



# Virginia Department of Education

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## Facts about Foster Youth and Education in Virginia

- More than 5,000 children and youth in foster care in Virginia (2018):
  - Approximately 80 percent (3,385) are school-aged (ages 4-17) per Virginia Department of Social Services' data
- Changes in Home Placement often mean changes in School Placement for Foster Care Youth, which means the youth are adjusting to:
  - Different curricula;
  - Different expectations;
  - New friends;
  - New teachers; as well as
  - New family and home environment.
- In 2016-17, out-of-district students in foster care were served for 158,816 days (882 full-time students) and out-of-district foster care special education students were served for 97,935 days (544 full-time students). The reimbursement for this was \$10.1 million provided in 2017-18.
- Virginia Departments of Education and Social Services issued joint guidance in October 2017 (*Foster Connections and the Every Student Succeeds Act: Joint Guidance for School Stability*)

*of Children and Youth in Foster Care*) and must work together to ensure a smooth transition for the student.

→ Challenges for educational stability include the following:

- High turnover of Case Workers in Local Departments of Social Services, which affects training efforts;
- Limited funding and resources for transportation of children in foster care;
- Delays in enrollment due to meeting the requirements of the Individualized Education Program (IEP), Children's Services Act processes, and transitioning students from private placements to public placements.; and
- Requirements of joint decision-making and immediate enrollment.

→ Commonwealth reimburses localities for educating students in foster care who are not residents of their school division.

→ Local Social Services Agency and the local school division determine jointly the best determination about educational placement based on the needs of the student.

→ Social Services works in collaboration with the School's Foster Care Liaison to transition the child, coordinating IEP, transportation and other needs of the student.

→ Students in foster care who are transitioning to new schools must be enrolled immediately, even if they do not possess the necessary enrollment documents (i.e., health and immunization records, birth certificate) at that time.

→ At the time of enrollment, case workers must provide in writing, to the best of his/her knowledge, the student's age, and declare that the student is in good health and free from communicable or contagious diseases.

→ Case workers have 30 days after enrollment to provide a birth certificate and obtain a health physical for the student with immunization records.

→ The Social Services agency must notify the principal and superintendent about the student in foster care who is being enrolled, and inform the principal of the parental rights status within 72 hours of student placement.

→ Based on new tracking of foster care youth in 2017-18, with a 322 student cohort, the following was tracked:

- 241 youth in foster care graduated High School
- 74.8% graduated on-time
- 56 students in foster care dropped-out of high school (17.4%)

### **Contact Information**

#### **Virginia Department of Education**

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Superintendent – Dr. James F. Lane

## **I. Overview of Educational Stability for Youth in Foster Care**

Of the more than 5,000 children and youth in foster care in Virginia, approximately 80 percent are school-aged (ages 4-17). According to the Virginia Department of Social Services (VDSS), 3385 children and youth between the ages of five to 17 were in foster care on September 30, 2018.

Children and youth in foster care are among the most vulnerable populations in our country. Children in foster care experience much higher levels of residential and school instability than their peers. Studies have revealed that students in foster care at age 17 were less likely to graduate from high school with only 65 percent graduating by age 21 compared to 86 percent among all youth ages 18 to 24.<sup>1</sup> Statistics show that close to 64 percent of youth in care experience two or more foster home placements throughout the duration of one foster care episode, indicating the vital need to provide stability for these youth wherever possible. Stability, when in the youth's best interest, is promoted by maintaining a predictable and familiar school environment where the youth is known, cared for, and supported.

For children and youth in foster care, a change in *home* placement frequently results in a change in *school* placement. The educational impact of every school change is significant. Each time students enter new schools they must adjust to different curricula, different expectations, new friends, and new teachers. Keeping children in the same school:

- provides continuity in education;
- maintains important relationships at school;
- provides stability during a traumatic time for the children; and
- improves educational and life outcomes.

Virginia began addressing the need for educational stability through collaborative efforts among social services staff and educators in 2010. Federal and state legislation and practitioners in the field have informed this work. Most recently, the Virginia Department of Education (VDOE) and VDSS issued *Foster Connections and the Every Student Succeeds Act: Joint Guidance for School Stability of Children and Youth in Foster Care* in October 2017. Both state agencies support localities and their designated points of contact through ongoing regional trainings and technical assistance to ensure school stability or immediate enrollment when stability is determined not to be in the student's best interest.

