



#328-21

Commonwealth of Virginia
Virginia Department of Education
Superintendent's Memo #328-21

DATE: December 17, 2021
TO: Division Superintendents
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction
SUBJECT: **Change in Traumatic Brain Injury (TBI) Definition**

The 2021 General Assembly passed [House Bill 2182](#) requiring the Board of Education to amend the regulatory definition of “traumatic brain injury (TBI)” in *8VAC20-81-10* to read as follows:

“Traumatic brain injury” means an acquired injury to the brain caused by an external physical force or by other medical conditions, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child’s educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma (*34 CFR 300.8(c)(12)*).”

At its meeting on September 23, 2021, the Board approved an exempt action (“Legislative Amendments to *Regulations Governing Special Education Programs for Children with*

Disabilities in Virginia”) to conform to the definition as required by the legislation. Following the Board’s approval, this was sent to the Virginia Regulatory Town Hall, and the requirements of the Administrative Process Act are now complete. Therefore, school divisions should begin using the new definition, as stated above, in the special education eligibility process.

The [Supplemental Guidance for Evaluation and Eligibility in Special Education](#) has been updated to reflect this change in the TBI definition.

For more information

For additional information about implementation of the new TBI definition in the special education eligibility process, please contact Deborah Johnson, Specialist-Intellectual Disabilities, Office of Special Education Instructional Services, by email at Deborah.Johnson@doe.virginia.gov, or by telephone at (804) 371-2725.

JFL/DJ/tc