional requirements for eligible students with disabilities in state, regional, or local adult or juvenile correctional facilities. (34 CFR 300.324(d) and 34 CFR 300.102(a)(2); ~~Regulations Establishing Standards for Accrediting Public Schools in Virginia (8VAC20-131)~~)

1. A representative of the state from a state, regional, or local adult or juvenile correctional facility may participate as a member of the IEP team.

2. All requirements regarding IEP development, review, and revision in this section apply to students with disabilities in

state, regional, or local adult or juvenile correctional facilities, including assessment requirements to graduate with a modified standard, standard, or advanced studies diploma. The requirements related to least restrictive environment in 8VAC20-81-130 do not apply.

3. The following additional exceptions to subdivision 2 of this subsection apply only to students with disabilities who are convicted as an adult under state law and incarcerated in adult prisons:

a. The IEP team may modify the student's IEP or placement if the state has demonstrated to the IEP team a bona fide security or compelling penological interest that cannot be otherwise accommodated.

b. IEP requirements regarding participation in state assessments, including alternate assessments, do not apply.

c. IEP requirements regarding transition planning and transition services do not apply to students whose eligibility for special education and related services will end because of their age before they will be eligible for release from the correctional facility based on consideration of their sentence and ~~their~~ eligibility for early release.

VA.R. Doc. No. R25-7984; Filed December 31, 2024, 2:02 p.m.



TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Action Withdrawn

Title of Regulation: **9VAC25-260. Water Quality Standards (amending 9VAC25-260-185).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; Clean Water Act (33 USC § 1251 et seq.); 40 CFR Part 131.

The State Water Control Board has WITHDRAWN the regulatory action for **9VAC25-260, Water Quality Standards**, which was published as a fast-track rulemaking action in [41:8 VA.R 975-981 December 2, 2024](#). The purpose of the action was to provide greater flexibility to utilize scientifically defensible water quality criteria assessment methodologies for the Chesapeake Bay and its tidal tributaries. Due to the receipt of 10 or more objections to the use of the fast-track rulemaking process, the board terminated this regulatory action. The amendments considered as part of this regulatory action will instead be included as part of a triennial review action that will use the standard regulatory process.

Agency Contact: Tish Robertson, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1295, or email tish.robertson@deq.virginia.gov.

VA.R. Doc. No. R25-7870; Filed January 6, 2025, 1:36 p.m.



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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Final Regulation

Title of Regulation: **18VAC50-30. Individual License and Certification Regulations (amending 18VAC50-30-10, 18VAC50-30-30, 18VAC50-30-50, 18VAC50-30-120, 18VAC50-30-150, 18VAC50-30-190; adding 18VAC50-30-39, 18VAC50-30-42 through 18VAC50-30-48; repealing 18VAC50-30-40).**

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Effective Date: April 1, 2025.

Agency Contact: Cameron Parris, Administrator, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-9183, FAX (866) 350-5354, or email cameron.parris@dpor.virginia.gov.

Summary:

The amendments create a new residential journeyman tradesman class of license. The scope of practice for a residential journeyman license is limited to plumbing or HVAC work in dwellings and townhouses and does not include commercial, industrial, institutional, or government use structures outside of dwellings and townhouses. The amendments include (i) revisions to experience and vocational training requirements for journeyman licenses in the gas fitting trades and (ii) revisions to qualifications for those who seek to qualify for licensure based solely on practical experience in a trade. Other changes are made to clarify the regulation. Substantial changes to the proposed regulation include (a) replacing the new residential tradesman class of license with distinct residential HVAC tradesman and residential plumber tradesman classes; (b) revising the eligibility requirements to obtain approval to sit for an examination to enter the profession; (c) restructuring Part II of the regulation to organize and clarify entry requirements for each trade; and (d) setting a maximum credit for board-approved continuing education training toward formal vocational training required.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18VAC50-30-10. Definitions.

A. Section 54.1-1128 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Backflow prevention device worker"

"Board"

"Liquified petroleum gas fitter"

"Natural gas fitter provider"

"Tradesman"

"Water well systems provider"

B. Section 54.1-1140 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Accessibility mechanic"

"Certified accessibility mechanic"

"Elevator mechanic"

"Limited use/limited application endorsement"

C. Section 54.1-1144 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Accredited residential building energy analyst training program"

"Licensed residential building energy analyst"

"Residential building energy analysis"

D. The following words and terms when used in this chapter have the following meanings unless the context clearly indicates otherwise:

"Address of record" means the mailing address designated by the licensee to receive notices and correspondence from the board.

"Applicant" means an individual who has submitted an application for licensure.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Backflow prevention device work" means work performed by a backflow prevention device worker for reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. This does not include the removal or replacement of a defective device by the installation of a rebuilt or new device.

"Certified automatic fire sprinkler inspector" means an individual who is certified by this chapter and whose work includes the inspection of automatic fire sprinkler systems as defined in the Virginia Construction Code (Part I (13VAC5-63-10 et seq.) of 13VAC5-63).

"Department" means the Department of Professional and Occupational Regulation.

"Electrical work" consists of, but is not limited to, the following: (i) planning and layout of details for installation or modifications of electrical apparatus and controls including preparation of sketches showing location of wiring and equipment; (ii) measuring, cutting, bending, threading,

assembling, and installing electrical conduits; (iii) performing maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation, or replacement; and (v) repairing faulty systems or apparatus.

"Electrician" means a tradesman who performs the construction, repair, maintenance, alteration, or removal of electrical systems regulated under the Virginia Uniform Statewide Building Code (13VAC5-63).

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the board, conducted by trade associations, businesses, the military, correspondence schools, or other similar training organizations.

"Gas fitter" means a tradesman who performs gas fitting-related work usually within the HVAC or plumbing trades regulated under Virginia Uniform Statewide Building Code. Gas fitting-related work includes the installation, repair, improvement, or removal of industrial gas, fuel gas, gaseous hydrogen, liquefied petroleum or natural gas piping, tanks, chimneys and vents, direct vents, equipment, and appliances annexed to real property.

