

**COMMONWEALTH OF VIRGINIA  
BOARD OF EDUCATION  
RICHMOND, VIRGINIA  
September 14-15, 2022**

The Board of Education met in the Board Room, 22nd Floor, James Monroe Building, 101 North 14th Street, Richmond, VA 23219, with the following members present:

Mr. Dan Gecker, President  
Ms. Grace Creasey  
Dr. Alan Seibert  
Dr. Bill Hansen  
Mr. Andy Rotherham

Dr. Tammy Mann, Vice President  
Ms. Suparna Dutta  
Ms. Anne Holton  
Ms. Jillian Balow,  
Superintendent of Public Instruction

President Gecker called the meeting to order at 9:05 a.m. and welcomed Board members, staff and visitors to the meeting.

**MOMENT OF SILENCE**

President Gecker asked for a moment of silence.

**PLEDGE OF ALLEGIANCE**

The recitation of the Pledge of Allegiance followed the moment of silence.

**APPROVAL OF MINUTES**

Ms. Holton made a motion to adopt the August 17, 2022, meeting minutes as presented. The motion was seconded by Mr. Hansen and carried unanimously. Copies of the minutes were distributed in advance of the meeting.

**PUBLIC COMMENT**

- Jenna Alexander, Virginia PTA, and Chris Jones, VASCD, expressed that they are looking forward to working with the Board in advocating for and improving K-12 education in the Commonwealth of Virginia.
- Rich Lieberman expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Julie Young expressed concerns about certifying Mark Taylor to the list of persons

eligible to be division superintendent.

- Lori P. Buckingham expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Rebecca Murray expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Brigid Tartar expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Laurie Szymanski expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Megan Jackson expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Kandise Lucas spoke about concerns regarding special education services, and parents' rights being violated.
- Kathy Halvorsen spoke about concerns regarding special education services.
- Angela Ellis expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Jeff Kent expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Tom Eichenberg expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Carlos Moore expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Erin Beardsley expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Moe Petway expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Tamara Quick spoke about concerns related to special education services and the certification of Mark Taylor.
- Brian Sherman expressed concerns about certifying Mark Taylor to the list of persons

eligible to be division superintendent.

- Dr. Myra G. Crouch spoke about the inconsistencies of the language in the General Procedures and Information for Licensure, and Background Checks for Child Day Programs and Family Day Systems.
- Clarence Collins expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Zowee Aquino spoke about the proposed revisions to the History and Social Science Standards of Learning.
- Dr. James Fedderman concerns related to the Lab School Planning Grant Guidelines.
- Margaret Gallagher expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Melissa Brace expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Sue Sargeant expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Anthony Lofaro expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Michelle Williams spoke about concerns related to special education services for her child.
- Jaimie Ashton expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Dana McFarren expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Jennifer Peterson expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Anne Taydus expressed concerns about the future of education in Virginia.
- Nicole Cole expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Faith Jarvis expressed concerns about certifying Mark Taylor to the list of persons

eligible to be division superintendent.

- Wanda Stroh expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Melissa Floyd expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- James Manship expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Rose Davis expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- James Jattris expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Anna Marie expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Lisa Phelps expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- April Gillespie expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Roy Surrells expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Dr. Laurita C. Daniels expressed concerns about certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Marie Patratice expressed support for the decisions of the Board.
- Rabih Abuismail expressed support for certifying Mark Taylor to the list of persons eligible to be division superintendent.
- Jessica Rohrabocker expressed support for the Spotsylvania School Board.

## CONSENT AGENDA

### *A. Final Review to Certify a List of Qualified Persons for the Office of Division Superintendent of Schools*

Ms. Holton made a motion to remove Mark Taylor from Item A for further discussion, seconded by Dr. Mann. After discussion, that motion was withdrawn and kept Item A as written.

Ms. Holton commended the community's vigorous participation while also remaining civil and respectful of differing viewpoints. Ms. Holton emphasized her belief in local government and trying to do as much as possible to defer to locally elected boards. However, after reading various racially offensive social media posts by Mr. Taylor, she stated that she was unable to support Mr. Taylor as a candidate for a superintendent license. Ms. Holton then quoted several of those posts for the Board, including one post that speaks out against sending children to public schools in America. She noted that Mr. Taylor does qualify for a license under Option Four of 8VAC20-23-630, however, the Constitution does give the Board the authority to decide who qualifies to be placed on the Superintendent's list and then leaves it to the local boards to make their selections from among those the Board deems qualified. Ms. Holton observed that 8VAC20-23-750 lists a number of conditions that can allow for denial over and above the Option Four qualifications. The one condition she believes to be applicable in this case is, "Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia." If the presented social media posts were in fact posted by Mr. Taylor, Ms. Holton believes this would provide good and just cause for denial of licensure. Ms. Holton thought that Mr. Taylor should have the opportunity to explain himself to the Board.

During public comment, several citizens made statements regarding Mr. Taylor homeschooling his children. In response to these statements, Ms. Dutta commented that it is understandable for parents to exercise their right of choice on the education of their children and homeschooling your children should not exclude you from participating in public education. Ms. Dutta also spoke of her support of locally elected boards to make decisions for their localities.

Dr. Seibert shared his appreciation for the constituents that have come out to express their thoughts in a respectful manner. He stated that if he was on a local school board he would consider the social media posts by Mr. Taylor a reason for disqualification. Dr. Seibert expressed his respect for local governance and stated that it is essential to allow local residents to elect and appoint or unelect and un-appoint its own leaders. However, the Board must operate within its guidelines and those guidelines do show that Mr. Taylor has met the qualifications for licensure under Option 4. Dr. Seibert reiterated that it is the responsibility of the local board to vet the candidates and select the candidate who best fits the needs of the school division, therefore, given the social media posts by Mr. Taylor, Dr. Seibert hopes that the local board will consider moving on to other candidates.