## **II. Challenges**

The challenges to implementation of educational stability include high turnover of case workers in local DSS offices that affects training efforts, limited funding and resources to provide

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<sup>1</sup> National Center for Education Statistics (2014). *Digest of education statistics*, 2014 104.40.  
Retrieved from [https://nces.ed.gov/programs/digest/d15/tables/dt15\\_104.40.asp?current=yes](https://nces.ed.gov/programs/digest/d15/tables/dt15_104.40.asp?current=yes)

transportation to maintain school stability. Delays in enrollment can be caused by additional steps when the IEP process must be followed, when the Children's services Act (CSA) processes are involved, and when students are stepping down from private placements and schools are concerned about student needs and safety.

The *Code of Virginia* (§ 22.1-3.4. ) requires a joint decision about educational stability but also requires immediate enrollment. It is unclear how to resolve a possible conflict when a case worker has not followed the joint decision making process and presents a student for immediate enrollment.

### **III. State Funding**

The Commonwealth provides foster care funding to reimburse localities for educating students in foster care who are not residents of their school division, under the authority set forth in the *Code of Virginia* at § 22.1-101.1 and in the Appropriation Act, at Item 136.C.25. State funds are provided for prior year local operations costs for each pupil who is not a resident of the school division providing his education if the student has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia child-placing agency. Funds also cover children who have been placed in an orphanage or children's home which exercises legal guardianship rights, or who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home. Funds are also provided to support children with disabilities attending public school who have been placed in foster care or other such custodial care across jurisdictional lines.

These reimbursements are based on the number of days that foster care students were educated in the serving division and average local expenditure. In the 2016-17 school year, out-of-district students in foster care were served for 158,816 days, or the equivalent of 882 full-time students. In the same year, out-of-district foster care special education students were served for 97,935 days, or the equivalent of 544 full-time students. The appropriated reimbursement for the 2016-17 school year, which was provided during FY2017-18, was approximately \$10.1 million.

### **IV. Appendices**

- A. Summary of Federal and State Statutory Requirements
- B. Flowchart: School Placement Process for Students in Foster Care
- C. Preliminary data about academic achievement and graduation rates for students in foster care
- D. Provisions in the Appropriation Act and *Code of Virginia* related to Foster Care Reimbursement
- E. Annual Superintendent's Memo distributed to school divisions – Student Enrollment Requirements – Foster care provisions highlighted

### Summary of Federal and State Statutory Requirements

The federal *Fostering Connections to Success and Increasing Adoptions Act of 2008* (Fostering Connections) (P.L. 110-351, Section 204) requires child welfare agencies to provide:

*(i) assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and*

*(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of placement; or (II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.*

The federal *Every Student Succeeds Act of 2015* (ESSA) (P.L. 114-95) provides a parallel mandate for state and local departments of education to provide educational stability for youth in foster care. ESSA reauthorizes and amends the *Elementary and Secondary Education Act of 1965* and includes foster care provisions under Title I, Part A that complement requirements in the Fostering Connections Act, emphasizing shared agency responsibility and decision making. These provisions include:

- Local Title I plans must contain an assurance that the LEA will collaborate with the state or local child welfare agency to:
  - Designate a point of contact if the corresponding child welfare agencies notifies the LEA, in writing, that it has designated a point of contact for the LEA.
  - Develop and implement procedures for how transportation to maintain foster youth in their schools of origin, when in their best interest, will be provided, arranged and funded, which must:
    - Ensure that youth in foster care who need transportation to the school of origin promptly receive it in a cost-effective manner, and in accordance with the child welfare agency's authority to use child welfare funding available under section 475(4)(A) of Title IV-E of the Social Security Act to provide transportation.
    - Ensure that if there are additional costs incurred in providing transportation to the school of origin, LEAs will provide it if:
      - they are reimbursed by the child welfare agency;
      - the LEA agrees to pay the costs; or

- the LEA and the child welfare agency agree to share the costs.
- Beginning with the 2017-18 school year, states are required to publicly report achievement and graduation rates for students in foster care, at the state, division, and school level.

The *Code of Virginia* reinforces Fostering Connections and ESSA for educational stability.

**§ 22.1-3.4. Enrollment of certain children placed in foster care.**

A. Whenever a student has been placed in foster care by a local social services agency and the placing social services agency is unable to produce any of the documents required for enrollment pursuant to § 22.1-3.1, 22.1-270, or 22.1-271.2, the student shall immediately be enrolled; however, the person enrolling the student shall provide a written statement that, to the best of his knowledge, sets forth (i) the student's age (ii) compliance with the requirements of § 22.1-3.2, and (iii) that the student is in good health and is free from communicable or contagious disease.

B. The sending and receiving school divisions shall cooperate in facilitating the enrollment of any child placed in foster care across jurisdictional lines for the purpose of enhancing continuity of instruction. The child shall be allowed to continue to attend the school in which he was enrolled prior to the most recent foster care placement, upon the joint determination of the placing social services agency and the local school division that such attendance is in the best interest of the child.