~~"Helper" or "laborer" means a person who assists a regulant.~~

"HVAC tradesman" means an individual who performs the construction, repair, maintenance, alteration, or removal of HVAC systems regulated under the Virginia Uniform Statewide Building Code.

"HVAC work" means work that includes the installation, alteration, repair, or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, backflow prevention devices, and mechanical refrigeration systems, including tanks incidental to the system.

"Incidental" means work that is necessary for that particular repair or installation and is outside the scope of practice allowed to the regulant by this chapter.

"Journeyman" means a person who possesses the necessary ability, proficiency, and qualifications to install, repair, and maintain specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

"Master" means a person who possesses the necessary ability, proficiency, and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code.

"Plumber" means a tradesman who performs the construction, repair, maintenance, alteration, or removal of plumbing systems regulated under the Virginia Uniform Statewide Building Code.

"Plumbing work" means work that includes the installation, maintenance, extension, or alteration or removal of piping, fixtures, appliances, and appurtenances in connection with any of the following:

1. Backflow prevention devices;
2. Boilers;
3. Domestic sprinklers;
4. Hot water baseboard heating systems;
5. Hydronic heating systems;
6. Process piping;
7. Public or private water supply systems within or adjacent to any building, structure, or conveyance;
8. Sanitary or storm drainage facilities;
9. Steam heating systems;
10. Storage tanks incidental to the installation of related systems;
11. Venting systems; or
12. Water heaters.

These plumbing tradesmen may also install, maintain, extend, or alter the following:

1. Liquid waste systems;
2. Sewerage systems;
3. Storm water systems; and
4. Water supply systems.

"Regulant" means an individual (i) licensed as a tradesman, liquefied petroleum gas fitter, natural gas fitter provider, or gas fitter or (ii) certified as a backflow prevention device worker, accessibility mechanic, elevator mechanic, water well systems provider, or fire sprinkler inspector.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the licensee having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Residential [~~journeyman~~ HVAC tradesman]" means a person who possesses the necessary ability, proficiency, and qualifications to [~~install, repair, and maintain specific types of materials and equipment~~ perform HVAC work] utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code

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applicable to dwellings and townhouses as [those terms are] defined in the Virginia Residential [Building] Code or structures annexed to those dwellings or townhouses [as defined in the Virginia Residential Building Code]. It does not include commercial, industrial, institutional, or government-use structures outside of dwellings and townhouses [as defined in the in the Virginia Uniform Statewide Building Code].

["Residential plumber tradesman" means a person who possesses the necessary ability, proficiency, and qualifications to perform plumbing work utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code applicable to dwellings and townhouses as those terms are defined in the Virginia Residential Code or structures annexed to those dwellings or townhouses. It does not include commercial, industrial, institutional, or government-use structures outside of dwellings and townhouses.]

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

"Trade" means any regulated activity.

["Virginia Residential Code" means the provisions of the Virginia Construction Code (Part I (13VAC5-63-10 et seq.) of 13VAC5-63) applicable to R-5 residential structures and that includes provisions of the International Residential Code as amended by the Board of Housing and Community Development.]

[18VAC50-30-30. General requirements for licensure or certification.

In addition to the applicable provisions of 18VAC50-30-40 and 18VAC50-30-41 18VAC50-30-39 through 18VAC50-30-46, every applicant to the board for licensure or certification must meet the requirements provided in this section.

1. The applicant must be at least 18 years of age.
2. The applicant must submit documentation of identification, vocational training, and experience.
3. In those instances where the applicant is required to take the license or certification examination, the applicant must follow all rules established by the board with regard to conduct at the examination. Such rules include any written instructions communicated prior to the examination date and any instructions communicated at the site. Failure to comply with all rules established by the board and the testing organization with regard to conduct at the examination shall be grounds for denial of application.

4. The applicant must provide an address of record. A post office box is only acceptable when a physical address is also provided.

5. In accordance with § 54.1-204 of the Code of Virginia, each applicant must disclose any conviction in any jurisdiction of any felony or non-marijuana misdemeanor. The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

6. The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board in its discretion may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act.

18VAC50-30-39. Qualifications for examination approval for a tradesman, gas fitter, liquefied petroleum gas fitter, or natural gas fitter provider license.

A. An applicant for examination to be licensed as a residential HVAC tradesman or residential plumber tradesman must furnish evidence that one of the following experience and education standards has been attained:

<u>Education</u>	<u>Experience</u>
<u>160 hours of formal vocational training in the trade</u>	<u>Two years of practical experience in the trade for which licensure is desired</u>
<u>120 hours of formal vocational training in the trade</u>	<u>Three years of practical experience in the trade for which licensure is desired</u>
<u>80 hours of formal vocational training in the trade</u>	<u>Four years of practical experience in the trade for which licensure is desired</u>
<u>40 hours of formal vocational training in the trade</u>	<u>Five years of practical experience in the trade for which licensure is desired</u>
<u>None</u>	<u>Six years of practical experience in the trade for which licensure is desired</u>

B. An applicant for examination to be licensed as a journeyman electrician, plumber, or HVAC tradesman must furnish evidence that one of the following experience and education standards has been attained:

<u>Education</u>	<u>Experience</u>
<u>Bachelor's degree in an engineering curriculum related to the trade</u>	<u>One year of practical experience in the trade for which licensure is desired</u>
<u>Associate degree or a certificate of completion from at least a two-year program in a tradesman-related field</u>	<u>Two years of practical experience in the trade for which licensure is desired</u>
<u>240 hours of formal vocational training in the trade</u>	<u>Four years of practical experience in the trade for which licensure is desired</u>
<u>160 hours of formal vocational training in the trade</u>	<u>Five years of practical experience in the trade for which licensure is desired</u>
<u>80 hours of formal vocational training in the trade</u>	<u>Six years of practical experience in the trade for which licensure is desired</u>
<u>40 hours of formal vocational training in the trade</u>	<u>Seven years of practical experience in the trade for which licensure is desired</u>
<u>None</u>	<u>Eight years of practical experience in the trade for which licensure is desired</u>

