



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

DATE: September 14, 2018  
TO: Division Superintendents  
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction  
SUBJECT: **New Legislation (HB1000) Addressing the Employment of Certain Individuals Convicted of a Felony**

The purpose of this memorandum is to notify division superintendents of recently enacted legislation ([HB1000](#)) enacted by the 2018 Virginia General Assembly concerning school boards' employment of certain individuals who have been convicted of a felony at the time of hiring. 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.*

As set forth in [Superintendent's Memo No. 125-16](#) (May 20, 2016), the Supreme Court of Virginia in [Deilia Butler v. Fairfax County School Board \(Case No. 150150, December 17, 2015\)](#) addressed "whether [Code § 22.1-296.1](#) prohibits a school board from hiring an applicant for employment who has previously been convicted of a felony." According to the Court's December 17, 2015, decision, school boards lack authority to hire any individual previously convicted of a felony. The Department understands that the *Butler* decision affected the employment of school personnel who were employed by local school boards at the time of the decision who had been convicted of a felony at the time of their hiring.

In Virginia, the supervision of schools is the responsibility of local school boards. Accordingly, the Department of Education is providing information on the recently enacted legislation solely to inform divisions of the change in law, so that they may consult board counsel and other advisors on any matters related to the employment of persons in their school division with felony convictions. The Department also encourages division superintendents and other school personnel to make individuals who may have been affected by the 2015 decision of the Supreme Court of Virginia aware of the new legislation.

If you have questions or need additional information regarding this memorandum, please contact Mrs. Patty S. Pitts, Assistant Superintendent for Teacher Education and Licensure, or Ms. Nancy Walsh, Coordinator of Professional Practices, at (804) 371-2522.

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

JFL/nw