C. In the event the student continues to attend the school in which he was enrolled prior to the most recent foster care placement, the receiving school division shall be accorded foster children education payments pursuant to § 22.1-101.1; further, the receiving school division may enter into financial arrangements with the sending school division pursuant to subsection C of § 22.1-5. Under no circumstances shall a child placed in foster care be charged tuition regardless of whether such child is attending the school in which he was enrolled prior to the most recent foster care placement or attending a school in the receiving school division.

D. For the purposes of subsections A, B, and C:

"A child or student placed in foster care" means a pupil who is the subject of a foster care placement through an entrustment or commitment of such child to the local social services board or licensed child-placing agency pursuant to clause (ii) of the definition of "foster care placement" as set forth in § 63.2-100.

For the purposes of this section:

"Receiving school division" means the school division in which the residence of the student's foster care placement is located.

"Sending school division" means the school division in which the student last attended school.

E. Notwithstanding the provisions of subsections A, B, and C or § 22.1-3 or 22.1-5, no person of school age who is the subject of a foster care placement, as such term is defined in § 63.2-100, shall be charged tuition.

**§ 63.2-900.3. School placement of children in foster care.**

When placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, determine jointly with the local school division whether it is in the child's best interests to remain enrolled at the school in which he was enrolled prior to the most recent foster care placement, pursuant to § 22.1-3.4.

## School Placement Process for Students in Foster Care

A student in foster care needs an initial or change in residence.

- The LDSS case worker notifies the current school that the student needs an initial or change in residence.
- The school provides the LDSS case worker with information regarding the appropriateness of the student’s current educational setting.
- The LDSS case worker determines most appropriate residence for student, taking into account information provided by school and proximity to the current school.
- LDSS case worker makes the residence placement and, within 72 hours, notifies the foster care liaison(s) of student’s new residence and need for joint determination of student’s best interest for school placement and notifies the LDSS educational stability liaison.
- Complete FC/ESSA Form A-17.

The LDSS case worker collects information from the student, parents, and other possible BID members using communication options in Guidance.

The foster care liaison shares information with the school of origin (SOO) transportation designee to identify options according the local Title I Plan.

The foster care liaison collects information from appropriate school and division staff, including an IEP team representative if the student has an IEP.

The SOO transportation designee provides the foster care liaison with possible transportation options.

Taking into account input from all members, the LDSS case worker and foster care liaison jointly determine if the student’s best interest is to remain in current school.  
Complete FC/ESSA Form B-17 2017.

As quickly as possible. Within 3 work days of residence change.

Yes

Student remains in current school.

The school division explores options to support SOO transportation and notifies the LDSS case worker.

If the school division does not have any options or cannot provide complete coverage, LDSS arranges and pays for transportation for the child using Title IV-E funds or requesting CSA funds.

When “specialized” transportation is indicated in child’s IEP, the school division responsible for FAPE arranges and pays for transportation.

No

LDSS case worker notifies school division and school of child’s new residence of need to enroll student.

LDSS case worker, foster parent or LCPA presents child for immediate enrollment in school of residence with required information and certifications. Present completed FC/ESSA Form C -17.

School of residence immediately enrolls student.

Sending school expedites transfer of school records to receiving school. (within 5 days)

