



#330-21

Commonwealth of Virginia
Virginia Department of Education
Superintendent's Memo #330-21

DATE: December 17, 2021
TO: Division Superintendents
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction
SUBJECT: **Revisions to *Regulations Governing Special Education Services for Children with Disabilities in the Commonwealth of Virginia***

In 2021, the Virginia General Assembly passed several pieces of legislation that necessitated revisions to the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-81-20 et seq.) (the *Virginia Regulations*). Accordingly, on September 23, 2021, the Virginia Board of Education approved the revisions to be effective November 24, 2021. The required revisions are summarized as follows:

1. [House Bill 2299](#) and [Senate Bill 1288](#) required the Board of Education to amend the *Virginia Regulations* to include a provision requiring that, if a school division develops a draft Individualized Education Program (IEP) prior to a scheduled IEP meeting, it shall provide such draft to the parents at least two business days in advance of such IEP meeting.
2. [House Bill 2182](#) required the Board of Education to amend its regulatory definition of "traumatic brain injury," for the purpose of the provision of special education for children with disabilities, to include an acquired injury to the brain caused by a medical condition, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments. The

previous regulatory definition of “traumatic brain injury” included only an acquired brain injury caused by an external physical force.

3. [House Bill 2314](#) required the Board of Education to amend the *Virginia Regulations* addressing the right of a parent to an independent educational evaluation at public expense, to remove the word “component” following the word “evaluation.” The change is intended to ensure consistency of the Virginia Regulations with federal guidance.

The text of the revisions are located on the [Virginia Regulatory Town Hall](#) website. Please note that an updated version of the *Virginia Regulations* with the changes incorporated will be forthcoming.

For more information

Contact Patricia Haymes, Director of the Office for Dispute Resolution and Administrative Services (ODRAS), at Patricia.Haymes@doe.virginia.gov or (804) 225-2013.

JFL/PVH/mb