

VIRGINIA ACTS OF ASSEMBLY -- 2023 RECONVENED SESSION

CHAPTER 771

An Act to amend and reenact §§ 22.1-298.1, as it is currently effective and as it shall become effective, and 63.2-1526 of the Code of Virginia, relating to child abuse or neglect; findings of local department of social services; appeal; reinstatement of teacher licensure in certain cases.

[H 1550]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-298.1, as it is currently effective and as it shall become effective, and 63.2-1526 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-298.1. (For Expiration Date, see 2022 Acts cc. 549, 550, cl. 2) Regulations governing licensure.

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the guidelines developed pursuant to subsection N or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. *In the case of a teacher who is the subject of a founded complaint of child abuse or neglect and whose license has been revoked pursuant to this subsection, in the event that a court reverses such finding of abuse or neglect and the individual submits to the Department an application for the reinstatement of his license as a teacher, the Board shall consider and act upon such application no later than 90 days after the date of submission.* Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who

teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse;

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion;

9. Every person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency;

10. Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, as prescribed by the Board; and

11. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license

that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;
2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;
3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and
4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law; (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license; and (iii) may provide for the issuance of a provisional license, valid for a period not to exceed three years, to any individual who has held within the last five years a valid and officially issued and recognized license or certification to teach issued by an entity outside of the United States but does not meet the requirements for a renewable license if the individual's license or certification to teach has been evaluated and verified by an entity approved by the Department.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty or reserve member of the Armed Forces of the United States or a member of the Virginia National Guard who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts and an official copy of the military permanent assignment orders of the individual's spouse. No service requirements or licensing assessments shall be required for any such individual. The Department shall determine and communicate such individual's eligibility for licensure by reciprocity within 15 business days of receipt of the complete application packet; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content

or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

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"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. *In the case of a teacher who is the subject of a founded complaint of child abuse or neglect and whose license has been revoked pursuant to this subsection, in the event that a court reverses such finding of abuse or neglect and the individual submits to the Department an application for the reinstatement of his license as a teacher, the Board shall consider and act upon such application no later than 90 days after the date of submission.* Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may

teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board. The literacy assessment for any individual seeking initial licensure with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist shall include a rigorous test of science-based reading research and evidence-based literacy instruction;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia;

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse;

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion;

9. Every person seeking initial licensure or renewal of a license shall complete instruction or training in cultural competency;

10. Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, as prescribed by the Board;

11. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students; and

12. Every person seeking initial licensure with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general

curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist shall complete study in science-based reading research and evidence-based literacy instruction.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;
2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;
3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought. The literacy assessment for any individual seeking initial licensure through an alternate route with an endorsement in early/primary education preschool through grade three, elementary education preschool through grade six, special education general curriculum kindergarten through grade 12, special education deaf and hard of hearing preschool through grade 12, or special education blindness/visual impairments preschool through grade 12 or as a reading specialist shall include a rigorous test of science-based reading research and evidence-based literacy instruction; and
4. Met the requirements set forth in subdivisions D 1 and 3.

J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law; (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license; and (iii) may provide for the issuance of a provisional license, valid for a period not to exceed three years, to any individual who has held within the last five years a valid and officially issued and recognized license or certification to teach issued by an entity outside of the United States but does not meet the requirements for a renewable license if the individual's license or certification to teach has been evaluated and verified by an entity approved by the Department.

K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty or reserve member of the Armed Forces of the United States or a member of the Virginia National Guard who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts and an official copy of the military permanent assignment orders of the individual's spouse. No service requirements or licensing

assessments shall be required for any such individual. The Department shall determine and communicate such individual's eligibility for licensure by reciprocity within 15 business days of receipt of the complete application packet; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department. Each such individual shall establish a file in the Department by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

L. The Board shall include in its regulations an alternate route to licensure for elementary education preschool through grade six and an alternate route to licensure for special education general curriculum kindergarten through grade 12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

§ 63.2-1526. Appeals of certain actions of local departments.

