CODE OF VIRGINIA

Title 22.1

Education

Title 22.1 - Education

Chapter 1 - SYSTEM OF PUBLIC SCHOOLS; GENERAL PROVISIONS

§ 22.1-1. (Effective until July 1, 2021) Definitions.

As used in this title unless the context requires otherwise or it is otherwise specifically provided:

"Board" or "State Board" means the Board of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

1980, c. 559; 1985, c. 407; 1991, c. 178; 1995, c. 852; 2000, c. 629; 2001, c. 828.

§ 22.1-1. (Effective July 1, 2021) Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

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"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"Superintendent" means the Superintendent of Public Instruction.

1980, c. 559; 1985, c. 407; 1991, c. 178; 1995, c. 852; 2000, c. 629; 2001, c. 828; 2020, cc. 860, 861.

§ 22.1-2. System of free public elementary and secondary schools to be maintained; administration.

There shall be a system of free public elementary and secondary schools established and maintained as provided in this title and administered by the Board of Education, the Superintendent of Public Instruction, division superintendents and school boards.

Code 1950, §§ 22-1.1, 22-2; 1971, Ex. Sess., c. 100; 1976, cc. 681, 713; 1978, c. 518; 1980, c. 559.

§ 22.1-3. Persons to whom public schools shall be free.

A. The public schools in each school division shall be free to each person of school age who resides within the school division. Every person of school age shall be deemed to reside in a school division:

1. When the person is living with a natural parent or a parent by legal adoption;

2. When, in accordance with the provisions of § 22.1-360, the person is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under 10 U.S.C. § 1044b by the custodial parent;

3. When the parents of such person are dead and the person is living with a person in loco parentis who actually resides within the school division;

4. When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is (i) the court-appointed guardian, or has legal custody, of the person; (ii) acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § 63.2-1200; or (iii) an adult relative providing temporary kinship care as that term is defined in § 63.2-100. Local school divisions may require one or both parents and the relative providing kinship care to submit signed, notarized affidavits (a) explaining why the parents are unable to care for the person, (b) detailing the

kinship care arrangement, and (c) agreeing that the kinship care provider or the parent will notify the school within 30 days of when the kinship care arrangement ends, as well as a power of attorney authorizing the adult relative to make educational decisions regarding the person. A school division may also require the parent or adult relative to obtain written verification from the local department of social services where the parent or parents live, or from both that department and the department of social services where the kinship provider lives, that the kinship arrangement serves a legitimate purpose that is in the best interest of the person other than school enrollment. With written consent from the parent or adult relative, for the purposes of expediting enrollment, a school division may obtain such written verification directly from the local department or departments of social services. The verification process shall be consistent with confidentiality provisions of Article 5 (§ 22.1-287 et seq.) of Chapter 14 of this title and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2. If the kinship care arrangement lasts more than one year, a school division may require continued verification directly from one or both departments of social services as to why the parents are unable to care for the person and that the kinship care arrangement serves a legitimate purpose other than school enrollment. A local school division may enroll a person living with a relative in a kinship care arrangement that has not been verified by a local department of social services;

5. When the person is living in the school division not solely for school purposes, as an emancipated minor;

6. When all or any portion of the building in which such person resides (i) with another person as set forth in subdivisions 1 through 4 or (ii) as an emancipated minor as set forth in subdivision 5 is taxable by the locality in which the school division is located; or

7. When the person living in the school division is a homeless child or youth, as set forth in this subdivision, who lacks a fixed, regular, and adequate nighttime residence. Such persons shall include (i) children and youths, including unaccompanied youths who are not in the physical custody of their parents, who (a) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations or in emergency or transitional shelters; or are abandoned in hospitals; (b) have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (c) are living in parked cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (ii) migratory children, as defined in the federal Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended, who are deemed homeless as they are living in circumstances set forth in clause (i).

School divisions shall comply with the requirements of Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.), to ensure that homeless children and youths shall receive the educational services comparable to those offered to other public school students.

School divisions serving the students identified in this subdivision shall coordinate the identification and provision of services to such students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions as may be necessary to resolve interdivisional issues.

B. In the interest of providing educational continuity to the children of military personnel, no child of a person on active military duty:

1. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation to military housing located in another school division in the Commonwealth, pursuant to orders received by such child's parent to relocate to base housing. Such children shall be allowed to continue attending school in the school division they attended immediately prior to the relocation and shall not be charged tuition for attending such school;

2. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation pursuant to orders received by such child's parent to relocate to a new duty station or to be deployed. Such children shall be allowed to remain enrolled in the current school division free of tuition through the end of the school year; and

3. Who is eligible to attend school free of charge in accordance with this section shall be charged tuition by a school division that will be the child's school division of residence once his service member parent is relocated pursuant to orders received. Such a child shall be allowed to enroll in the school division of the child's intended residence if documentation is provided, at the time of enrollment, of military orders of the service member parent or an official letter from the service member's command indicating such relocation. Documentation indicating a permanent address within the school division shall be provided to the school division within 120 days of a child's enrollment or tuition may be charged, including tuition for the days since the child's enrollment in school. In the event that the child's service member parent is ordered to relocate before the 120th day following the child's enrollment, the school division shall not charge tuition. Students eligible to enroll in a school division pursuant to this subdivision may register, remotely or in-person, for courses and other academic programs and participate in the lottery process for charter schools and college partnership laboratory schools in the school division in which such student will reside at the same time and in the same manner as students who reside in the local school division. The assignment of the school such child will attend shall be determined by the local school division.