C. An applicant for examination to be licensed as a journeyman liquefied petroleum gas fitter, natural gas fitter provider, or gas fitter tradesman must furnish evidence that one of the following experience and education standards has been attained:

<u>License</u>	<u>Education</u>	<u>Experience</u>
<u>Journeyman liquefied petroleum gas fitter or natural gas fitter provider</u>	<u>80 hours of formal vocational training in the trade</u>	<u>Four years of practical experience in the trade for which licensure is desired</u>
	<u>40 hours of formal vocational training in the trade</u>	<u>Five years of practical experience in the trade for which licensure is desired</u>
<u>Journeyman gas fitter</u>	<u>Bachelor's degree in an engineering curriculum related to the trade</u>	<u>One year of practical experience in the trade for which licensure is desired</u>
	<u>Associate degree or a certificate of completion from at least a two-year program in a tradesman-related field</u>	<u>Two years of practical experience in the trade for which licensure is desired</u>
	<u>120 hours of formal vocational training in the trade</u>	<u>Four years of practical experience in the trade for which licensure is desired</u>
	<u>80 hours of formal vocational training in the trade</u>	<u>Five years of practical experience in the trade for which licensure is desired</u>
	<u>40 hours of formal vocational training in the trade</u>	<u>Six years of practical experience in the trade for which licensure is desired</u>
	<u>None</u>	<u>Eight years of practical experience in the trade for which licensure is desired</u>

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D. An applicant for examination to be licensed as a master in a trade must furnish evidence that one of the following experience standards has been attained:

1. Having held a valid residential HVAC tradesman or residential plumber tradesman license in the trade for which licensure is desired for three years;
2. Having held a valid journeyman license in the trade for which licensure is desired for a minimum of one year; or
3. Nine years of practical experience in the trade for which licensure is desired.]

18VAC50-30-40. Evidence of ability and proficiency [~~Qualifications for examination approval. (Repealed)~~].

~~[A. Applicants for examination to be licensed as a residential journeyman plumber or HVAC tradesman must furnish evidence that one of the following experience and education standards has been attained:~~

- ~~1. Two years of practical experience in the trade and 160 hours of formal vocational training in the trade;~~
- ~~2. Three years of practical experience in the trade and 120 hours of formal vocational training in the trade;~~
- ~~3. Four years of practical experience in the trade and 80 hours of formal vocational training in the trade;~~
- ~~4. Five years of practical experience in the trade and 40 hours of formal vocational training in the trade; or~~
- ~~5. Six years of practical experience in the trade.~~

~~B. Applicants for examination to be licensed as a journeyman] shall [must furnish evidence that one of the following experience and education standards has been attained:]~~

- ~~[1. Four years of practical experience in the trade and 240 hours of formal vocational training in the trade.] Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed 200 hours;~~
- ~~2. Four years of practical experience and 80 hours of vocational training for liquefied petroleum gas fitters and natural gas fitter providers except that no substitute experience will be allowed for liquefied petroleum gas and natural gas workers;~~
- ~~3. [2. Five years of practical experience in the trade and 160 hours of formal vocational training in the trade;~~
- ~~3. Six years of practical experience in the trade and 80 hours of formal vocational training in the trade;~~
- ~~4. Seven years of practical experience in the trade and 40 hours of formal vocational training in the trade;~~

~~5. For licensure as a journeyman liquefied petroleum gas fitter or a natural gas fitter provider, either:~~

- ~~a. Four years of practical experience in the trade and 80 hours of vocational training in the trade; or~~
- ~~b. Five or more years of practical experience in the trade and 40 hours of vocational training in the trade;~~

~~6. For licensure as a journeyman gas fitter, either:~~

- ~~a. Four years of practical experience in the trade and 120 hours of vocational training in the trade;~~
- ~~b. Five years of practical experience in the trade and 80 hours of vocational training in the trade; or~~
- ~~c. Six or more years of practical experience in the trade and 40 hours of vocational training in the trade;~~

~~7. An associate degree or a certificate of completion from at least a two-year program in a tradesman-related field from an accredited community college or technical school as evidenced by a transcript from the educational institution and two years of practical experience in the trade for which licensure is desired;]~~

~~4. [8. A bachelor's degree received from an accredited college or university in an engineering curriculum related to the trade and one year of practical experience in the trade for which licensure is desired; or]~~

~~5. [9. An applicant with] 10 [eight years of practical experience in the trade as verified by reference letters of experience from] any of the following: [building officials, building inspectors, current or former employers, contractors, engineers, architects, or current or past clients attesting to the applicant's work in the trade, may be granted permission to sit for the journeyman's level examination without having to meet the educational requirements.]~~

~~B. [C. Applicants for examination to be licensed as a master] shall [must furnish evidence that one of the following experience standards has been attained:~~

~~1.] Evidence that they have one year of experience as a licensed journeyman; or~~

~~2. [Having held a valid residential journeyman license in the trade for three years;~~

~~2. Having held a valid journeyman license in the trade for a minimum of one year; or~~

~~3. An applicant with] 10 [nine years of practical experience in the trade, as verified by reference letters of experience from] any of the following: [building officials, building inspectors, current or former employers, contractors, engineers, architects, or current or past clients, attesting to the applicant's work in the trade, may be granted permission to sit for the master's level examination without having to meet the educational requirements.]~~

C. Individuals who have successfully passed the Class A contractors trade examination prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with this chapter.

[D. Applicants for examination to be certified as a backflow prevention device worker] shall [must furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in water distribution systems and a minimum of 32 hours of formal vocational training in a school approved by the board; or
2. Applicants with seven or more years of experience may qualify with 16 hours of formal vocational training in a school approved by the board.

The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

E. An applicant for certification as an elevator mechanic] shall [must:

1. Have three years of practical experience in the construction, maintenance, and] service/repair [service or repair of elevators, escalators, or related conveyances; 144 hours of formal vocational training; and satisfactorily complete a written examination administered by the board. Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 40 hours of formal training, but not to exceed 120 hours;
2. Have three years of practical experience in the construction, maintenance, and] service/repair [service or repair of elevators, escalators, or related conveyances and a certificate of completion of the elevator mechanic examination of a training program determined to be equivalent to the requirements established by the board; or
3. Successfully complete an elevator mechanic apprenticeship program that is approved by the Virginia Apprenticeship Council or registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, as evidenced by providing a certificate of completion or other official document, and satisfactorily complete a written examination administered by the board.

