



**COMMONWEALTH of VIRGINIA
Department of Education**

DATE: November 30, 2018

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

SUBJECT: Legislative Changes Affecting Notice of Founded Complaints of Child Abuse or Neglect, Basis for Suspension of a License, and Employment of School Personnel Convicted of a Felony, Effective July 1, 2018

The purpose of this memorandum is to notify you of legislative changes by the 2018 General Assembly, effective July 1, 2018. The newly enacted language is provided, with revised or added language in italics and deleted language reflected by ~~strikeout~~.

Founded Complaints of Child Abuse or Neglect: Required Notice to Superintendent of Public Instruction and Local School Board

The revised legislation provides as follows:

[§ 63.2-1503 Local departments to establish child-protective services; duties.](#)

...P. The local department shall (i) notify the Superintendent of Public Instruction *without delay* when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual if the local department knows the person holds a license issued by the Board of Education and ~~after all rights to any appeal provided by § 63.2-1526 have been exhausted~~ (ii) *notify the Superintendent of Public Instruction without delay if the founded complaint of child abuse or neglect is dismissed following an appeal pursuant to § 63.2-1526. Nothing in this subsection shall be construed to affect the rights of any individual holding a license issued by the Board of Education to any hearings or appeals otherwise provided by law.* Any information exchanged for the purpose of this subsection shall not be considered a violation of § [63.2-102](#), [63.2-104](#), or [63.2-105](#).

[§ 63.2-1505 Investigations by local departments.](#)

...B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

...7. If a report of child abuse and neglect is founded, and the subject of the report is *or was at the time of the investigation or the conduct that led to the report* a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint *without delay*.

Prohibited Sole Basis for Suspension of a License

The 2018 General Assembly added the following provisions to the *Code of Virginia*:

[§ 22.1-292.3 License may not be suspended based solely on the basis of default or delinquency in payment of federal-guaranteed or state-guaranteed education loan or scholarship.](#)

The Board shall not be authorized to suspend or revoke the administrative or teaching license it has issued to any person who is in default or delinquent in the payment of a federal-guaranteed or state-guaranteed educational loan or work-conditional scholarship solely on the basis of such default or delinquency.

[§ 54.1-104.1. License, certificate, registration, permit, or authority may not be suspended or revoked solely on the basis of default or delinquency in payment of federal-guaranteed or state-guaranteed education loan or scholarship.](#)

The Department of Professional and Occupational Regulation, the Department of Health Professions, and the Board of Accountancy shall not be authorized to suspend or revoke the license, certificate, registration, permit, or authority it has issued to any person who is in default or delinquent in the payment of a federal-guaranteed or state-guaranteed educational loan or work-conditional scholarship solely on the basis of such default or delinquency.

Employment of Certain School Personnel Convicted of a Felony

New legislation ([HB 1000](#)) concerning school boards' employment of individuals convicted of a felony at the time of hiring was addressed previously in [Superintendent's Memo #250-18](#).

Please refer to that memo for background information and a link to a Supreme Court of Virginia decision on this subject. The legislation provides as follows:

1. *§ 1. Notwithstanding the provisions of subsection A of § [22.1-296.1](#) of the Code of Virginia and consistent with the discretion granted to a school board pursuant to § [22.1-307](#) of the Code of Virginia to retain an employee who is convicted of an offense*

subsequent to the employee's hiring, a school board may employ an individual who, at the time of the individual's hiring, has been convicted of a felony, provided that such individual (i) was employed in good standing by a school board on or before December 17, 2015; (ii) has been granted a simple pardon for such offense by the Governor or other appropriate authority; and (iii) has had his civil rights restored by the Governor or other appropriate authority. However, a school board may employ, until July 1, 2020, such an individual who does not satisfy the conditions set forth in clauses (ii) and (iii), provided that such individual has been continuously employed by the school board from December 17, 2015, through July 1, 2018.

If you have questions or need additional information regarding this memorandum, please contact Nancy Walsh, Director for Professional Practices, at (804) 371-2522 or nancy.walsh@doe.virginia.gov.

JFL/nw

c: Deans and Directors, Schools/Departments of Education
Virginia Institutions of Higher Education
Directors of Human Resources, Virginia School Divisions
Virginia School Boards Association