Such children as listed in subdivisions 1, 2, and 3 shall be counted in the average daily membership of the school division in which they are enrolled. Further, the school division in which such children are enrolled subsequent to their relocation to base housing shall not be responsible for providing for their transportation to and from school.

Code 1950, § 22-218; 1954, c. 638; 1958, c. 628; 1968, c. 178; 1972, c. 245; 1976, cc. 681, 713; 1978, c. 518; 1980, cc. 559, 576; 1981, cc. 341, 342; 1993, c. 903; 1997, c. 826; 1999, cc. 368, 988; 2000, cc.

209, 830; 2004, cc. 500, 967; 2006, c. 188; 2012, cc. 29, 103, 476, 507; 2013, c. 779; 2016, c. 388; 2018, cc. 394, 594; 2019, cc. 62, 404, 586.

§ 22.1-3.1. Birth certificates required upon admission; required notice to the local law-enforcement agency.

A. Except as otherwise provided in this subsection, no pupil shall be admitted for the first time to any public school in any school division in this Commonwealth unless the person enrolling the pupil shall present, upon admission, a certified copy of the pupil's birth record. The principal or his designee shall record the official state birth number from the pupil's birth record into the pupil's permanent school record and may retain a copy in the pupil's permanent school record. If a certified copy of the pupil's birth record cannot be obtained, the person so enrolling the pupil shall submit an affidavit setting forth the pupil's age and explaining the inability to present a certified copy of the birth record. If the school division cannot ascertain a child's age because of the lack of a birth certificate, the child shall nonetheless be admitted into the public schools if the division superintendent determines that the person submitting the affidavit presents information sufficient to estimate with reasonable certainty the age of such child.

However, if the student seeking enrollment is a homeless child or youth as defined in § 22.1-3, the school shall immediately enroll such student, even if such student is unable to produce the records required for enrollment, and shall immediately contact the school last attended by the student to obtain relevant academic and other records, and shall comply with the provisions of Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.), including immediately referring the parent of the student or the youth to the local school division liaison, as described in the federal Act, who shall assist in obtaining the necessary records for enrollment.

B. Upon the failure of any person enrolling a pupil to present a certified copy of the pupil's birth record, the principal of the school in which the pupil is being enrolled or his designee shall immediately notify the local law-enforcement agency. The notice to the local law-enforcement agency shall include copies of the submitted proof of the pupil's identity and age and the affidavit explaining the inability to produce a certified copy of the birth record.

C. Within 14 days after enrolling a transferred pupil, the principal of the school in which the pupil has been enrolled or his designee shall request that the principal or his designee of the school in which the pupil was previously enrolled submit documentation that a certified copy of the pupil's birth record was presented upon the pupil's initial enrollment.

D. Principals and their designees shall be immune from any civil or criminal liability in connection with any notice to a local law-enforcement agency of a pupil lacking a birth certificate or failure to give such notice as required by this section.

1990, c. 295; 1991, c. 523; 2004, c. 500; 2007, c. 49; 2018, c. 394.

§ 22.1-3.2. Notice of student's school status required as condition of admission; penalty.

A. Prior to admission to any public school of the Commonwealth, a school board shall require the parent, guardian, or other person having control or charge of a child of school age to provide, upon registration:

1. A sworn statement or affirmation indicating whether the student has been expelled from school attendance at a private school or in a public school division of the Commonwealth or in another state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. This document shall be maintained as a part of the student's scholastic record.

2. A sworn statement or affirmation indicating whether the student has been found guilty of or adjudicated delinquent for any offense listed in subsection G of § 16.1-260 or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories. This document shall be maintained as provided in § 22.1-288.2.

B. When the child is registered as a result of a foster care placement as defined in § 63.2-100, the information required under this section shall be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

C. Any person making a materially false statement or affirmation shall be guilty upon conviction of a Class 3 misdemeanor.

1993, c. 889; 2006, cc. 53, 183.

§ 22.1-3.3. Transfer of students under certain circumstances.

Whenever any student has been the victim of any crime against the person pursuant to Chapter 4 (§ 18.2-30 et seq.) of Title 18.2, and such crime was committed by another student attending classes in the school, or by any employee of the school board, or by any volunteer, contract worker or other person who regularly performs services in the school, or if the crime was committed upon school property or on any school bus owned or operated by the school division, the student upon whom the crime was committed shall, upon written request from the student's parent, or the student, if such student is an emancipated minor, be permitted by the relevant school board to transfer to another comparable school within the school division, if available. Any transportation services for such students shall be provided in accordance with school board policies.