Dr. Mann shared that, while sitting on the Board, some of the hardest decisions pertain to licensure and that the Board does understand the gravity of those decisions and also expressed her support for local control of government. Dr. Mann shared that she is deeply troubled by the information that has been shared regarding the social media activity of Mr. Taylor and worries about how that will affect students who have been memed in social media in this way. She stated that this gives her great pause because within the purview of the authority that she has as a sitting Board member, she has to feel good about a decision that goes to the heart of what is in the best interest of students. She also believes that there is discretion within that regard that is not, in her view, an overreach of responsibility. The decision of the Board is solely about licensure and giving someone the opportunity to be a role model for students of all kinds. It is up to the local government to hire the best candidate for the position.

Ms. Creasey stated that she is also a proponent of local control in this matter. She encouraged the constituents to continue attending their local school board meetings and also encouraged those constituents to be good and responsible role models for students.

Mr. Hansen thanked all of the individuals who came out for public comment and for the board members from Spotsylvania who came out to speak. Mr. Hansen thanked the Board for taking their time and ensuring that the procedural issue was adequately addressed. He reiterated that this Board is not in an appellate role and that the local board needs to be shown the proper respect in making this decision for their school division.

Mr. Rotherham also thanked the individuals for their civil and respectful participation on this contentious topic. He also affirmed that it is not the role of this Board to appoint a superintendent. The role of this Board is to determine if an individual is qualified to obtain a license and it is the responsibility of the local school board to appoint a superintendent. He stated that, assuming these social media posts are real, they are very troubling and raise serious concerns regarding proper judgment and commitment to making Virginia public schools work for all students as well as the obligation of Virginia public schools to be inclusive, pluralistic and responsive to parents. He also stated that if he was on a local board and this information was presented he would not vote to hire Mr. Taylor as superintendent, however that is not the Boards' role here.

Mr. Gecker offered historical background information on how the process for certifying division superintendent licenses became a responsibility of this Board. He continued that Option 4 states the idea that local divisions have almost exclusive rights in regards to superintendent candidates because it takes the entire vetting process and puts it in the hands of the local school board and reiterated that licensing decisions are not hiring decisions.

Ms. Holton made a motion to approve the list of candidates, removing Mr. Taylor from the group, allowing for a separate vote for certification for Mr. Taylor. The motion was seconded by Mr. Rotherham and carried unanimously.

Ms. Dutta made a motion to approve Mr. Taylor for certification for superintendent licensure. The motion was seconded by Mr. Hansen. This motion was carried by majority, with Ms. Holton and Dr. Mann voting against the motion.

***B. Final Review of Guidelines and Criteria for the Award and Distribution of Lab School Start-up and Per-Pupil Funding Grants***

The *Guidelines and Criteria for the Award and Distribution of Lab School Start-up and Per-Pupil Funding Grants* set the parameters for how the initial start-up costs (\$20M) and per-pupil operating funding grants (\$75M) shall be administered, including the process for reviewing requests, how award amounts will be determined, permissible expenditures, and accountability measures for the use of the grant funding. These guidelines and criteria are a complement to the Board's Virginia College Partnership Laboratory School application and application process, previously approved by the Board in January 2011. The Board also previously approved its *Guidelines and Criteria for the Award and Distribution of Lab School Planning Grant Funding* at its August 2022 business meeting.

The Superintendent of Public Instruction recommended that the Board of Education approve the *Guidelines and Criteria for the Award and Distribution of Lab School Start-up and Per-Pupil Funding Grants*.

Mr. Hansen made a motion to approve the Final Review of *Guidelines and Criteria for the Award and Distribution of Lab School Start-up and Per-Pupil Funding Grants*. The motion was seconded by Mr. Rotherham and carried unanimously.

***C. Final Review of an Amendment to Virginia's Consolidated State Plan under the Every Student Succeeds Act of 2015 (ESSA) - Amendment 5***

The proposed amendment to Virginia's Consolidated State Plan under the Every Student Succeeds Act of 2015 makes the following changes:

1. Adding a multiple races student group for reporting purposes.
  - a. Consistent with ESEA section 1111(c)(2)(B), all major racial and ethnic groups should be included in federal accountability reporting. The defining criteria is state-determined. The Virginia Department of Education has long defined a major racial or ethnic group as a student group that represents five percent or more of the student population in Virginia. The multiple races group, which consists of

student records that are marked with two or more races, currently represents more than five percent of the student population in Virginia.