A. A person who is suspected of or is found to have committed abuse or neglect may, within 30 days of being notified of that determination, request the local department rendering such determination to amend the determination and the local department's related records. Upon written request, the local department shall provide the appellant all information used in making its determination. Disclosure of the reporter's name or information which may endanger the well-being of a child shall not be released. The identity of a collateral witness or any other person shall not be released if disclosure may endanger his life or safety. Information prohibited from being disclosed by state or federal law or regulation shall not be released. The local department shall hold an informal conference or consultation where such person, who may be represented by counsel, shall be entitled to informally present testimony of witnesses, documents, factual data, arguments or other submissions of proof to the local department. With the exception of the local director, no person whose regular duties include substantial involvement with child abuse and neglect cases shall preside over the informal conference. If the local department refuses the request for amendment or fails to act within 45 days after receiving such request, the person may, within 30 days thereafter, petition the Commissioner, who shall grant a hearing to determine whether it appears, by a preponderance of the evidence, that the determination or record contains information which is irrelevant or inaccurate regarding the commission of abuse or neglect by the person who is the subject of the determination or record and therefore shall be amended. A person who is the subject of a report who requests an amendment to the record, as provided above, has the right to obtain an extension for an additional specified period of up to 60 days by requesting in writing that the 45 days in which the local department must act be extended. The extension period, which may be up to 60 days, shall begin at the end of the 45 days in which the local department must act. When there is an extension period, the 30-day period to request an administrative hearing shall begin on the termination of the extension period.

B. The Commissioner shall designate and authorize one or more members of his staff to conduct such hearings. The decision of any staff member so designated and authorized shall have the same force and effect as if the Commissioner had made the decision. The hearing officer shall have the authority to issue subpoenas for the production of documents and the appearance of witnesses. The hearing officer is authorized to determine the number of depositions that will be allowed and to administer oaths or affirmations to all parties and witnesses who plan to testify at the hearing. The Board shall adopt regulations necessary for the conduct of such hearings. Such regulations shall include provisions stating that the person who is the subject of the report has the right (i) to submit oral or written testimony or documents in support of himself and (ii) to be informed of the procedure by which information will be made available or withheld from him. In case of any information withheld, such person shall be advised of the general nature of such information and the reasons, for reasons of privacy or otherwise, that it is being withheld. Upon giving reasonable notice, either party at his own expense may depose a nonparty and submit such deposition at the hearing pursuant to Board regulation. Upon good cause shown, after a party's written motion, the hearing officer may issue subpoenas for the production of documents or to

compel the attendance of witnesses at the hearing, except that alleged child victims of the person and their siblings shall not be subpoenaed, deposed or required to testify. The person who is the subject of the report may be represented by counsel at the hearing. Upon petition, the court shall have the power to enforce any subpoena that is not complied with or to review any refusal to issue a subpoena. Such decisions may not be further appealed except as part of a final decision that is subject to judicial review. Such hearing officers are empowered to order the amendment of such determination or records as is required to make them accurate and consistent with the requirements of this chapter or the regulations adopted hereunder. If, after hearing the facts of the case, the hearing officer determines that the person who is the subject of the report has presented information that was not available to the local department at the time of the local conference and which if available may have resulted in a different determination by the local department, he may remand the case to the local department for reconsideration. The local department shall have 14 days in which to reconsider the case. If, at the expiration of 14 days, the local department fails to act or fails to amend the record to the satisfaction of the appellant, the case shall be returned to the hearing officer for a determination. If aggrieved by the decision of the hearing officer, such person may obtain further review of the decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). *Should the person aggrieved by the hearing officer's decision be a teacher licensed by the Board of Education or through an alternative pathway and employed by a local school board, the aggrieved person may petition the circuit court for a trial de novo, by judge or jury. Such petition shall be filed within 30 days of the aggrieved person's receipt of the hearing officer's decision in the circuit court in the jurisdiction where the applicable local department is located. Such aggrieved person is barred from filing any action for judicial review of the agency action or the hearing officer's decision under the Administrative Processes Act (§ 2.2-4025 et seq.).*

C. Whenever an appeal of the local department's finding is made and a criminal charge or investigation is also filed or commenced against the appellant for the same conduct involving the same victim as investigated by the local department, the appeal process shall automatically be stayed until the criminal prosecution in the trial court is completed, until the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, for 180 days after the appellant's request for appeal. During such stay, the appellant's right of access to the records of the local department regarding the matter being appealed shall also be stayed. Once the criminal prosecution in the trial court has been completed, the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, 180 days have passed, the local department shall advise the appellant in writing of his right to resume his appeal within the time frames provided by law and regulation.