For the purposes of this section, "victim" means any student who has been the victim of a crime against the person pursuant to Chapter 4 (§ 18.2-30 et seq.) of Title 18.2, and who has suffered physical, psychological, or economic harm as a direct result of the commission of such crime.

1997, cc. 362, 408.

§ 22.1-3.4. Enrollment of certain children placed in foster care.

A. Whenever a student has been placed in foster care by a local social services agency and the placing social services agency is unable to produce any of the documents required for enrollment pursuant to § 22.1-3.1, 22.1-270, or 22.1-271.2, the student shall immediately be enrolled; however, the

person enrolling the student shall provide a written statement that, to the best of his knowledge, sets forth (i) the student's age, (ii) compliance with the requirements of § 22.1-3.2, and (iii) that the student is in good health and is free from communicable or contagious disease.

B. The sending and receiving school divisions shall cooperate in facilitating the enrollment of any child placed in foster care across jurisdictional lines for the purpose of enhancing continuity of instruction. The child shall be allowed to continue to attend the school in which he was enrolled prior to the most recent foster care placement, upon the joint determination of the placing social services agency and the local school division that such attendance is in the best interest of the child.

C. In the event the student continues to attend the school in which he was enrolled prior to the most recent foster care placement, the receiving school division shall be accorded foster children education payments pursuant to § 22.1-101.1; further, the receiving school division may enter into financial arrangements with the sending school division pursuant to subsection C of § 22.1-5. Under no circumstances shall a child placed in foster care be charged tuition regardless of whether such child is attending the school in which he was enrolled prior to the most recent foster care placement or attending a school in the receiving school division.

D. For the purposes of subsections A, B, and C:

"A child or student placed in foster care" means a pupil who is the subject of a foster care placement through an entrustment or commitment of such child to the local social services board or licensed child-placing agency pursuant to clause (ii) of the definition of "foster care placement" as set forth in § 63.2-100.

For the purposes of this section:

"Receiving school division" means the school division in which the residence of the student's foster care placement is located.

"Sending school division" means the school division in which the student last attended school.

E. Notwithstanding the provisions of subsections A, B, and C or § 22.1-3 or 22.1-5, no person of school age who is the subject of a foster care placement, as such term is defined in § 63.2-100, shall be charged tuition.

F. The provisions of this section shall apply to any student who was in foster care upon reaching 18 years of age but who has not yet reached 22 years of age.

2005, c. 343; 2011, c. 154; 2020, cc. 474, 475.

§ 22.1-4. Repealed.

Repealed by Acts 1991, c. 523.

§ 22.1-4.1. Street addresses required in certain school admission documents.

Documents submitted for admission of any child to public schools in the Commonwealth, except such documents required in accordance with §§ 22.1-3.1 and 22.1-270, shall include the street address or

route number of each pupil's residence. If no street address or route number exists for such residence, a post office box number shall be required.

If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that reason the school division determines, on the basis of the affidavit of the person seeking to enroll the pupil, that a street address, route number, or post office box number cannot be provided, it may accept an address in an alternate form it deems appropriate.

Address information provided under this section shall not be released to any person unless otherwise authorized by law.

1997, c. 900; 2000, c. 209; 2004, c. 500; 2019, c. 586.

§ 22.1-4.2. Designation of race or ethnicity.

A. School board employees administering tests or other assessment instruments shall not require any public school students being tested to disclose their race or ethnicity on such tests.

Nothing in this subsection shall, however, prevent relevant school division personnel from obtaining such information from the students' permanent record and placing such information on such test or assessment instrument.

B. No student or his parent shall be required to disclose information related to the student's race or ethnicity unless (i) the student or his parent is given an option to designate "other" for the student's race or ethnicity or (ii) such disclosure is required by federal law.

2000, c. 273; 2018, c. 587.

§ 22.1-4.3. Participation by and notification of noncustodial parent.

Unless a court order has been issued to the contrary, the noncustodial parent of a student enrolled in a public school or day care center (i) shall not be denied the opportunity to participate in any of the student's school or day care activities in which such participation is supported or encouraged by the policies of the school or day care center solely on the basis of such noncustodial status and (ii) shall be included, upon the request of such noncustodial parent, as an emergency contact for the student's school or day care activities.

For the purposes of this section, "school or day care activities" shall include, but shall not be limited to, lunch breaks, special in-school programs, parent-teacher conferences and meetings, and extracurricular activities. It is the responsibility of the custodial parent to provide the court order to the school or day care center.

1997, c. 762, § 22.1-279.5; 2001, cc. 688, 820; 2005, c. 34.

§ 22.1-5. Regulations concerning admission of certain persons to schools; tuition charges.