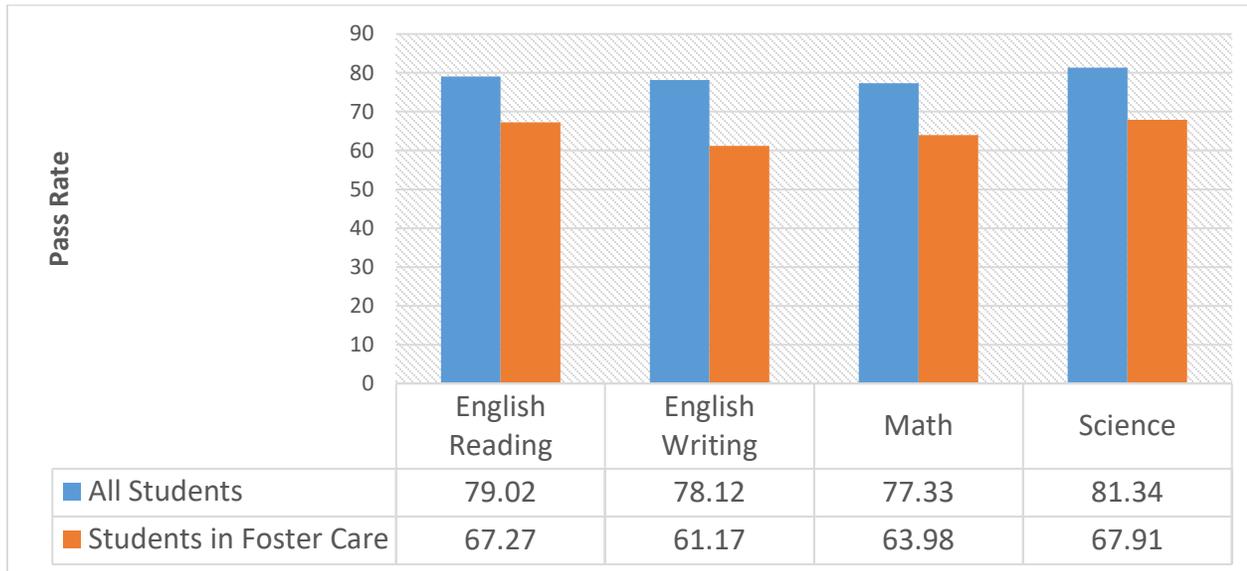
Within 30 days

LDSS case worker provides receiving school any missing required documentation.

Note: Some steps may occur concurrently.

No later than beginning of the next school day

## 2017 - 2018: SOL Pass Rates by Subject



Note: These are preliminary, baseline data. The 2017-18 academic year was the initial year for flagging students in foster care, and these data should be viewed cautiously.

## Status of Virginia Students After Four Years of High School

Students Subgroup	Students in Cohort	Graduates	On-Time Graduation Rate	Completers	Completion Rate	Cohort Dropouts	Cohort Dropout Rate
All Students	97961	89739	91.6	90917	92.8	5399	5.5
Students with Disabilities	11674	10297	88.2	10480	89.8	1105	9.5
Economically Disadvantaged	33921	29734	87.7	30279	89.3	2637	7.8
Homeless	1422	1017	71.5	1066	75	302	21.2
Foster Care	322	241	74.8	252	78.3	56	17.4
Military Connected	3170	3096	97.7	3108	98	38	1.2

Note: The on-time graduation rate should reflect all students identified as being in foster care at any point during the four years of high school. Since the foster care data flag was new in 2017-18, the graduation rate above only refers to students flagged during the last academic year. Students who were in foster care during previous years of high school and those not flagged during the baseline year are not captured in these statistics.

## Provisions in the Appropriation Act and *Code of Virginia* related to Foster Care Reimbursement

### 2019 Appropriation Act (as enrolled)

#### Item 136.C.25. Foster Children Education Payments

a. An additional state payment is provided from the Lottery Proceeds Fund for the prior year's local operations costs, as determined by the Department of Education, for each pupil of school age as defined in § 22.1-1, *Code of Virginia*, not a resident of the school division providing his education (a) who has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children; (b) who has been placed in an orphanage or children's home which exercises legal guardianship rights; or (c) who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home.

b. This appropriation provides ~~\$11,010,422~~ \$9,615,192 the first year and ~~\$11,979,339~~ \$10,387,961 the second year from the Lottery Proceeds Fund to support children attending public school who have been placed in foster care or other such custodial care across jurisdictional lines, as provided by subsections A and B of § 22.1-101.1, *Code of Virginia*. To the extent these funds are not adequate to cover the full costs specified therein, the Department is authorized to expend unobligated balances in this Item for this support.

#### § 22.1-101.1. Increase of funds for certain nonresident students; how increase computed and paid; billing of out-of-state placing agencies or persons.

A. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child who is not a child with disabilities and who is not a resident of such school division under the following conditions:

1. When such child has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children;
2. When such child has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or
3. When such child, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ [63.2-1700](#) et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

B. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child with disabilities who is not a resident of such school division under the following conditions:

1. When the child with disabilities has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children;
2. When such child with disabilities has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or
3. When such child with disabilities, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ [63.2-1700](#) et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

C. Each school division shall keep an accurate record of the number of days which any child, identified in subsection A or B above, was enrolled in its public schools, the required local expenditure per child, the handicapping condition, if applicable, the placing agency or person and the jurisdiction from which the child was sent. Each school division shall certify this information to the Board of Education by July 1 following the end of the school year in order to receive proper reimbursement. No school division shall charge tuition to any such child.

D. When a child who is not a resident of Virginia, whether disabled or not, has been placed by an out-of-state agency or a person who is the resident of another state in foster care or other custodial care or in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ [63.2-1700](#) et seq.) of Title 63.2 located within the geographical boundaries of the school division, the school division shall not be reimbursed for the cost of educating such child from funds appropriated by the General Assembly. The school division in which such child has been enrolled shall bill the sending agency or person for the cost of the education of such child as provided in subsection C of § [22.1-5](#).