- b. The student group multiple races was approved as a component of the state accreditation system in April, 2019.
2. Providing technical edits, for clarification purposes, to step 3 of the identification processes for Comprehensive Support and Improvement Schools (CSI) and Targeted Support and Improvement schools (TSI).
  - a. Standard Three of the Standards of Quality (§ 22.1-253.13:3) states that once a school has been Accredited for three consecutive years, it will have the status of Accredited for the following three consecutive years (this is known as “triennial accreditation”). The technical edits to step 3 of the identification processes for CSI and TSI are necessary to clarify that a school which is labeled as Accredited because it is under triennial accreditation can be identified for federal support and improvement if the school does not meet the data benchmarks required to be Accredited using the most recent school year data. This clarification is needed in several sections of the document.
  - b. Images were also updated to represent the technical edit.
3. Changing the methodology for determining growth for accountability year 2022-2023, based on 2021-2022 school year data. (This has been updated since the August business meeting.)
  - a. In the current Consolidated State Plan, Growth English Reading and Growth Mathematics includes students who passed the current year’s SOL test, and those who showed growth from the previous year SOL test to the current year SOL test. However, Virginia administered growth assessments for the first time in fall 2021, and it is being proposed to incorporate those assessments into the growth methodology for federal accountability.
  - b. In July 2021, the Board approved a growth methodology for state accreditation purposes for the 2022-2023 accountability year. The methodology used for accreditation allows the newly administered fall growth assessments to be used in the determination of growth, in addition to the previous spring SOL test score. The Consolidated State Plan is being amended to reflect that change. Another amendment will be submitted for accountability year 2023-2024 and beyond once a growth measure for accountability year 2023-2024 is determined by department staff, and approved by the Board.
  - c. A current progress table that will be used to determine growth was inserted in place of the outdated progress table.
  - d. The growth methodology outlined in (b) was referenced at the August business meeting as one of two scenarios that would be submitted to USED for approval.



4. Shifting measures of interim progress (“targets”) forward two years for Chronic Absenteeism, the Federal four-year graduation Index (FGI), and English Learner Progress.
  - a. This change was previously approved by the Board in March 2022 and then submitted to and approved by USED in the COVID-19 Addendum. However, 2 since the shift forward is a permanent change, USED has stated that it is necessary to update the Consolidated State Plan.
  - b. In Amendment 5, the targets being proposed for the 2022-2023 accountability year were the targets that were originally intended for the 2020-2021 accountability year. Targets for Years 4-7 were also shifted forward two years.
  
5. Updating the plan with new reading and mathematics measures of interim progress and long-term goals.
  - a. ESEA section 1111(c)(4)(A)(i)(I)(aa) requires that a State’s measures of interim progress and long-term goals be based on student performance on the State’s current annual assessments.
  - b. New measures of interim progress and long-term goals are necessary because a new reading assessment was administered for the first time to a fully representative student population during the 2021-2022 school year. Additionally, new mathematics and reading Virginia Alternate Assessment Program (VAAP) assessments were administered for the first time during the 2021-2022 school year.
  - c. The proposed measures of interim progress and long-term goals raise expectations for all student groups and place increased focus on closing achievement gaps.
    - i. Baseline measures of interim progress are set at the pass rate of the school at the 50th percentile of enrollment using the 2021-2022 school year data, rather than the school at the 20th percentile of enrollment used in the past;
    - ii. The long-term goals for both reading and mathematics for all student groups have increased:
      - (1) Reading: from 75% to 88%
      - (2) Mathematics: from 70% to 85%
    - iii. The proposed measures of interim progress and long-term goals increase the intensity and urgency of closing the achievement gaps since lower performing student groups have greater overall increases to make towards the same long-term goal than higher performing groups, within the same time frame.
  
6. Adding detail to Virginia’s accreditation system description. (This has been added since the August business meeting.)

- a. Virginia's accreditation system is an indicator of school quality that is used in Step 3 of the identification process for CSI and TSI.
- b. USED asked for additional details in the School Quality or Student Success Indicator section so that it was evident that Virginia's accreditation system allowed for differentiation of school success.

The Superintendent of Public Instruction recommended that the Board of Education approve Amendment 5 to Virginia's Consolidated State Plan under the Every Student Succeeds Act of 2015.

Mr. Hansen made a motion to approve the Final Review of Amendment 5 to Virginia's Consolidated State Plan under the Every Student Succeeds Act of 2015. The motion was seconded by Mr. Rotherham and carried unanimously.

### **ACTION/DISCUSSION ITEMS**

#### ***D. Final Review of Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes***

Dr. Brendon Albon, Director of the Office of STEM and Innovation, and Ms. Vanessa Wigand, Health and Physical Education Coordinator, presented this item to the Board for final review.

Pursuant to Senate Bill 463 (2020), the *Code of Virginia* was amended to include § 22.1-271.8 directing the Board of Education (Board) to develop, biennially update, and distribute to school divisions guidelines on policies to inform and educate coaches, student-athletes, and student athletes' parents or guardians about the nature and risk of sudden cardiac arrest (SCA). This will guide procedures for removal from and return to play, as well as the risks of not reporting symptoms. A student-athlete removed from play shall not return to play until they are evaluated by and receive written clearance to return to physical activity from an appropriate licensed health care provider as determined by the Board. The licensed healthcare provider evaluating student athletes may be a volunteer.

The purpose of the *Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes* is to protect student-athletes by providing recommendations that support the development and implementation of effective sudden cardiac arrest (SCA) prevention policies in local school divisions through education, prompt recognition, and appropriate response. SCA is a sudden loss of heart function most frequently caused by an abnormality in the heart's electrical system and is different from a heart attack which involves a blockage in a blood vessel to the heart. While rare, SCA is the leading medical cause of death in young athletes. Hence, raising awareness of warning signs and risk factors, putting a strong cardiac emergency action plan in

place, and screening for heart conditions are key as SCA is often prevented when the underlying causes are diagnosed and treated.

The goals of Senate Bill 463 are to ensure that student-athletes who may be at increased risk of SCA are properly identified, promptly removed from activity, and not allowed to return to play until evaluated by an appropriate licensed health care provider familiar with evidence-based best practices for diagnosing and treating various forms of heart disease and individualizing care. Proper identification requires awareness of the warning signs of SCA which are often ignored or attributed to other causes. Early recognition and intervention are well-proven measures in the chain of survival for cardiac events. Any delays in taking appropriate action can be catastrophic. Training parents, students, and coaches to respond to an SCA emergency could help save a life.