F. Pursuant to § 54.1-1129.1 A of the Code of Virginia, an applicant for examination as a certified water well systems provider] shall [must provide satisfactory proof to the board of at least:

1. One year of full time practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master

water well systems provider or other equivalent experience as approved by the board to qualify for examination as a trainee water well systems provider;

2. Three years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider or other equivalent experience as approved by the board and 24 hours of formal vocational training in the trade to qualify for examination as a journeyman water well systems provider; or

3. Six years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider or other equivalent experience as approved by the board and 48 hours of formal vocational training in the trade to qualify for examination as a master water well systems provider.

G. An applicant for certification as an accessibility mechanic] shall [must:

1. Have three years of practical experience in the construction, installation, maintenance, service, repair, and testing of wheelchair lifts, incline chairlifts, dumbwaiters, residential elevators, or related conveyances; 80 hours of formal vocational training; and satisfactorily complete a written examination administered by the board. Experience in excess of] four [three years may be substituted for formal vocational training at a ratio of one year of experience for 20 hours of formal training, but not to exceed 60 hours;
2. Have three years of practical experience in the construction, installation, maintenance, service, repair, and testing of wheelchair lifts, incline chairlifts, dumbwaiters, residential elevators, or related conveyances and a certificate of completion of an accessibility mechanic examination of a training program determined to be equivalent to the requirements established by the board; or
3. Successfully complete an accessibility mechanic apprenticeship program that is approved by the Virginia Apprenticeship Council or registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, as evidenced by providing a certificate of completion or other official document, and satisfactorily complete a written examination administered by the board.

H. An applicant for a limited use/limited application (LULA) endorsement shall:

1. Hold a current certification as an accessibility mechanic issued by the board.
2. Have one year of practical experience in the construction, installation, maintenance, service, repair, and testing of limited use/limited application elevators] and [½ complete a vocational education program approved by the board; and (i) satisfactorily complete a written examination administered

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by the board; or (ii) complete a limited use/limited application elevator training program determined to be equivalent to the requirements established by the board.

I. Pursuant to § 54.1-1145 B of the Code of Virginia, an applicant for licensure as a residential building energy analyst] shall [~~must provide satisfactory proof to the board of:~~

- ~~1. The completion of a residential building energy analyst training program approved by the board;~~
- ~~2. The completion of a minimum of five residential building energy analyses under the supervision of a licensed residential building energy analyst;~~
- ~~3. Current membership in good standing with a certifying organization approved by the board; and~~
- ~~4. Maintaining a minimum of \$100,000 of general liability insurance from a company authorized to provide such insurance in the Commonwealth of Virginia unless the individual is employed by a company that holds a valid residential building energy analyst firm license issued by the board.~~

The applicant] shall [~~must provide information for the] past [five years prior to application on any outstanding past due debts, outstanding judgments, outstanding tax obligations, defaults on bonds, or pending or past bankruptcies.]~~

J. Individuals applying for initial licensure as residential building energy analysts who meet the criteria of § 54.1-1145 C of the Code of Virginia are not required to meet the eligibility standards for licensure found in subsection I of this section.

[18VAC50-30-42. Qualifications for examination approval for a backflow prevention device worker certification.

A. An applicant for examination to be certified as a backflow prevention device worker must furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in water distribution systems and a minimum of 32 hours of formal vocational training in a school approved by the board; or
2. Applicants with seven or more years of experience may qualify with 16 hours of formal vocational training in a school approved by the board.

B. The board accepts the American Society of Sanitary Engineers (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

18VAC50-30-43. Qualifications for an elevator mechanic certification.

An applicant for certification as an elevator mechanic must meet one of the following qualifications:

1. Have three years of practical experience in the construction, maintenance, and service or repair of elevators, escalators, or related conveyances; 144 hours of formal vocational training; and satisfactorily complete a written examination administered by the board. Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 40 hours of formal training, but not to exceed 120 hours;

2. Have three years of practical experience in the construction, maintenance, and service or repair of elevators, escalators, or related conveyances and a certificate of completion of the elevator mechanic examination of a training program determined to be equivalent to the requirements established by the board; or

3. Successfully complete an elevator mechanic apprenticeship program that is approved by the Virginia Department of Workforce Development and Advancement or registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, as evidenced by providing a certificate of completion or other official document, and satisfactorily complete a written examination administered by the board.

18VAC50-30-44. Qualifications for examination approval for a water well systems provider certification.

Pursuant to § 54.1-1129.1 A of the Code of Virginia, an applicant for examination as a certified water well systems provider must provide satisfactory proof to the board of at least:

1. One year of full-time practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider or other equivalent experience as approved by the board to qualify for examination as a trainee water well systems provider;

2. Three years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider or other equivalent experience as approved by the board and 24 hours of formal vocational training in the trade to qualify for examination as a journeyman water well systems provider; or

3. Six years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider or other equivalent experience as approved by the board and 48 hours of formal vocational training in the trade to qualify for examination as a master water well systems provider.]

18VAC50-30-45. [Continuing education allowable as formal vocational training Qualifications for an accessibility mechanic certification and limited use/limited application (LULA) endorsement]:

[An applicant may receive credit for a maximum of 40 hours for board approved continuing education training toward formal vocational training required under 18VAC50-30-40 as applicable to the license or certification sought. A. An applicant for certification as an accessibility mechanic must:

1. Have three years of practical experience in the construction, installation, maintenance, service, repair, and testing of wheelchair lifts, incline chairlifts, dumbwaiters, residential elevators, or related conveyances; 80 hours of formal vocational training; and satisfactorily complete a written examination administered by the board. Experience in excess of three years may be substituted for formal vocational training at a ratio of one year of experience for 20 hours of formal training, but not to exceed 60 hours;

2. Have three years of practical experience in the construction, installation, maintenance, service, repair, and testing of wheelchair lifts, incline chairlifts, dumbwaiters, residential elevators, or related conveyances and a certificate of completion of an accessibility mechanic examination of a training program determined to be equivalent to the requirements established by the board; or

3. Successfully complete an accessibility mechanic apprenticeship program that is approved by the Virginia Apprenticeship Council or registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, as evidenced by providing a certificate of completion or other official document, and satisfactorily complete a written examination administered by the board.