A. Consistent with Article VIII, Section 1 of the Constitution of Virginia, no person may be charged tuition for admission or enrollment in the public schools of the Commonwealth, whether on a full-time or part-time basis, who meets the residency criteria set forth in § 22.1-3. No person of school age shall be charged tuition for enrollment in a program preparing students to pass a high school equivalency

examination approved by the Board of Education or alternative program offered as a regional or divisionwide initiative by the local school division in which such person is deemed to reside pursuant to § 22.1-3. Further, no person of school age shall be denied admission or charged tuition when (i) such person's custodial parent has been deployed outside the United States as a member of the Virginia National Guard or as a member of the United States armed forces; and (ii) such person's custodial parent has executed a Special Power of Attorney under Title 10, United States Code, § 1044b providing for the care of the person of school age by an individual who is defined as a parent in § 22.1-1 during the time of his deployment outside the United States. The person of school age shall be allowed to attend a school in the school division in which the individual providing for his care, pursuant to the Special Power of Attorney under Title 10, United States Code, § 1044b, resides. Furthermore, when practicable, such persons of school age may continue to attend school in the Virginia school division they attended immediately prior to the deployment and shall not be charged tuition for attending such division.

The following persons may, however, in the discretion of the school board of a school division and pursuant to regulations adopted by the school board, be admitted into the public schools of the division and may, in the discretion of the school board, be charged tuition:

1. Persons who reside within the school division but who are not of school age.

2. Persons of school age who are residents of the Commonwealth but who do not reside within the school division, except as provided in this section.

3. Persons of school age who are attending school in the school division pursuant to a foreign student exchange program approved by the school board.

4. Persons of school age who reside beyond the boundaries of the Commonwealth but near thereto in a state or the District of Columbia which grants the same privileges to residents of the Commonwealth.

5. Persons of school age who reside on a military or naval reservation located wholly or partly within the geographical boundaries of the school division and who are not domiciled residents of the Commonwealth of Virginia; however, no person of school age residing on a military or naval reservation located wholly or partly within the geographical boundaries of the school division may be charged tuition if federal funds provided under P.L. 874 of 1950, commonly known as Impact Aid, shall fund such students at not less than 50 percent of the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school division. Notwithstanding any other provision of law to the contrary, such persons of school age who reside on a military or naval reservation with military-owned housing located wholly or partly within the geographical boundaries of multiple school divisions shall be deemed eligible for interscholastic programs immediately upon enrollment in a public elementary or secondary school in any of the aforementioned school divisions, provided that such persons (i) satisfy all other requirements for eligibility and (ii) are dependents of a military service member required by the military to live on the military

installation as evidenced by a statement on command letterhead signed by, or by direction of, the service member's commanding officer.

6. Persons of school age who, as domiciled residents of the Commonwealth who were enrolled in a public school within the school division, are required as a result of military or federal orders issued to their parents to relocate and reside on federal property in another state or the District of Columbia, if the school division subsequently enrolling such persons is contiguous to such state or District of Columbia.

7. Persons of school age who reside in the school division and who are enrolled in summer programs, exclusive of required remediation as provided in § 22.1-253.13:1, or in local initiatives or programs not required by the Standards of Quality or the Standards of Accreditation.

For the purposes of determining the residency of persons described in subdivisions 1 and 2, local school boards shall adopt regulations consistent with the residency requirements regarding persons residing in housing or temporary shelter, or on property located in multiple jurisdictions, as articulated in § 22.1-3.

B. Persons of school age who are not residents of the Commonwealth but are living temporarily with persons residing within a school division may, in the discretion of the school board and pursuant to regulations adopted by it, be admitted to the public schools of the school division. Tuition shall be charged such persons.

C. No tuition charge authorized or required in this section shall exceed the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school division and the actual, additional costs of any special education or gifted and talented program provided the pupil, except that if the tuition charge is payable by the school board of the school division of the pupil's residence pursuant to a contract entered into between the two school boards, the tuition charge shall be that fixed by such contract.

D. School boards may accept and provide programs for students for whom English is a second language who entered school in Virginia for the first time after reaching their twelfth birthday, and who have not reached 22 years of age on or before August 1 of the school year. No tuition shall be charged such students, if state funding is provided for such programs.

Code 1950, §§ 22-218.3, 22-219, 22-220; 1958, c. 628; 1959, Ex. Sess., c. 81, § 1; 1964, c. 192; 1968, c. 178; 1976, cc. 681, 713; 1978, c. 140; 1980, c. 559; 1981, c. 342; 1993, c. 293; 1994, c. 887; 1999, cc. 394, 443, 465, 988; 2000, c. 253; 2004, c. 967; 2007, c. 42; 2013, cc. 641, 669; 2014, c. 84.

§ 22.1-5.1. Organizations governing public school interscholastic programs; participation by students in military families.