The proposed *Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes* were developed in consultation with clinicians with subspecialties in pediatric sports medicine, pediatric cardiology, interventional cardiology, emergency medicine, family medicine, and other stakeholders affiliated with the Virginia Chapter American Academy of Pediatrics, Virginia College of Emergency Physicians, Virginia Athletic Trainers' Association, Virginia Association of School Nurses, Virginia Association for Health, Physical Education, Recreation and Dance, American Medical Society for Sports Medicine, Virginia Association of Clinical Nurse Specialists, Children's Hospital of the King's Daughters; Virginia Commonwealth University School of Medicine, Virginia High School League Sports Medicine Advisory Committee, the American Board of Family Medicine, Virginia Department of Health, and the Virginia School Board Association.

The Superintendent of Public Instruction recommended that the Board of Education approve the proposed *Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes* and authorize the VDOE to make technical edits.

Ms. Creasey made a motion, seconded by Mr. Rotherham, to approve the proposed 2022 *Guidelines for Policies on Sudden Cardiac Arrest Prevention in Student-Athletes* and authorize the VDOE to make technical edits. The motion passed unanimously.

***E. Final Review of Revisions to the Child Care Program Regulations (8VAC20-790) to Comply with Requirements of the 2023-2024 Appropriations Act (Exempt Action)***

Ms. Jenna Conway, Deputy Superintendent, Early Childhood Care and Education, presented this item to the Board for final review.

Chapter 860 and 861 of the Acts of Assembly (2020) transferred oversight of child care

programs and regulations to the Board of Education. New language in Item 129Q of the 2023-2024 Appropriations Act directs the Virginia Department of Education (VDOE) to increase access and ensure choice across the public-private early childhood system in order to improve statewide school readiness by taking the following actions after July 1. Specifically, the budget language requires the following:

- Estimate the actual cost of providing high-quality care and education services in community-based settings and adjusting rates accordingly;
- Pay based on enrollment, setting rates based on cost benchmarks;
- Eliminate or reduce copayments for private child care options that align with public options;
- Remove the existing 72-month limit on the duration of time that families may participate;
- Set 85% of State Median Income as the income threshold for initial eligibility for families with young children;
- Include employment search as an approved activity for initial eligibility; and
- Eliminate the waitlist for the Child Care Subsidy Program (CCSP).

Ms. Holton commended Ms. Conway for her extensive work and expertise in leading major reform in early childcare in Louisiana and Virginia. Ms. Holton then asked for an update on the recovery of our availability of care since the pandemic. Ms. Conway stated that enrollment in the Virginia Preschool Initiative is back to pre-pandemic levels and work is continuing with Head Start to get those levels back up as well. There has been significant growth in response to the need for families reentering the workforce. The hope is that these improvements to the child care subsidy program will help enable more working parents to return to the workforce.

The Superintendent of Public Instruction recommended that the Board of Education approve the revisions to the Child Care Program regulations to comply with directives of the 2023-2024 Appropriations Act.

Dr. Mann made a motion to approve the revisions to the Child Care Program regulations to comply with directives of the 2023-2024 Appropriations Act, which was seconded by Mr. Hansen. The motion passed unanimously.

***F. First Review of Comprehensive Revisions to the General Procedures and Information for Licensure and Background Checks for Child Day Programs and Family Day Systems (Proposed Stage)***

Ms. Jenna Conway, Deputy Superintendent, Early Childhood Care and Education, presented this item to the Board for first review.

Chapter 860 and 861 of the Acts of Assembly (2020) transferred oversight of child care programs and regulations to the Board of Education. Action taken by the Board on April 21, 2021 transferred all child care regulations from the Board of Social Services to the Board of Education. The Board approved the Notice of Intended Regulatory Action (NOIRA) for the General Procedures and Information for Licensure (“General Procedures”; 8VAC20-820) regulations and Background Checks for Child Day Programs and Family Day Systems (“Background Checks”; 8VAC20-770) regulation at the November 18, 2021, meeting as a comprehensive review of the regulations were necessary to implement the programs in accordance with the Act, and to incorporate substantive policy changes to align with the Code of Virginia and revised program policy and procedures. The NOIRA’s were submitted for executive branch review, pursuant to the requirements of the Administrative Process Act. The 30-day public comment period on these regulatory actions ended on March 2, 2022.

The VDOE staff began an initial review of the General Procedures and Background Checks regulations when the Board assumed the authority for these regulations in July 2021. VDOE staff created an internal workgroup to perform a comprehensive review of the regulations. The internal workgroup determined that a single regulatory chapter that contained the components of the General Procedures, the Background Checks, and the Fee Requirements for Processing Applications (“Fee Requirements”; 8VAC20-830) regulations was the most prudent and efficient way to proceed. Therefore, a single replacement chapter was submitted to the Early Childhood Advisory Committee (ECAC) for their review and feedback on May 19, 2022, and June 23, 2022. At the May meeting, ECAC reviewed a draft that contained the combined General Procedures and Fee Requirements. The draft submitted to ECAC for the June meeting integrated the proposed changes to Background Checks. Although the full draft was submitted to ECAC at the June 23, 2022, meeting, the committee did not have a quorum present to make a formal endorsement to the Board.

The draft before the Board eliminates informational and redundant language, defers to statutory structures in order to reduce conflicts and the need to update regulatory text, and streamlines processes for administrative convenience that will ultimately benefit the public. In the process, the draft has achieved a significant reduction and improved clarity without reducing protections for either children or child care providers. Major areas of revision include the specification of qualifications of licensure, standards of conduct to reduce gaps in enforcement, and a reduction of regulations regarding enforcement proceedings.