B. An applicant for a limited use/limited application (LULA) endorsement must:

1. Hold a current certification as an accessibility mechanic issued by the board.

2. Have one year of practical experience in the construction, installation, maintenance, service, repair, and testing of limited use/limited application elevators; complete a vocational education program approved by the board; and either (i) satisfactorily complete a written examination administered by the board or (ii) complete a limited use/limited application elevator training program determined to be equivalent to the requirements established by the board.

18VAC50-30-46. Qualifications for a residential building energy analyst license.

A. Pursuant to § 54.1-1145 B of the Code of Virginia, an applicant for licensure as a residential building energy analyst must provide satisfactory proof to the board of:

1. The completion of a residential building energy analyst training program approved by the board;

2. The completion of a minimum of five residential building energy analyses under the supervision of a licensed residential building energy analyst;

3. Current membership in good standing with a certifying organization approved by the board; and

4. Maintaining a minimum of \$100,000 of general liability insurance from a company authorized to provide such insurance in the Commonwealth of Virginia, unless the individual is employed by a company that holds a valid residential building energy analyst firm license issued by the board.

B. The applicant must provide information for the five years prior to application on any outstanding past-due debts, outstanding judgments, outstanding tax obligations, defaults on bonds, or pending or past bankruptcies.

18VAC50-30-47. Verification of experience and education.

A. Except as otherwise provided in this part, experience in the trade must be verified by reference letters of experience from: building officials, building inspectors, current or former employers, contractors, engineers, architects, or current or past clients attesting to the applicant's work in the trade.

B. Education may be verified by providing a copy of a transcript or diploma from the accredited institution.

18VAC50-30-48. Continuing education allowable as formal vocational training.

An applicant may receive credit for a maximum of 40 hours for board-approved continuing education training toward formal vocational training required under this part as applicable to the license or certification sought.]

18VAC50-30-50. Exemptions from examination.

A. An individual certified or licensed by any one of the following agencies shall not be required to fulfill the examination requirement:

1. The Department of Housing and Community Development prior to July 1, 1995;
2. Any local governing body prior to July 1, 1978; or
3. Any Virginia locality backflow prevention device worker certification issued prior to July 1, 1998.

B. Other methods of exemption from the journeyman examination are as follows:

1. Successful completion of An individual who successfully completes an apprenticeship program which is approved by the Virginia Apprenticeship Council for exemption from examination Commissioner of the Department of Labor and Industry as outlined in § 54.1-1131 A 3 of the Code of

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Virginia, as evidenced by providing a certificate of completion or other official document, is exempt from the journeyman examination.

~~2. Any tradesman who had a Class B registration in the trade prior to January 1, 1991, and has been continuously licensed as a Class B contractor.~~

[18VAC50-30-120. Renewal.

A. Licenses issued under this chapter to electricians, gas fitters, HVAC tradesmen, or plumbers will expire three years from the last day of the month in which they were issued as indicated on the license.

B. All other licenses and certifications issued under this chapter will expire two years from the last day of the month in which they were issued as indicated on the license or certification.

C. As a condition of renewal or reinstatement and pursuant to § 54.1-1133 of the Code of Virginia, all individuals holding tradesman licenses with the trade designations of plumbing, electrical, and heating, ventilation, and cooling must satisfactorily complete three hours of continuing education for each designation, and individuals holding a license as a liquefied petroleum gas fitter, a natural gas fitter provider, or a gas fitter, one hour of continuing education, relating to the applicable building code changes, from a provider approved by the board.

D. Certified elevator mechanics and certified accessibility mechanics, as a condition of renewal and pursuant to § 54.1-1143 of the Code of Virginia, must satisfactorily complete eight hours of continuing education relating to the provisions of the Virginia Uniform Statewide Building Code (13VAC5-63) pertaining to elevators, escalators, and related conveyances. This continuing education must be from a provider approved by the board.

E. Certified water well systems providers, as a condition of renewal or reinstatement and pursuant to § 54.1-1129.1 B of the Code of Virginia, must satisfactorily complete eight hours of continuing education in the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction from a provider approved by the board.

F. Certified automatic fire sprinkler inspectors, as a condition of renewal and pursuant to § 54.1-1148 of the Code of Virginia, must satisfactorily complete eight hours of continuing education relating to changes and knowledge of the Virginia Statewide Fire Prevention Code (13VAC5-51). No renewal will be permitted once 30 days from the expiration date have passed. After that date, the applicant must apply for a new certification and meet the current entry requirements.

G. Renewal fees are as follows:

Tradesman license	\$135
Liquefied petroleum gas fitter license	\$90
Natural gas fitter provider license	\$90
Backflow prevention device worker certification	\$90
Elevator mechanic certification	\$90
Certified accessibility mechanic	\$90
Certified automatic fire sprinkler inspector	\$90
Water well systems provider certification	\$90
Residential building energy analyst license	\$90

All fees are nonrefundable and will not be prorated.

Tradesman license renewal fees received on or before August 31, 2025, shall be \$100. For all other renewal fees received on or before August 31, 2025, the fee shall be \$70.

H. The board will mail a renewal notice to the regulant outlining procedures for renewal. Failure to receive this notice, however, will not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a copy of the license or certification may be submitted with the required fee as an application for renewal within 30 days of the expiration date.

I. The date on which the renewal fee is received by the department or its agent will determine whether the regulant is eligible for renewal or required to apply for reinstatement.

J. The board may deny renewal of a license or certification for the same reasons as it may refuse initial licensure or discipline a regulant. The regulant has a right to request review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

K. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, including renewal, reinstatement, or processing of a new application.