The costs of the support and maintenance of the child shall include the cost of the education provided by the school division; therefore, the sending agency or person shall have the financial responsibility for the educational costs for the child pursuant to Article V of the Interstate Compact on the Placement of Children as set forth in Chapters 10 (§ [63.2-1000](#) et seq.) and 11 (§ [63.2-1100](#) et seq.) of Title 63.2. Upon receiving the bill for the educational costs from the school division, the sending agency or person shall reimburse the billing school division for providing the education of the child. Pursuant to Article III of the Interstate Compact on the Placement of Children, no sending agency or person shall send, bring, or cause to be sent or brought into this Commonwealth any child for placement unless the sending agency or person has complied with this section by honoring the financial responsibility for the educational cost as billed by a local school division.

E. To the extent that state funds appropriated by the General Assembly pursuant to subsection A or B or other state funds, such as those provided on the basis of average daily membership, do not cover the full cost of educating a child pursuant to this subsection, a school division shall be reimbursed by (i) the school division in which a child's custodial parent or guardian resides or (ii) in the case of a child who has been placed in the custody of the Department of Social Services, the school division in which the parent or guardian who had custody immediately preceding the

placement resides, for any remaining costs of educating such child, whether disabled or not, who has been placed, not solely for school purposes, in (a) foster care or other custodial care within the geographical boundaries of the school division to be reimbursed, or (b) a child-caring institution or group home licensed under the provisions of Chapter 17 (§ [63.2-1700](#) et seq.) of Title 63.2 that is located within the geographical boundaries of the school division to be reimbursed.

## Superintendent's Memo #184-18

**COMMONWEALTH of VIRGINIA**  
**Department of Education**

**DATE:** July 20, 2018  
**TO:** Division Superintendents  
**FROM:** James F. Lane, Superintendent of Public Instruction  
**SUBJECT:** **Student Enrollment Requirements – School Year 2018-2019**

As you begin to prepare for the 2018-2019 school year, I want to take the opportunity to provide you with some general information and remind you about certain enrollment requirements. Please distribute this information as widely as possible throughout your school division to ensure that appropriate school division employees are aware of these requirements.

Compulsory Attendance

Section [22.1-254](#) of the *Code of Virginia* (the compulsory attendance law) provides:

...Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, cause such child to attend a public school or a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § [22.1-254.1](#)....

The compulsory attendance law permits a child to attend a private or public school or receive an education through certain alternatives to school attendance, such as home instruction, unless the child is excused from attendance by a local school board, as referenced in § [22.1-254](#) of the *Code of Virginia* (*Code*). Parents who wish to seek a religious exemption to compulsory attendance must petition the school board and show that, by reason of bona fide religious training or belief, the pupil, together with his parents, is conscientiously opposed to attendance at school. (§ [22.1-254.B.1](#) of the *Code*)

Please refer to the Department of Education's [Guidelines for Home Instruction in Virginia](#) for additional information on home instruction and other alternatives to school attendance.

Any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is

not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year. (§ [22.1-254](#) of the *Code*)

### Residency

Section [22.1-3](#) of the *Code* provides “[t]he public schools in each school division shall be free to each *person of school age* who resides within the school division....” Section [22.1-1](#) of the *Code* defines a *person of school age* to mean a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

For the purposes of enrollment, the local school division determines whether a student meets the following residency requirements set out in the *Code*:

- The student is living with a natural parent or a parent by legal adoption.
- The student has a parent in the military and is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under Title 10, United States Code, § 1044b, by the custodial parent.
- The student’s parents are deceased, and the student is living in loco parentis with a person who resides in that locality.
- The student is living in the locality, not solely for school purposes, as an emancipated minor.
- The student is experiencing homelessness as described in § [22.1-3\(A\)\(6\)](#) of the *Code*.
- The student is living with another person who resides in the school division, not solely for school purposes, and that individual: (a) is the court-appointed guardian, or has legal custody, of the person; or (b) is acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § [63.2-1200](#) of the *Code*; or (c) is an adult relative providing temporary kinship care as that term is defined in § [63.2-100](#) of the *Code* when the student’s parents are unable to care for him or her.

The school division may require one or both of the parents and the adult relative providing kinship care to submit certain documents and verifications in order to enroll the child. In addition, a school division may also require the parent or adult relative to obtain written verification from the department of social services where the parent or parents live, or from both that department and the department of social services where the kinship care provider lives, to show that the kinship care arrangement serves a legitimate purpose that is in the best interest of the child and is not solely for purposes of school enrollment.