Dr. Mann requested clarification about the interpretation under “Prohibited Acts,” under Item K that reads, “Failure to notify the Superintendent that the licensee has been convicted of a barrier crime as identified in code or is the subject of a founded complaint.” She stated that it is unclear who is to perform that action and requested that the language be clarified. Further, on the due

process side, she also requested that we maintain a reference that clarifies procedures. Ms. Conway suggested that she could create a guidance document that clearly delineates procedures.

Dr. Mann also referenced one of the public speakers, Myra Crouch, questioning, “whether this may be an opportunity, as we undertake this effort, to revise language to more appropriately reference the work that we are striving to professionalize, given the expectations that we have for entities that take on the responsibility of educating and caring for young children.”

The Superintendent of Public Instruction recommended that the Board of Education receive for first review the proposed comprehensive revisions to the General Procedures and Information for Licensure, and Background Check Regulations for Child Day Programs and Family Day Systems.

The Board accepted this item for first review.

#### ***G. First Review of Proposed Addition to Board Guidance on the Applied Studies Diploma.***

Dr. Samantha Hollins, Assistant Superintendent, Department of Special Education and Student Services, presented this item to the Board for first review.

During the 2021 legislative session, the Virginia General Assembly passed HB2299 and SB1288 requiring the Board of Education to adopt guidance for the statewide requirements for earning an Applied Studies Diploma for implementation at the beginning of the 2022-2023 school year.

The Applied Studies Diploma is a state recognized diploma outlined in the *Code of Virginia* (§ 22.1-253.13:4) and the *Board’s Regulations Establishing Standards for Accrediting Public Schools in Virginia* (8VAC20-131). This option is available to students identified as having a disability who complete the requirements of their Individualized Education Programs (IEPs) and meet certain requirements prescribed by the Board pursuant to regulations, but do not meet the requirements for any named diploma. The VDOE has developed an Applied Studies Curriculum Map based upon national research analysis and stakeholder input to meet the needs of students with disabilities more effectively and to align instruction to ensure student success over a variety of skill domains. The flexibility provided by current regulatory language is key as students eligible for this diploma often have unique and individualized needs and goals that are best captured at the individualized education program level. This guidance will ensure the structure for rigorous high quality instruction and supports while recognizing the unique needs of the student population and the ability to be responsive to changes in research based practices and development of high-quality supports.

This guidance and accompanying materials have been in use in the field, and the VDOE has supported targeted division-level pilots of the utilization of the materials across multiple school divisions during both the 2020-2021 and 2021-2022 school years. This support includes targeted technical assistance as well as professional development that will continue with the adoption of this Board guidance. The VDOE is aligning actions around the development of the Statewide Strategic Plan for Transition and ongoing studies such as the General Assembly's Commission on Youth's study on the transition process for students with disabilities. Annual data is also reviewed alongside assessment participation for students with significant cognitive disabilities to ensure alignment between early decisions regarding diploma options and corresponding instructional and assessment decisions and to inform federal program monitoring in special education.

Adoption of this guidance to support the implementation of statewide requirements for earning an Applied Studies Diploma will encourage high expectations for students with significant disabilities while ensuring maximum flexibility of IEP Teams to support students as they pursue this diploma option.

The Board's adoption of this guidance will emphasize high expectations for all students with disabilities. The VDOE will rely on federal guidelines, technical assistance, monitoring and utilization of the Virginia Alternate Assessment Program (VAAP) to ensure that all students with disabilities have access to high-quality instruction, materials, supports and the opportunity to pursue all diploma options available to non-disabled students.

The VDOE will ensure school divisions continue to prioritize the individualized assessment of student needs and monitor school division implementation of this guidance to ensure all students with disabilities have equal access to high-quality educational opportunities. The VDOE will work with school divisions and partners to ensure that parents are involved, well-informed, and included in all decision-making related to diploma options for students with disabilities.

In response to a question from Mr. Hansen regarding whether any input has been received about this guidance, Dr. Hollins stated that this guidance has existed in the field and the additions have been field tested for the last two years and have been well received.

Dr. Mann requested information regarding the system that has been put in place for monitoring. Dr. Hollins stated that each division receives on-site, in depth monitoring once every five years. However, this year they are undertaking a re-ignition of the monitoring of the Virginia Alternate Assessment Program, which many of the students that will utilize this diploma option are also a part of. Each student that is on the VAAP track and seeking this diploma option are monitored with follow up with local school divisions. This year, they are monitoring about 90 school divisions.

Ms. Dutta questioned whether or not this diploma is accepted at community colleges or institutions of higher learning. Dr. Hollins confirmed that this diploma option is not technically recognized by community colleges or federal government student aid. However, the information and the plan that is developed as a result of this diploma is a document that can follow a student to assist in conversation about what supports they may receive in a setting similar to a community college. Ms. Dutta requested data on growth since these changes have been implemented. Dr. Hollins indicated that the number of students attaining the Applied Studies Diploma has decreased, which indicates positive change because it means more students are receiving Standard or Advanced diplomas. She stated that this diploma was designed for students with significant and unique disabilities and helps those students prepare for the next stage in their lives. Ms. Dutta then asked how it is determined that a student qualifies for this type of diploma. Dr. Hollins indicated that qualifying for this type of diploma is an IEP team decision, which is beneficial because that team is familiar with the student and what supports they require to be successful both before and after graduation.