L. Residential building energy analysts, as a condition of renewal or reinstatement, must provide documentation of continued membership, in good standing, of a certifying organization approved by the board and proof of insurance as required in ~~18VAC50-30-4014~~ 18VAC50-30-46 A 4.

18VAC50-30-150. Adding or deleting trade designations.

A. A regulant may add a trade designation to a license by submitting, on a form provided by the board, acceptable evidence of experience, and examination where applicable, in

the designation sought. Such regulant must meet the requirements established in 18VAC50-30-30 and the qualifications established in ~~18VAC50-30-40~~ 18VAC50-30-39 applicable to the trade designation being sought.

B. While a regulant may have multiple trade designations on the regulant's license, the renewal date will be based upon the date the license was originally issued to the individual by the board, not the date of the most recent trade designation addition.

C. If a regulant is seeking to delete a designation, then the individual must provide a signed statement listing the designation to be deleted. If the regulant only has one trade or level designation, the deletion of that designation will result in the termination of the license.

18VAC50-30-190. Prohibited acts.

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Failure in any material way to comply with provisions of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board;
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license or certification;
3. Where the regulant has failed to report to the board, in writing, the suspension or revocation of a license or certification by another state or a conviction in a court of competent jurisdiction of a building code violation;
4. Negligence or incompetence in the practice of the licensed or certified profession;
5. Misconduct in the practice of the licensed or certified profession;
6. For licensed tradesmen, liquefied petroleum gas fitters, natural gas fitter providers, or gas fitters performing jobs under \$1,000, or backflow prevention device workers, elevator mechanics, accessibility mechanics, or water well systems providers performing jobs of any amount, abandonment, the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part (unjustified cessation of work under the contract for a period of 30 days or more shall be considered evidence of abandonment);
7. Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce;
8. Aiding or abetting an unlicensed contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia or this chapter or combining or conspiring with or acting as agent, partner, or associate for an

unlicensed contractor; or allowing one's license or certification to be used by an unlicensed or uncertified individual;

9. Where the regulant has offered, given, or promised anything of value or benefit to any federal, state, or local government employee for the purpose of influencing that employee to circumvent, in the performance of the employee's duties, any federal, state, or local law, regulation, or ordinance governing the construction industry;

10. Where the regulant has been convicted or found guilty, after initial licensure or certification, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving lying, cheating or stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession, there being no appeal pending therefrom or the time of appeal having elapsed;

11. Having failed to inform the board in writing, within 30 days, that the regulant was convicted of any felony or a misdemeanor involving lying, cheating, stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession;

12. Having been disciplined by any county, city, town, or any state or federal governing body for actions relating to the practice of any trade, backflow prevention device work, elevator or accessibility work, or water well systems provider work, which action shall be reviewed by the board before the board takes any disciplinary action of its own;

13. Failure to comply with the Virginia Uniform Statewide Building Code (13VAC5-63);

14. Practicing in a classification or specialty service for which the regulant is not licensed or certified;

15. Failure to obtain any document required by the Virginia Department of Health for the drilling, installation, maintenance, repair, construction, or removal of water wells, water well systems, water well pumps, or other water well equipment;

16. Failure to obtain a building permit or applicable inspection where required;

17. Failure to perform a residential building energy analysis consistent with the requirements set forth by the board, the U.S. Environmental Protection Agency, the U.S. Department of Energy, or the Energy Star Program;

18. Failure of a residential building energy analyst to maintain the general liability insurance required in ~~18VAC50-30-40 I 4~~ 18VAC50-30-46 A 4; and

19. Failure of a certified automatic fire sprinkler inspector to continually maintain the certification required in § 54.1-1147 of the Code of Virginia.]

Regulations

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

[FORMS (18VAC50-30)

[Education Provider Listing Application, A501-27EDLIST-v3 \(rev. 12/2012\)](#)

[Education Provider Registration/Course Approval Application, A501-27EDREG-v5 \(rev. 12/2012\)](#)

[Tradesman Additional Designation & License Upgrade Application, A501-2710_ADDLIC-v2 \(rev. 12/2012\)](#)

[Residential Tradesman Exam and License Application, A501-2709EXLIC-v1 \(eff. 4/2025\)](#)

[Tradesman Exam & License Application, A501-2710EXLIC-v2 \(rev. 12/2012\)](#)

[Tradesman Individual Experience Form, A501-2710EXP-v2 \(rev. 12/2012\)](#)

[Tradesman – Inactive/Activate License Application, A501-2710INAT-v1 \(eff. 1/2013\)](#)

[Backflow Prevention Device Worker Certification Application, A501-2717CERT-v2 \(rev. 12/2012\)](#)

[Certified Elevator Mechanic Application, A501-2718CERT-v3 \(rev. 7/2013\)](#)

[Temporary Elevator Mechanic Certification \(rev. 4/2010\)](#)

[Certified Water Well System Provider Application, A501-2719CERT-v2 \(rev. 12/2012\)](#)

~~[Certified Accessibility Mechanics Application, A501-2720CERT-v1 \(eff. 1/2014\)](#)~~

[Certified Accessibility Mechanics Application, A501-2720CERT-v3 \(eff. 4/2025\)](#)

[Certified Accessibility Mechanics Limited Use/Limited Application \(LULA\) Endorsement Application, A501-2720LULA-v1 \(eff. 1/2014\)](#)

[Automatic Fire Sprinkler Inspector Certification Application, A501-2723FSI-v1 \(eff. 4/2020\)](#)

[Residential Building Energy Analyst License Application, Form A501-2722LIC-v4 \(rev. 7/2014\)](#)

[Residential Building Energy Analyst Experience Form, Form A501-2722EXP-v3 \(rev. 7/2013\) \]](#)

VA.R. Doc. No. R23-7421; Filed December 11, 2024, 3:30 p.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Title of Regulation: 18VAC65-20. Regulations Governing the Practice of Funeral Services.