Please see § [22.1-3](#) for more information regarding residency.

### Students with a Parent or Parents in the Military

Virginia is a member of the Interstate Compact on Educational Opportunity for Military Children (the Compact). The purpose of the Compact is to streamline the transfer of children of military families into Virginia public schools. Specifically, the Compact addresses the following: (1) education records and enrollment (Article IV), which contains provisions regarding record transfers, immunizations, and school entrance age; (2) placement and attendance (Article V), which contains provisions regarding course and program placement and special education services; (3) eligibility (Article VI), which addresses documentation requirements for enrollment; and (4) graduation

(Article VII), which addresses how receiving school divisions will facilitate the on-time graduation of military transfer students. (§ [22.1-360](#) of the *Code*)

The *Code* includes specific provisions governing the enrollment of military children:

- [A student of a military family is deemed a resident of a school division and cannot be denied admission or charged tuition if the student lives with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under](#) Title 10, United States Code, § 1044b, by the custodial parent. Such students may continue to attend school in the school division they attended while residing with the custodial parent without paying tuition, or they may attend school in the school division in which the noncustodial parent or other person resides without paying tuition. (§§ [22.1-3.A.3](#) and [22.1-360, Art. VI of the Code](#))
- Children of a person on active military duty may remain enrolled in a school division, free of charge, upon relocation to military housing in another Virginia school division, when their parents receive an order for such relocation. (§ [22.1-3.B.1](#) of the *Code*)
- **New in 2018:** Children of a person on active military duty may remain enrolled in a school division upon relocation outside of the school division, free of charge until the end of the school year, when their parents receive an order to relocate to a new duty station or be deployed. (§ [22.1-3.B.2](#) of the *Code*)
- **New in 2018:** Children of a person on active military duty may enroll in the school division of the child’s intended residence, free of charge, once his parent is relocated pursuant to orders received. A permanent address must be established in the school division of the intended residence within 120 days, otherwise the school division may charge tuition. (§ [22.1-3.B.3](#) of the *Code*)
- **New in 2018:** School boards governing school divisions that contain a military installation or military housing must establish policies permitting students residing on a military installation or in military housing to enroll in any school within the school division, upon request of their parent if there is space available. (§ [22.1-7.2](#) of the *Code*)

For additional information about the enrollment of students of military families, please see [http://www.doe.virginia.gov/support/student\\_family/military/index.shtml](http://www.doe.virginia.gov/support/student_family/military/index.shtml) and [http://www.doe.virginia.gov/support/student\\_family/military/guidance\\_training/index.shtml](http://www.doe.virginia.gov/support/student_family/military/guidance_training/index.shtml).

### Students Experiencing Homelessness

School divisions must immediately enroll students experiencing homelessness and coordinate the provision of services to these students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions.

For more information regarding the enrollment of students experiencing homelessness, please see § [22.1-3 of the Code](#) and visit <https://education.wm.edu/centers/hope/> .

### Students in Foster Care

A student who has been placed in a foster care placement by a local social services agency (as defined in § [63.2-100 of the Code](#)) shall be immediately enrolled in school even if the placing social

services agency is unable to produce the documents required for enrollment. In such cases, the person enrolling the student must provide a written statement that, to the best of his knowledge, sets forth the student's age and compliance with the requirements of § [22.1-3.2](#) of the *Code* and indicates that the student is in good health and free from communicable or contagious disease. (§ [22.1-3.4](#) of the *Code*)

Within 72 hours of placing a child of school age in a foster care placement, the local social services agency making such placement shall, in writing: (a) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement; and (b) inform the principal of the status of the parental rights.

Please refer to [Enrollment of Students in Foster Care](#) on the Virginia Department of Education's website for additional information regarding the enrollment of these students.

### Birth Certificate

Except as provided in § [22.1-3.1](#) of the *Code*, no student shall be admitted for the first time to any public school in any school division in Virginia unless the person enrolling the student shall present, upon admission, a certified copy of the student's birth record. A photocopy of the child's birth certificate will not meet this requirement. If a certified copy of the child's birth certificate cannot be obtained, the person enrolling the child must submit a sworn statement setting forth the child's age and explaining the inability to present a certified copy.

*Students in Foster Care.* If the birth certificate is required for enrollment of the foster child and is not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirement for the foster child within 30 days after the child's enrollment. (§ [63.2-900.D](#) of the *Code*)

A certified copy of a birth record for a person born in Virginia may be obtained from the Division of Vital Records and Health Statistics at the Virginia Department of Health. Refer to the [Division of Vital Statistics](#) website for information about that process.