Mr. Gecker requested that Dr. Seibert speak about the tension that occurs on the local level regarding special education services. Dr. Seibert responded, explaining that the regulations surrounding special education are abundant, as are the procedural safeguards and advocates to help parents navigate through the processes. He also stated that there are students, “for whom at the time at school and the time beyond their regular graduation date are best focused on getting the skills they need to increase their level of independence, whether that’s to go out and get a job on their own, to live on their own, or to live in their home safely and navigate their community. These are students with really significant disabilities and that puts extra stress on everybody involved, so I think this is a really good opportunity.”

Ms. Creasey added that she has worked with Dr. Hollins’ office for many years and that their department ensures that anyone, whether they are public or private school students, are offered the same support mechanisms. Ms. Creasey thanked Dr. Hollins and her staff for the work they do every day for the students and the families in this Commonwealth who have children with cognitive disabilities.

The Superintendent of Public Instruction recommended the Board of Education receive for first review the Applied Studies Curriculum Map and supporting materials.

The Board accepted the item for first review.



## ***H. First Review of Guidelines for Implementing New Appropriation Act Provisions for Literary Fund School Construction Loans for the 2022-2024 Biennium***

Mr. Kent Dickey, Deputy Superintendent of Budget, Finance, and Operations presented this item to the Board for first review.

The 2022 Appropriation Act (i.e., Chapter 2 budget) enacted for the 2022-2024 biennium includes substantial support for local school construction and renovation through two grant programs as well as authorization to issue school construction loans from the state's Literary Fund. The 2022-2024 appropriation act also includes several new budget language provisions impacting the application process and award of Literary Fund school construction loans. Item 137, Paragraph C.11 of the 2022 Appropriation Act for the 2022-2024 biennium, includes the following provisions related to Literary Fund school construction loans:

- Language authorizing the Board to offer up to \$200,000,000 in fiscal year (FY) 2023 and up to \$200,000,000 in FY 2024 from the Literary Fund for school construction loans, subject to the availability of funds. Amounts designated for school construction loans that are not obligated in FY 2023 may be obligated in FY 2024;
- Establishing an annual open enrollment process by which localities and school boards apply to the Literary Fund for school construction loans, in lieu of the First Priority and Second Priority waiting list process for awarding loans. Priority for loan funding is based on the local composite index of ability-to-pay (but the Board may consider other critical projects or priority);
- Establishing a maximum Literary Fund loan amount per project of \$25.0 million (from \$7.5 million currently authorized in the *Code of Virginia*);
- In consultation with the Department of the Treasury, establishing loan interest rates that are benchmarked to a market index interest rate on an annual basis, not to exceed 2.0 percent for the tier of localities with a school division local composite index of ability-to-pay between 0.0000 and 0.2999; and
- Language authorizing the Board to offer a loan add-on amount not to exceed \$5.0 million per loan for projects that will result in school consolidation and the net reduction of at least one existing school.

Senate Bill 471 (McClellan), which was signed by the Governor on August 4th, includes similar provisions for Literary Fund loans as the 2022 Appropriation Act provisions listed above. However, there is a delayed enactment of SB471 of four months following the adjournment of 2022 Special Session I, which is still in session. SB471 also requires the Board to amend its Literary Fund regulations to implement the provisions of the bill.

As the Board of Education is responsible for management of the Literary Fund and awarding of school construction loans from the Fund, these proposed guidelines are intended to facilitate

implementation of the new appropriation act provisions (and eventually the similar provisions in SB471) impacting the application for and awarding of Literary Fund school construction loans during the 2022-2024 biennium. The Virginia Department of the Treasury, which serves as accountant for the Literary Fund, was consulted in the development of the proposed guidelines. Treasury and VDOE staff collaborated on the overall content of the proposed guidelines, with Treasury staff providing specific recommendations for implementing a market index interest rate as a benchmark for establishing Literary Fund loan interest rates.

Notwithstanding the forthcoming enactment of SB471, if subsequent legislative action on the state budget during the 2022-2024 biennium results in substantive revisions to language provisions affecting Literary Fund loans, the guidelines will be updated accordingly and presented to the Board for review and approval. These guidelines will remain in effect initially for the 2022-2024 biennium, and then for future biennium if the new budget language provisions affecting Literary Fund school construction loans are continued in future biennial budgets.

Ms. Holton clarified that the reason for waiving first review is to expedite the ability to start utilizing these funds.

The Superintendent of Public Instruction recommended that the Board of Education waive First Review and approve the *Guidelines for Implementing New Appropriation Act Provisions for Literary Fund School Construction Loans in the 2022-2024 Biennium*.

Dr. Mann made a motion to approve waiving First Review and approving the *Guidelines for Implementing New Appropriation Act Provisions for Literary Fund School Construction Loans* in the 2022-2024 Biennium, seconded by Ms. Dutta. The motion was carried unanimously.

### ***I. First Review of Preliminary Unified Regulatory Plan for Executive Order 19***

This item was removed from the Agenda prior to the meeting.

### ***J. First Review of Proposed Technical Revisions to the Bylaws of the Virginia Board of Education to Comply with Statutory Changes***

Mr. Jim Chapman, Regulatory and Legal Coordinator, presented this item to the Board for first review.

The Bylaws of the Virginia Board of Education (“Bylaws”) are the rules governing the Board of Education. The Bylaws were first adopted by the Board in 2000 and were subsequently amended in 2001, 2004, and 2016.

VDOE staff has made proposed revisions to the Bylaws in two areas in order to ensure compliance with applicable state laws. The first area of revision concerns electronic participation (Article Four, Section 11). A new section of the Virginia Freedom of Information Act (“FOIA”), § 2.2-3708.3, went into effect on September 1, 2022. The new section alters the requirements for electronic participation in situations other than declared states of emergency, and the proposed revisions ensure compliance with FOIA.