Agency Contact: Erin Barrett, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23238, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC65-20)

[Checklist, Instructions, and Application for a Funeral License by Examination or Endorsement \(rev. 5/2024\)](#)

[Funeral Service Reinstatement Application \(rev. 6/2024\)](#)

[Application for Reactivation \(Inactive to Active\) of Funeral Service, Funeral Director, or Embalmer License \(rev. 1/2024\)](#)

[Request for Verification of a Virginia Funeral License \(rev. 11/2019\)](#)

[Checklist and Instructions for Courtesy Card Application \(rev. 3/2023\)](#)

[Checklist and Instructions for Surface Transportation and Removal Service Registration Application \(rev. 3/2023\)](#)

[Crematory Registration Application \(rev. 8/2023\)](#)

[Crematory Reinstatement Application \(rev. 8/2024\)](#)

[Checklist and Instructions for Continuing Education Providers \(rev. 3/2021\)](#)

[Instructions for Completing the Continuing Education Summary Form for the Virginia Board of Funeral Directors and Embalmers \(rev. 8/2016\)](#)

[Instructions for Continuing Education Providers Adding Additional Courses \(rev. 3/2021\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 7/2020\)](#)

[Continued Competency Activity and Assessment Form \(rev. 7/2012\)](#)

[Funeral Service New Establishment Application \(rev. 3/2023\)](#)

Funeral Service Establishment/Branch Application (rev. 3/2023)

Funeral Service Branch Establishment Application (rev. 3/2023)

Funeral Service Establishment/Branch Change Application (rev. 3/2023)

Funeral Establishment or Branch Change of Manager Application (rev. 3/2023)

Request for Reinspection due to Structural Change to Preparation Room (rev. 7/2020)

Waiver of Full-Time Manager (rev. 3/2023)

Funeral Service Establishment Reinstatement Application (rev. 8/2024)

Courtesy Card Reinstatement Application (rev. 8/2024)

Surface Transportation and Removal Services Reinstatement Application (rev. 8/2024)

Presentation Request Form (rev. 7/2020)

Name or Address Change Form (rev. 2/2016)

[Funeral Establishment or Branch Temporary Change of Manager Notice \(rev. 12/2024\)](#)

Appendix I. General Price List (rev. 10/2019)

Appendix II. Casket Price List, Outer Burial Container Price List (rev. 10/2019)

Appendix III. Itemized Statement of Funeral Goods and Services Selected (rev. 10/2019)

VA.R. Doc. No. R25-8197; Filed December 23, 2024, 3:49 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER FORTY-FOUR (2025)

Declaration of a State of Emergency due to Severe Winter Weather

Importance of the Issue

On Friday, January 3, 2025, I declared a state of emergency to exist for the Commonwealth of Virginia based on National Weather Service forecasts that indicate a severe winter storm with snow accumulations of several inches along with sleet, ice, freezing rain, and temperatures below freezing for several days that could cause transportation difficulties and power outages.

The Virginia Emergency Operations Center has been actively monitoring the movement of severe winter weather heading toward Virginia, with the anticipated arrival of the most severe impacts on Sunday, January 5, 2025. The National Weather Service forecasts are predicting areas of accumulating snow, freezing rain, and rain with winds between 30-50 miles per hour. Accordingly, the pre-positioning of response assets and supplies will be necessary to assist our local and state partners. The Virginia Emergency Support Team will activate for this incident.

The health and general welfare of the citizens of the Commonwealth require that state action be taken to help alleviate the conditions caused by this situation. The effects of this storm constitute a disaster wherein human life and public and private property are imperiled, as described in § 44-146.16 of the Code of Virginia (the Code). Therefore, by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by §§ 44-146.17 and 44-75.1 of the Code, as Governor and Director of Emergency Management and Commander-in-Chief of the Commonwealth's Armed Forces, I proclaim a state of emergency. Accordingly, I direct state and local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible. Emergency services shall be conducted in accordance with § 44-146.13 et seq. of the Code.

Following a declaration of a local emergency pursuant to § 44-146.21 of the Code, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to § 44-146.17 (A) (1) of the Code, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center (VEOC), acting on behalf of the State Coordinator of Emergency Management, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where

local governing bodies have made such a determination and where local governing bodies have not made such a determination. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.

This Executive Order also covers preparatory actions for this event that began on January 2, 2025.

Directive

In order to marshal all public resources and appropriate preparedness, response, and recovery measures, I order the following actions:

1. Implementation by state agencies of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state plans.
2. Activation of the Virginia Emergency Operations Center and the Virginia Emergency Support Team, as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments to other agencies; activation of the Emergency Management Assistance Compact § 44-146.28:1 of the Code, as needed.
3. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.
4. Activation of § 59.1-525 et seq. of the Code related to price gouging.
5. Authorization of a maximum of \$350,000 in state sum sufficient funds for state and local government mission assignments and state response and recovery operations authorized and coordinated through the Virginia Department of Emergency Management allowable by The Stafford Act, 42 U.S.C. § 5121 et seq. Included in this authorization is \$250,000 for the Department of Military Affairs.
6. Activation of the Virginia National Guard to State Active Duty.
7. I further direct the Commissioner of Elections to use all available authority in Title 24.2 of the Code of Virginia to coordinate the work of relevant local election officials to provide necessary accommodations in the voting process to ensure that all eligible voters in House District 26, Senate District 10, and Senate District 32 have the opportunity to safely and securely participate in the special elections scheduled for January 7, 2025.

Effective Date

This Executive Order shall be effective January 3, 2025, and shall remain in full force and effect for 30 days pursuant to § 44-146.17 (A) (1) of the Code, unless sooner amended or rescinded by further executive order.

Termination of this Executive Order is not intended to terminate any federal type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 3rd day of January 2025.

/s/ Glenn Youngkin, Governor

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

DEPARTMENT OF TAXATION

Title of Document: [Guidelines and Rules for Manufacturers, Distributors, and Retail Dealers of Liquid Nicotine or Nicotine Vapor Products.](#)

Public Comment Deadline: February 26, 2025.

Effective Date: February 27, 2025.

Agency Contact: Joe Mayer, Lead Tax Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299, or email joseph.mayer@tax.virginia.gov.