A. No public elementary or secondary school shall become a member of any organization or entity whose purpose is to regulate or govern interscholastic programs that does not deem eligible for participation a student who:

1. Previously attended the school and (i) moved with a parent, as defined in § 22.1-1, out of the school's attendance area because that parent is a full-time active duty member of the uniformed services of the United States, including service in the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211, and received orders to relocate and (ii) moved back to and currently lives in the school's attendance area; or

2. Continues to live in the school's attendance area, but whose parent, as defined in § 22.1-1, moved out of the school's attendance area because that parent is a full-time active duty member of the uniformed services of the United States, including service in the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211, and received orders to relocate.

B. Nothing in this section shall affect the school board's discretion to admit a student to a public school in the local school division and charge tuition for his attendance if the student is not deemed to reside in the local school division pursuant to §§ 22.1-3 and 22.1-5.

2013, c. 553.

§ 22.1-6. Permitted fees and charges.

Except as provided in this title or as permitted by regulation of the Board of Education, no fees or charges may be levied on any pupil by any school board. No pupil's scholastic report card or diploma shall be withheld because of nonpayment of any such fee or charge.

Code 1950, §§ 22-197, 22-198, 22-199; 1977, c. 204; 1980, c. 559.

§ 22.1-6.1. Menstrual supplies; availability; public elementary, middle, and high schools.

A. As used in this section, "menstrual supplies" means tampons or pads for use in connection with the menstrual cycle.

B. Each school board shall make menstrual supplies available, at all times and at no cost to students, in such accessible locations as it deems appropriate in each elementary school in the local school division.

C. Each school board shall make menstrual supplies available, at all times and at no cost to students, in the bathrooms of each middle school and high school in the local school division.

2020, cc. 675, 676.

§ 22.1-7. Responsibility of each state board, agency, and institution having children in residence or in custody.

A. Each state board, state agency, and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency, or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonreligious school, agency, or institution.

B. The Board of Education shall supervise the education and training provided to school-age individuals in state training centers, and shall provide for and direct the education for school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services.

C. The Board shall prescribe standards and regulations for all such education and training provided directly by a state board, state agency, or state institution.

D. Each state board, state agency, or state institution providing such education and training shall submit annually its program therefor to the Board of Education for approval in accordance with regulations of the Board.

E. If any child in the custody of any state board, state agency, or state institution is a child with disabilities as defined in § 22.1-213 and such board, agency, or institution must contract with a private nonreligious school to provide special education as defined in § 22.1-213 for such child, the state board, state agency, or state institution may proceed as a guardian pursuant to the provisions of subsection A of § 22.1-218.

F. Any person of school age who is admitted pursuant to § 16.1-338, 16.1-339, or 16.1-340.1 or in accordance with an order of involuntary commitment entered pursuant to §§ 16.1-341 through 16.1-345 to a state facility for children and adolescents operated by the Department of Behavioral Health and Developmental Services shall, upon admission, be permitted to participate in any education program offered in the facility that is administered by the Department of Education, regardless of his enrollment status. Information required to enroll such person in any such education program may be disclosed in accordance with state and federal law. Nothing in this subsection shall be construed to require enrollment in an education program if such person has been excused from attendance at school pursuant to subdivision B 1 of § 22.1-254.

Code 1950, § 22-9.1:04; 1972, c. 603; 1974, c. 480; 1980, c. 559; 1985, c. 207; 1994, c. 854; 2005, c. 928; 2009, cc. 813, 840; 2012, cc. 476, 507; 2019, cc. 173, 281.

§ 22.1-7.1. Open school enrollment policy.

A. Any local school board may establish and implement policies to provide for the open enrollment to any school of any student residing within the school division upon the request of a parent or guardian. In developing such policies, a local school board may include the following conditions and limitations:

1. An application process whereby a parent or guardian indicates a school preference for purposes of his child attending a school in the child's school division but outside of the attendance area in which the child resides;

2. A requirement that the parent or guardian provide transportation for the student attending a school other than his assigned school;

3. A requirement that a student may be disqualified from attending a school other than his assigned school if he has been subject to a specified disciplinary action;

4. A prohibition on the recruitment of a student from one school to another by a school division employee;

5. A limitation on participation in certain athletic activities for a student who chooses to attend a school other than his assigned school;

6. A random, unbiased selection process in the event open enrollment requests exceed the capacity of a school;

7. A provision that a student shall be permitted to remain at the receiving school until the student has completed the highest grade level in the school; and

8. A preference to a student (i) who resides in a location that has been subject to a change in school attendance area during the previous two years, (ii) who has a sibling attending the receiving school, or (iii) whose parent or guardian is an employee of the receiving school.

B. A copy of the school division's policies for open enrollment, if any, shall be posted on the division's website and shall be available to the public upon request.

C. Nothing in this section shall interfere with a local school board's authority to adopt a pupil placement plan pursuant to § 22.1-79.

D. For the purposes of this section, "open enrollment" means a policy adopted and implemented by a local school board to allow any student to enroll in any school within the school division of attendance regardless of the location of the student's residence.

2012, c. 510; 2013, c. 805; 2015, c. 369.