The second area of revision concerns the directions for executive sections (Article Five). In order to hold a closed meeting, the Board must comply with the requirements of FOIA found in §§ 2.2-3711 and 2.2-3712. The suggested revisions add additional language and directions from state law in order to ensure compliance.

The suggested revisions are being presented by the Board for consideration and general discussion. VDOE staff will take note of additional changes requested by members of the Board to bring for final review in October.

According to Article Twelve of the Bylaws, any amendment requires a vote of at least seven members of the Board after a first and final review has been completed at two separate meetings. The requirement for a first and final review at two separate meetings may not be waived by the Board, unless such waiver is approved by every member of the Board.

The Superintendent of Public Instruction recommended that the Board of Education receive the proposed revisions to the Bylaws of the Virginia Board of Education for first review.

The Board accepted this item for first review.

#### ***K. First Review of the Proposed 2023 Board of Education Meeting Dates***

Ms. Emily Webb, Director of Board Relations, presented this item to the Board for first review.

Since 2018, the Board of Education meeting schedule has included eight business meeting dates and eight standing committee meeting dates. The proposed 2023 meeting schedule continues with eight meeting dates. The Board will not hold a meeting the months of February, May, August or December. The April meeting dates include an additional day for an off-site retreat. In addition to the monthly meetings, the President may call special meetings of the full Board of Education and its committees, as deemed necessary. Unless otherwise announced, Board of Education meetings will be held in the Board Room on the 22nd floor of the James Monroe Building, 101 N. 14th Street, Richmond, VA 23219.

The Superintendent of Public Instruction recommended that the Board of Education waive first review and approve the proposed 2023 Board of Education meeting dates.

The Board decided to defer on approving the 2023 Board of Education meeting dates to allow time to resolve conflicts with a few of the proposed meeting dates. Ms. Webb requested that members of the Board email her any dates on the schedule that may have conflicts. She committed to sharing a revised schedule with the Board in the coming weeks in advance of final review.

## **PRESENTATIONS**

### ***L. Update on Data Trends Used to Inform Virginia's Strategic Plans for Educator Recruitment and Retention***

Dr. Joan B. Johnson, Assistant Superintendent for Teacher Education and Licensure presented this information to the Board.

The Board of Education prioritized policies to address the continuing teacher shortages and staff turnover in Virginia in its 2018-2023 Comprehensive Plan. In 2021, the VDOE agency leadership identified a twofold need for an interagency team to create a comprehensive strategic recruitment and retention plan: 1) supporting the Board's priority; and 2) responding to the crisis level of educator shortages exacerbated by the COVID-19 pandemic.

In January 2022, the VDOE's Department of Teacher Education and Licensure began leading the development of a statewide strategic plan for educator recruitment and retention, building on the existing agency-wide strategic recruitment and retention plan for special education. VDOE staff conceptualized the strategic planning process into three key phases: Phase I- Landscape Analysis & Strategic Plan Development, Phase II- Pilot Strategies & Actions, and Phase III- Evaluation and Revision. The dissemination of the Strategic Plan and related implementation strategies will coincide with the launch of the marketing campaign in late September 2022. The evaluation of proposed goals, strategies, and action items will be ongoing starting in 2022, creating a baseline for data collection. A three-year Strategic Plan will allow the agency to work toward long and short-term goals and milestones.

Central to stakeholders and agency staff surrounding this effort are key data indicators used to inform Strategic Plan goals, strategies, and in the coming years, evaluation of the plan and related strategies. In order to comply with the requirements of the Code of Virginia and ESEA TITLE II, PART A reporting, the VDOE conducted the Positions and Exits Collection (PEC) for the 2021-2022 school year. As per §§ 22.1-79 and 22.1-290.2 of the Code, local school boards are required to report to the VDOE the number and type of teacher, other instructional personnel,

and support staff vacancies as well as bus drivers in order to identify critical shortages by geographic area, school division, and subject matter. The purpose of the presentation is to provide a status update on the Strategic Plan development process and new data made available through the inaugural fall 2021 administration of the Positions and Exits Collection.

Mrs. Creasey asked for clarification on whether or not the data presented is the number of license holders. Dr. Johnson stated that the data is not license holders, but license applications. Mrs. Creasey requested that the Board be provided with the number of license holders in each of the categories as well as the number of license holders that are currently employed.

Mr. Rotherham expressed concern over the high number of elementary PK-6 vacancies. Dr. Seibert responded that this is a new trend that has been occurring over the last few years as the number of applicants has decreased as there are fewer people entering these programs so supply is not matching demand. He added that adding assistant principals is actually a retention strategy because it helps give teachers the support they need in regards to behavior, discipline, and attendance issues.

Dr. Mann stated that a key concern, and one that she hopes this Board can begin to address, is what is keeping people from seeing education as a viable career path in Virginia and what changes can be made to address those issues.

Ms. Holton requested that the data be broken down into high poverty and low poverty areas so the Board can see the difference in vacancy rates in those areas. She also requested to see the percentage of provisionally licensed individuals who are in the classroom and whether that has changed over time and the difference in those percentages between high and low poverty areas.

**DISCUSSION ON CURRENT ISSUES by Board of Education Members and the Superintendent of Public Instruction**

Shelley Loving-Ryder, Assistant Superintendent for Student Assessment, Accountability, and ESEA Programs, and Amy Siepka, Director of Accountability, were present to answer questions from the Board regarding the Virginia School Accreditation Model. Superintendent Balow introduced the topic to the Board, stating that, “We are looking for some insight from this Board about where we go and where we lean in as a Board on accreditation and what kind of guidance we are looking for from the committees who will first report to the Board before we then report to the General Assembly.”