### Comprehensive Pre-school Physical Examination

Section [22.1-270](#) of the *Code* precludes the admission of students for the first time to any public kindergarten or elementary school in a school division unless the student furnishes, prior to admission, a report of a comprehensive physical examination from a qualified licensed physician, or a licensed nurse practitioner or a licensed physician assistant acting under the supervision of a licensed physician. The examination must be of the scope prescribed by the State Health Commissioner and must have been performed within 12 months before the date the student first enters the public school. In the alternative, students may provide records showing that they furnished such a report upon admission to another school or school division and provide the information that was contained in that report.

*Religious Exemption.* Section [22.1-270](#) of the *Code* includes an exemption from the physical examination for students whose parents object for religious reasons. Such physical examination is

not required of any child whose parent objects on religious grounds and who shows no visual evidence of sickness, provided that the parent shall state in writing that, to the best of his knowledge, the child is in good health and free from any communicable or contagious disease.

*Students with a Parent or Parents in the Military.* Children of military parents must meet the physical examination requirements as the Interstate Compact on Educational Opportunity for Military Children does not waive this requirement for them.

*Students Experiencing Homelessness.* Section [22.1-3.4](#) of the *Code* provides specific requirements for the immediate enrollment of children in foster care who do not have the requisite physical examination report. Students experiencing homelessness cannot be excluded from school attendance because the requisite health information required of other students cannot be provided. School divisions must immediately refer the student to the school division liaison to assist the student in obtaining the necessary physical examination.

*Students in Foster Care.* If the report of a comprehensive physical examination is not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment. (§ [63.2-900.D](#) of the *Code*)

Please note that while the report of the comprehensive physical examination must contain the elements prescribed by the State Health Commissioner, state law does not require it to be on the [School Entrance Health Form, MCH 213G](#) in order to be accepted by the local school board. Therefore, school divisions cannot deny enrollment to a student who provides the necessary report on a different form, as long as that form is attached to a MCH 213G. For more information, please refer to Superintendent's Memorandum #103-12, issued on April 20, 2012: [http://www.doe.virginia.gov/administrators/superintendents\\_memos/2012/103-12.shtml](http://www.doe.virginia.gov/administrators/superintendents_memos/2012/103-12.shtml).

### Immunizations

Pursuant to § [22.1-271.2](#) of the *Code*, no student shall be admitted by a school if his parent does not submit documentary proof of immunization to the admitting official unless, at the time of admission, the student is exempted from immunization pursuant to subsection C, or the student is a homeless child or youth as defined in § [22.1-3](#) of the *Code*. If a student does not have documentary proof of immunization, the school shall notify the student or his parent: (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in § [22.1-3](#) of the *Code*; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse, or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Documentation indicating that the child has received the required immunizations must be provided.

Any child whose immunizations are incomplete may be admitted conditionally if the parent or guardian provides documentation, at the time of enrollment, that the child has received at least one dose of the required immunizations and has a written schedule for completing the remaining doses

within 90 days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

*Religious Exemption.* No certificate of immunization shall be required for a student's school admission if the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or the school has written certification from a licensed physician, licensed nurse practitioner, or a local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

*Students with a Parent or Parents in the Military.* Children of military families without documentation of immunizations should be immediately enrolled and shall have up to 30 days from the date of enrollment to obtain any immunizations required by the receiving state. (§ [22.1-360](#) of the Code)

*Students Experiencing Homelessness.* Students experiencing homelessness cannot be excluded from school attendance because the requisite immunization information required of other students cannot be provided. School divisions must immediately refer the student to the school division liaison to assist the student in obtaining the necessary proof of completion of immunizations.

*Students in Foster Care.* If the proof of immunization is not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment. (§ [63.2-900.D](#) of the Code)

Please review the [School and Day Care Minimum Immunization Requirements](#) (available on the website for the Virginia Department of Health) for a list of the required immunizations.