§ 22.1-7.2. Enrollment for students residing on a military installation or in military housing.

A. As used in this section, "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, fort, or other activity under the jurisdiction of the Department of Defense, including any leased facility, that is located in whole or in part within the Commonwealth. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

B. Any local school board of a school division in which a military installation or other military housing is located shall establish and implement policies to provide for the enrollment to any school of any student residing on a military installation or in military housing within the school division upon the request of his parent if space in the school is available. In developing such policies, a local school board may include any of conditions listed in subsection A of § 22.1-7.1 or any other condition deemed appropriate by the local school board.

C. A copy of the school division's policies for enrollment for students residing on a military installation or in military housing within the school division shall be posted on the division's website and shall be available to the public upon request.

2018, c. 390.

Chapter 2 - Board of Education

§ 22.1-8. General supervision vested in Board.

The general supervision of the public school system shall be vested in the Board of Education.

Code 1950, § 22-11; 1971, Ex. Sess., c. 203; 1980, c. 559.

§ 22.1-9. Appointment, terms, and vacancies.

The Board of Education shall consist of nine members appointed by the Governor, at least two of whom shall represent business and industry in the private sector in the Commonwealth. Every appointment to the Board shall be for a term of four years, except that appointments to fill vacancies other than by expiration of term shall be for the unexpired terms. All appointments, including those to fill vacancies, shall be subject to confirmation by the General Assembly, and any appointment made during the recess of the General Assembly shall expire at the end of 30 days after the commencement of the next session of the General Assembly. No member of the Board shall be appointed to more than two consecutive four-year terms.

Code 1950, § 22-12.1; 1971, Ex. Sess., c. 203; 1980, c. 559; 2017, c. 687.

§ 22.1-10. President.

The Board shall elect from its membership a president for a term of two years.

Code 1950, § 22-13; 1971, Ex. Sess., c. 203; 1980, c. 559.

§ 22.1-11. Quorum.

A majority of the members of the Board shall constitute a quorum for the transaction of business.

Code 1950, § 22-14; 1980, c. 559.

§ 22.1-12. Oath of office.

Before entering upon the duties of office, a person appointed to the Board shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 (§ 49-1 et seq.) of Title 49.

Code 1950, § 22-15; 1980, c. 559.

§ 22.1-13. Meetings.

Meetings of the Board shall be held upon the call of the president or upon request of a majority of its members. The president shall give due notice to all the members of the time and place of all meetings. The place of meeting shall ordinarily be the office of the Superintendent of Public Instruction.

Code 1950, § 22-17; 1980, c. 559.

§ 22.1-14. Minutes.

The minutes of each meeting of the Board shall be signed by the person presiding at such meeting.

Code 1950, § 22-18; 1980, c. 559.

§ 22.1-15. Repealed.

Repealed by Acts 1980, c. 728.

§ 22.1-16. Bylaws and regulations generally.

The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.

Code 1950, § 22-19; 1971, Ex. Sess., c. 203; 1980, c. 559.

§ 22.1-16.1. Board to establish regulations regarding human research.

The Board shall promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or authorized by the Department of Education or any public schools including the Virginia Schools for the Deaf and the Blind or any proprietary schools certified by the Board. The regulations shall require the human research committee to submit to the Governor, the General Assembly, and the Superintendent of Public Instruction or his designee at least annually a report on the human research projects reviewed and approved by the committee and shall require the committee to report any significant deviations from the proposals as approved.

1992, c. 603.

§ 22.1-16.2. Child identification kits; child protection kits.

The Board of Education shall develop, in cooperation with private entities, a program to provide parental access to child identification kits. The Board shall inform local school divisions about the availability of child protection kits from private entities and encourage the participation of private entities. The kits may include instructions and materials that may be used to compile identification information about the child, including a current photo, fingerprints, DNA samples, and important medical information and instructions for the proper safekeeping of the kit. In no case shall such kits be held for safekeeping by any school, school board, or other public entity.

2003, cc. 83, 86.

§ 22.1-16.3. Cooperation with other state agencies regarding students placed in group homes or residential facilities having educational programs.

A. In addition to the requirement to cooperate with other state departments in licensing and certification of residential schools for students with disabilities, the Department of Education shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities and in reducing and simplifying the regulations involved in the licensing and certification of group homes and residential facilities for children when such homes or facilities include an educational program. The Board shall promulgate regulations allowing the Department of Education to so assist and cooperate with other state departments.

B. The Board's regulations shall address the services required to be provided in such homes and facilities as it may deem appropriate to ensure the education and safety of the students. In addition, the Board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such homes or facilities according to the needs of the children to be placed; (ii) rules concerning allowable activities, local government and home- or facility-imposed curfews, and

study, recreational, and bedtime hours; and (iii) a requirement that each home or facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the local school division, local law enforcement, local government officials, and the community at large.

2005, cc. 358, 471.

§ 22.1-16.4. Nutrition and physical activity best practices database.