Mr. Gecker requested clarification on who the users of the system are and what we want to accomplish through the system.

Mrs. Creasey offered that a change in some of the wording in the standards would be a good starting point. For example, changing words like “should” to “will” would show an increase in expectations and rigor. Noting that, “the language isn’t strong enough for the outcome we desire.” She also added that if we want our students and schools to shoot for acceleration and strive for more than minimum competency, we should consider giving more credit in the accreditation model to those students who achieve pass advanced on the SOLs.

Mr. Rotherham added that he would, “Be fine with a system that rewarded schools for getting kids to advance, as long as you make sure there is a strong floor in place and that there is a point in which if you are falling below that floor that’s being signaled in our accountability system.”

Ms. Holton stated that the School Quality Profile (SQP) does have the data on advance pass vs. proficiency, however it isn’t highlighted on the chart; rather it is hidden in the underlying data itself, so a possible change could be to make that information more apparent. Another possible change could be to highlight divisions who have offerings of advance placement and other high level courses. She also offered that other areas that could use improvement is figuring out how to have better growth measures and provide more data on teachers.

Dr. Seibert stated that the SQP is very rich and strong, however, very few people go digging into it. He offered that it may be helpful to create an executive summary of the SQP.

Mr. Rotherham questioned whether it would be possible to obtain statistical data on what people are looking for most often when they go to the VDOE or Board of Education website. Superintendent Balow agreed, and offered the suggestion that perhaps focus groups could be created to learn what each stakeholder is thinking about in terms of what’s important.

Dr. Mann expressed that we need to remember to think about the parents and students and prioritize those on the ground that don’t always have time to look up this information and to expect that the flow down on the ground in schools is going to take time to work. These structural changes expend extraordinary time and effort on administrators. As the Board tries to improve with the levers that are already in place, care must be taken to not characterize the desires of those who worry about unintended consequences as wanting to settle for mediocrity.

### **SUPERINTENDENT’S UPDATE**

Superintendent Balow provided a written update to the Board.

### ***EXECUTIVE SESSION - September 14, 2022***

On Wednesday, September 14, Dr. Mann made a motion to go into executive session under § 2.2-3711(A)(40) of the *Code of Virginia* for the purpose of discussion and consideration of

records relating to denial, suspension, or revocation of teacher licenses and that Mike Melis and Ramona Taylor, legal counsel to the Virginia Board of Education, as well as staff members Jillian Balow, Joan Johnson, Steven Burkarth, Adam Kane, and Kevin Foster, whose presence would aid in this matter, participate in the closed meeting. The motion was seconded by Ms. Dutta and carried unanimously. The Board went into executive session at 9:30 a.m. Dr. Mann made a motion that the Board reconvene in open session at 3:12 p.m.

President Gecker made a motion that the Board certify by roll-call vote that, to the best of each member's knowledge, (i) only public business matters lawfully exempt from open meeting requirements under Chapter 32 of Title 2.2 of the Code of Virginia and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered.

Board roll call:

- **Mr. Gecker-aye**
- **Mr. Rotherham-aye**
- **Ms. Dutta-aye**
- **Mr. Hansen-aye**
- **Mr. Seibert-aye**
- **Mrs. Creasey-aye**
- **Ms. Holton-aye**
- **Dr. Mann-aye**

The Board made the following motions:

Ms. Creasey made a motion to deny a license to Amber Dawn Mears. The motion was seconded by Dr. Mann and carried unanimously.

Mr. Rotherham made a motion that Case #2 be deferred to allow the applicant to be present. The motion was seconded by Mr. Hansen and carried unanimously.

Ms. Holton made a motion to issue a license in Case #3. The motion was seconded by Dr. Mann, with Mr. Hanson, Dr. Seibert, Mr. Gecker and Mr. Rotherham voting against the motion. The motion did not carry due to the split vote. The Board asked for clarification from the counsel on how to proceed due to the split vote. Counsel was not able to provide guidance during the meeting but stated that they would research the matter to provide guidance on how to proceed at a later date. President Gecker noted that the Board would await guidance from the Office of the Attorney General.

Dr. Seibert made a motion to revoke the license of Michael David Tucci. The motion was seconded by Mrs. Creasey with Ms. Dutta voting against the motion, therefore the motion was

carried by majority.

### ***WORK SESSION***

The Board convened in a work session on Wednesday, September 14, 2022 following the adjournment of the executive session. The agenda and meeting materials can be found on the Board webpage at <https://doe.virginia.gov/boe/meetings/index.shtml#business>. The topics discussed include an update on the process to review and revise the History and Social Science Standards of Learning and an overview of Virginia's school accreditation model. No votes were taken.

### ***DINNER MEETING***

The Board met for a public dinner on Wednesday, September 14, 2022, 6:15 p.m. at the Hard Shell restaurant with the following members present: Mr. Gecker, Dr. Mann, Ms. Dutta, Mrs. Creasey, Mr. Hansen, Dr. Seibert, Ms. Holton, and Mr. Rotherham. The following department staff attended Mrs. Jillian Balow, Superintendent of Public Instruction, Mrs. Kimberly Richey, Deputy Superintendent, and Ms. Emily Webb, Director of Board Relations. The Honorable Aimee Guidera, Virginia Secretary of Education, was also in attendance.

No votes were taken, and the dinner event ended at 8:40p.m.

### ***ADJOURNMENT OF THE BUSINESS SESSION***

There being no further business of the Board, President Gecker adjourned the business meeting at 5:15pm.



Mr. Dan Gecker, President