### Expulsion Statement

When a student is registered, the parent must provide a sworn statement or affirmation indicating whether the child has been expelled from attending a private school or another public school in Virginia or a school in another state for an offense involving weapons, alcohol or drugs, or for willful infliction of injury to another person. In addition, the parent must provide a sworn statement or affirmation indicating whether the student has been found guilty of or adjudicated delinquent for any offense listed in subsection G of § [16.1-260](#) of the Code or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories. (§ [22.1-3.2](#) of the Code)

### Transfer Students

Section [22.1-253.13:4](#) of the Code (Standard 4 of the Standards of Quality) requires local school boards to make provisions for students who transfer between public secondary schools and from nonpublic schools or from home instruction as outlined in the [Regulations Establishing Standards for Accrediting Public Schools in Virginia](#) (SOA). The SOA, at [8VAC 20-131-60](#) provides:

...Students transferring in grades kindergarten through 8 from Virginia public schools or nonpublic schools accredited by one of the approved accrediting constituent members of the [Virginia Council for Private Education](#) (VCPE) shall be given recognition for all grade-level work completed. The academic record of students transferring from all other schools shall be evaluated to determine appropriate grade placement in accordance with policies adopted by the local school board.... ([8VAC20-131-60.A of the SOA](#))

...A secondary school shall accept credits toward graduation received from Virginia nonpublic schools accredited by one of the approved accrediting constituent members of the VCPE.... ([8VAC20-131-60.D of the SOA](#))

All school divisions should have policies regarding the transfer process.

### Students from Other Countries

Generally, students who are 18 and 19 and who are transferring from high schools in other countries should be counseled on all options. However, they are still eligible for enrollment as a person of school age as provided in the *Code* unless they have a comparable diploma from a high school located in a foreign country. If a receiving school division has questions about a student's diploma or transcript, the receiving school division should research the issues to determine what kind of diploma the student has and to determine whether it comparable to Virginia's diploma requirements. In addition, students who are from other countries and who have special education needs may be eligible for special education and related services through age 21 if they have not graduated with a comparable diploma from a high school located in a foreign country. If an English Learner is enrolled in a Virginia public school and turns 22 during the school year, that student may continue through the end of that school year.

Questions have arisen regarding a local school board's authority to inquire into a prospective student's citizenship or visa status and to bar enrollment to those students who reside within the school division but do not hold a student visa. School divisions are not permitted to inquire into a prospective student's citizenship or visa status in order to enroll that student in school. Pursuant to a decision by the United States Supreme Court, *Plyler v. Doe*, 457 U.S. 202 (1982), school divisions are required to accept students who meet residency requirements under § [22.1-3](#) of the *Code* and may not deny a free public education to undocumented school-age children who reside within their jurisdiction because they do not hold valid United States citizenship or a student visa.

On May 8, 2014, the United States Department of Education (USED), in conjunction with the United States Department of Justice (USDOJ), issued an [advisory letter](#) reminding educational agencies that, under federal law, state and local educational agencies are required to provide all children with equal access to public education at the elementary and secondary levels. In the advisory letter, USED and USDOJ indicated that they had become aware of student enrollment practices that may discourage or lead to the exclusion of students based on their or their parents' or guardians' citizenship or immigration status. The letter of May 8, 2014 replaced the [advisory letter](#) previously issued May 6, 2011 and was written in response to inquiries the

Department received about the May 6, 2011 letter. The guidance in the May 8, 2014 letter is applicable to the 2018-2019 school year.

Here are highlights from the May 8, 2014 advisory letter:

- A school division should review the list of documents that can be used to establish residency and ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school.
- As with residency requirements, rules vary among states and school divisions as to what documents students may use to show that they fall within state or district mandated minimum and maximum age requirements, and jurisdictions typically accept a variety of documents for this purpose. A school division may not bar a student from enrolling in its schools because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.
- School divisions have federal obligations, and in some instances, state obligations to report certain data, such as the race and ethnicity of their student populations. While the USED requires divisions to collect and report such information, divisions cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of the child's enrollment.

To ensure compliance, please read the [advisory letter](#) of May 8, 2014 very carefully.

For additional guidance regarding school division responsibilities and actions with regard to students and immigration, please refer to Superintendent's Memorandum #059-17, issued on March 1, 2017: [http://www.doe.virginia.gov/administrators/superintendents\\_memos/2017/059-17.shtml](http://www.doe.virginia.gov/administrators/superintendents_memos/2017/059-17.shtml).

#### Social Security Numbers

The Department of Education and local school boards are prohibited from requiring any student enrolled in a public school or receiving home instruction, or his parent, to provide the student's federal social security number. (§ [22.1-287.03](#) of the *Code*)

#### **Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance**

All school divisions must comply with [34 CFR PART 110](#) (**Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance**). In addition, [Title VI of the Civil Rights Act of 1964](#) prohibits discrimination on the basis of race, color, and national origin by recipients of federal funds, and refusal by a school division to enroll qualified students on the basis of race, color, or national origin is a violation of this prohibition against discrimination.

Please contact the Office of Policy at (804) 225-2092, or by email at [policy@doe.virginia.gov](mailto:policy@doe.virginia.gov), if you have any questions.

JFL/ZLR/bj