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for William Bryson

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for William Bryson for violations of the State Water Control Law and regulations in Nottoway County. The proposed order is available from the DEQ [contact listed or at https://www.deq.virginia.gov/permits/public-notices/enforcement-actions](https://www.deq.virginia.gov/permits/public-notices/enforcement-actions). The DEQ contact will accept comments by email or postal mail from January 27, 2025, through February 26, 2025.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 659-2696, or email matthew.richardson@deq.virginia.gov.

STATE BOARD OF HEALTH

Open Solicitation Period for Drinking Water State Revolving Funds for Fiscal Year 2026

The Virginia Department of Health (VDH) is pleased to announce several opportunities for funding drinking water infrastructure. All applications may be submitted year-round; however, VDH will conduct one round of evaluations submitted by the deadlines described in this notice. Applications postmarked or received after the due date will be considered for funding in the following round. Funding is possible through the Drinking Water State Revolving Fund (DWSRF) Program, the Bipartisan Infrastructure Law (BIL), and the Water Supply Assistance Grant Fund (WSAG) Program (if funds are available).

The fiscal year 2026 DWSRF Intended Use Plan (IUP) will use stakeholder input for decision-making. The BIL funds are broken into three different categories: DWSRF Supplemental, which has all the same eligibilities that the base DWSRF Program has; DWSRF Lead Service Line, which is explained in item 4 of this notice; and DWSRF Emerging Contaminants, which is focused on perfluoroalkyl and polyfluoroalkyl substances (PFAS), but also includes the contaminants listed in the draft Fifth Contaminant Candidate List (CCL 5).

1. Public comments and set-aside suggestions invited (submission deadline May 2, 2025). To identify ways to improve the program, VDH seeks meaningful input from the public, the waterworks industry, or any other interested party. Anyone may make comments or recommendations to support or revise the program. Anyone can suggest new or continuing set-aside (nonconstruction) activities. Set-aside funds help VDH assist waterworks owners prepare for future drinking water challenges and ensure the sustainability of safe drinking water.

2. Construction, consolidation, and refinance fund requests (BIL and DWSRF application deadline May 2, 2025). Owners of community waterworks and nonprofit non-community waterworks are eligible to apply for construction funds. VDH makes selections based on criteria described in the DWSRF Program Design Manual, such as existing public health problems, noncompliance, affordability, regionalization, and the availability of matching funds. VDH anticipates a funding level of approximately \$45 million for BIL funding and \$15 million in DWSRF funding, including revolving stream. The funds can be used with the DWSRF Base Program, BIL Supplemental, and BIL Emerging Contaminants.

3. Section 1452(k) source water protection initiatives (application deadline May 2, 2025). Loan funds are available to (i) community and nonprofit non-community waterworks to acquire land or conservation easements and (ii) community waterworks, only to establish local voluntary incentive-based protection measures.

4. Lead Service Line (LSL) Replacement Program (BIL application construction deadline is May 2, 2025). The LSL includes pipe entry into the structure (up to shutoff valve) but excludes the premise plumbing. Continued LSL inventory development is still eligible but must be combined with LSL replacement work.

5. Planning and design funds (accepted year-round). Owners of community waterworks and nonprofit non-community waterworks with projects serving populations of 10,000 or fewer are eligible to apply for planning and design funds. Waterworks may submit up to three applications per funding cycle; however, only two applications per waterworks owner may be selected for funding. The maximum award per application is \$45,000 as a grant. Projects that address conditions at a waterworks that does not comply with the Waterworks Regulations (12VAC5-590) or Operation Permit and result in acute health risks receive the highest priority for funding, followed by noncompliance and chronic health risks, and then noncompliance and broader public health concerns.

VDH's DWSRF Program Design Manual describes the features of the opportunities for funding described in this notice. After receiving public input, VDH will develop an IUP for public review and comment. The IUP will describe specific details for use of the funds. A public comment period is planned and written comments will be accepted before submittal of a final version to the U.S. Environmental Protection Agency for approval.

Applications, set-aside suggestion forms, program design manuals, and information materials are available at <https://www.vdh.virginia.gov/drinking-water/fcap/drinking-water-funding-program/>.

Contact Information: Anthony Hess, Financial and Construction Assistance Program Director, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 584-0413, or email anthony.hess@vdh.virginia.gov

General Notices

DEPARTMENT OF TRANSPORTATION

Public Comment Opportunity for Virginia-Specific Manual on Uniform Traffic Control Devices

The Federal Highway Administration (FHWA) updated the Manual on Uniform Traffic Control Devices (MUTCD) in December 2023. This document contains national standards for traffic control devices. States are required to adopt the updated document. Adoption must be completed by January 2026 through one of the following methods:

1. Adopt the MUTCD as-is;
2. Adopt the MUTCD with a state-specific supplement; or
3. Develop a state MUTCD incorporating national and state-specific content.

All Virginia-specific adaptations to the MUTCD must remain in "substantial conformance" with federal guidelines. There is some flexibility afforded to states in deciding when to use certain devices and choosing a device if there are multiple options.

The Virginia Department of Transportation (VDOT) Traffic Operations Division is leading the effort to review the updated MUTCD and prepare a draft of the Virginia-specific content. The final decision on whether to adopt the MUTCD with a supplement or create an integrated state MUTCD document remains pending. The Virginia-specific content is currently under review by key stakeholders and there are still opportunities to modify the content.

The MUTCD adoption qualifies as an "exempt regulatory action" under § 2.2-4002 B 11 of the Code of Virginia, exempting VDOT from the Administrative Process Act (§ 2.2-4000 of the Code of Virginia).

VDOT and the CTB are seeking public comment in regard to the inclusion of options and guidance proposed by the FHWA's 11th edition of the MUTCD in the upcoming Virginia-specific supplement (state MUTCD). To remain in substantial conformance with the federal MUTCD, VDOT is not seeking public comment on any standard statements, which are indicated by bold text in the document.

Comments may be submitted via the Virginia Regulatory Town Hall through February 21, 2025.

Contact Information: Robert Cochrane, Traffic Control Device and Intelligent Transportation System Engineering Program Manager, Virginia Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 840-7580, or email robert.cochrane@vdot.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.