The Department of Education shall develop and maintain a nutrition and physical activity best practices database. The database shall contain the results of any wellness-related fitness testing done by local school divisions, as well as information on successful programs and policies implemented by local school divisions designed to improve nutrition and physical activity in the public schools. This information may include (i) a description of the program or policy, (ii) advice on implementation, (iii) any assessment of the program or policy, (iv) a contact person from the local school division, and (v) any other information the Department deems appropriate. The database shall be readily accessible to all local school divisions in the Commonwealth and the Department of Health. While the Board shall encourage local school divisions to submit information to the database, no school division shall be required to submit information.

2008, cc. 47, 398.

§ 22.1-16.5. Training materials on human trafficking.

The Board, in collaboration with the Department of Social Services, shall provide awareness and training materials for local school division staff on human trafficking, including strategies for the prevention of trafficking of children.

2012, cc. 317, 370.

§ 22.1-16.6. Guidelines for alternatives to suspension.

The Board of Education shall establish guidelines for alternatives to short-term and long-term suspension for consideration by local school boards. Such alternatives may include positive behavior incentives, mediation, peer-to-peer counseling, community service, and other intervention alternatives.

2017, cc. 231, 303.

§ 22.1-16.7. Regulations regarding endorsement to teach military science.

The State Board of Education shall amend its regulations to require that persons seeking a technical professional license with an endorsement to teach military science have either the appropriate credentials issued by the United States military or a recommendation from a Virginia employing educational agency.

2020, cc. 108, 109.

§ 22.1-17. Statements concerning regulations.

Not less than sixty days prior to the adoption of any regulation affecting school divisions, the Board of Education and the Department of Education shall prepare a statement as to the administrative impact

of such regulation on school divisions and the projected costs of implementation of and compliance with such regulation and shall send a copy thereof to each division superintendent.

Code 1950, § 22-19.01; 1976, c. 602; 1980, c. 559; 1988, c. 234.

§ 22.1-17.01. Definition of "intervener.".

For the purposes of regulations promulgated by the Board of Education, "intervener" means an individual with knowledge and skill in the mode of communication of a deaf-blind student and who can communicate to the deaf-blind student what is occurring in the student's educational setting.

2013, c. 729.

§ 22.1-17.02. Definition of "student with limited or interrupted formal education".

A. The Department shall develop and adopt a common statewide definition for the term "student with limited or interrupted formal education" and shall require local school divisions to report the number of students who fall under such definition as part of the required data collection and reporting on average daily membership for the purposes of documenting any changes in such numbers over time.

B. The Board shall evaluate the supports and programs available to "students with limited or interrupted formal education" in local school divisions to determine whether the calculations for the school quality indicators within the Board's Regulations Establishing the Standards for Accrediting Public Schools in Virginia (8VAC20-131-5 et seq.) are appropriate or whether changes in methodology could be made to more comprehensively measure the academic and nonacademic achievement of such student population. Such evaluation shall be completed to make the necessary revisions to impact the methodology for the calculation of school accreditation ratings for the 2021-2022 school year

2020, c. 696.

§ 22.1-17.1. Regulations for reenrollment.

The Board of Education, in cooperation with the Board of Juvenile Justice, shall promulgate regulations for the reenrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. Such regulations shall include the components required in a reenrollment plan and shall provide for consistency in the curricula, standards and policies between the educational programs required by this title, and those of the Board of Juvenile Justice.

1990, c. 797; 1991, c. 295; 1996, c. 1000; 2012, cc. 803, 835.

§ 22.1-17.2. Nursing education programs.

The Board of Education and the Board of Nursing, or their representatives, shall, at least annually, develop and revise an interagency agreement relating to the regulation of public school nursing education programs. This memorandum of understanding shall establish a framework for cooperation in order to achieve consistency in the regulation of such programs. The duties and responsibilities of the Department of Education and the Board of Nursing for public school practical nursing and nurse aide education programs shall be set forth in the agreement. The agreement shall include, but need not be limited to, core curricula for the programs; administrative and clerical activities such as exchange of

mailing labels, participation in site visits, reporting requirements, and information for newsletters; review and revision of the curricula materials; participation in inservice activities and state conferences; opportunity to participate in and comment on revisions of any relevant regulations; and communication procedures between the two state agencies and with the local school divisions.

1991, c. 629.

§ 22.1-17.3. Identification of student internship programs.

The Board of Education, the Department of Labor and Industry, and the State Board for Community Colleges shall identify High School to Work Partnerships established pursuant to subsection D of § 22.1-227.1 and other student internship programs that may be eligible for exemptions from federal and state labor laws and regulations for which exemptions are available for student apprenticeship programs. The Board of Education, the Department of Labor and Industry, and the State Board for Community Colleges shall also establish procedures by which such exemptions may be obtained for such High School to Work Partnerships and other student internship programs.

1996, c. 150; 2018, cc. 142, 388.

§ 22.1-17.4. Certain honorary diplomas to be issued under specific circumstances.

A. Any veteran of World War II may apply to the Board of Education for a Commonwealth of Virginia World War II Veteran Honorary High School Diploma by filing, in compliance with Board guidelines, a statement declaring that:

1. During the years between 1939 and 1945, he served in any branch of the United States Armed Forces and was subsequently honorably discharged;

2. He was drafted or did enlist in the United States Armed Forces while still enrolled as a secondary school student in any school in any state or territory of the United States or any school located on or associated with a United States military base or embassy; and

3. He was unable to resume his secondary education upon returning to civilian life.

B. Any veteran of the Korean War may apply to the Board of Education for a Commonwealth of Virginia Korean War Veteran Honorary High School Diploma by filing, in compliance with Board guidelines, a statement declaring that:

1. During the years between 1950 and 1953, he served in any branch of the United States Armed Forces and was subsequently honorably discharged;

2. He enlisted in or was drafted into the United States Armed Forces while still enrolled as a secondary school student in any school in any state or territory of the United States or any school located on or associated with a United States military base or embassy; and

3. He was unable to resume his secondary education upon returning to civilian life.

C. Any veteran of the Vietnam War may apply to the Board of Education for a Commonwealth of Virginia Vietnam War Veteran Honorary High School Diploma by filing, in compliance with Board guidelines, a statement declaring that:

1. During the years between 1959 and 1975, he served in any branch of the United States Armed Forces and was subsequently honorably discharged;

2. He enlisted in or was drafted into the United States Armed Forces while still enrolled as a secondary school student in any school in any state or territory of the United States or any school located on or associated with a United States military base or embassy; and

3. He was unable to resume his secondary education upon returning to civilian life.

D. The Board of Education shall establish guidelines setting forth the timelines and procedures for applying for such diplomas. Upon the filing of the required statement in accordance with its guidelines, the Board of Education shall award the veteran either a Commonwealth of Virginia World War II Veteran Honorary High School Diploma, or a Commonwealth of Virginia Korean War Veteran Honorary High School Diploma, or a Commonwealth of Virginia Vietnam War Veteran Honorary High School Diploma. Such diplomas shall be delivered to eligible veterans during the first full week in September that has been designated, in accordance with § 2.2-3309.1, as the Virginia World War II Veterans Appreciation Week, or during the first full week in November that has been designated, in accordance with § 2.2-3309.1, as the Virginia Korean War Veterans Appreciation Week, or during the first full week in November that has been designated, in accordance with § 2.2-3310, as Vietnam War Memorial Dedication Week and Veterans' Recognition Week in the Commonwealth.

2001, c. 263; 2002, c. 162; 2009, c. 66.

§ 22.1-17.5. Public notice and comment regarding certain resource guides.

In order to provide appropriate opportunity for input from the general public, parents, teachers, and local school boards, the Board of Education shall solicit public comment prior to revising or adopting Standards of Learning resource guides and lists of recommended textbooks in any Standards of Learning academic subject. Thirty days prior to soliciting public comment, the Board shall publish notice of its intended action. Interested parties shall be given reasonable opportunity to be heard and present information prior to final action of the Board.

The Board shall make such resource guides available for public inspection at least thirty days prior to final adoption or revision, as the case may be.

2001, c. 869.

§ 22.1-17.6. Public elementary and secondary schools and local school divisions; information and forms.

A. The Board shall adopt policies to ensure that the Department of Education does not require public elementary or secondary schools or local school divisions to (i) provide information that is already available to or housed within the Department of Education; (ii) provide the same written information

more than once during a school year, absent a change in the underlying information; (iii) complete forms for students with disabilities unless such forms are necessary to ensure compliance with the federal Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.); or (iv) provide information that is not necessary to comply with state or federal law unless such information is relevant to student outcomes or the efficient operation of the public schools, provided that the Department of Education may require such schools and local school divisions to provide any such information or complete any such forms if the Department of Education demonstrates a compelling need or demonstrates that it does not have a more expeditious method for obtaining the information or completing the forms.

B. The Department of Education shall study the transition to electronic submission of all information and forms to the Department of Education by public elementary and secondary schools and local school divisions and submit a report of its findings to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2016.

C. The Department of Education shall annually evaluate and determine the continued need for the information that it collects from public elementary and secondary schools and local school divisions. In making such evaluation and determination, the Department of Education shall consider whether the information that it collects is required by state or federal law.

D. The Board shall report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health by November 15 of each year on (i) information that public elementary and secondary schools and local school divisions are required to provide to the Department of Education pursuant to state law, (ii) the results of the annual evaluation and determination made by the Department of Education pursuant to subsection C, (iii) any reports required of public elementary or secondary schools or local school divisions that the Department of Education has consolidated, (iv) any information that the Department of Education no longer collects from public elementary or secondary schools or local school divisions, and (v) any forms that the Department of Education no longer requires public elementary or secondary schools or local school divisions to complete.

2016, c. 521.

§ 22.1-17.7. Social-emotional learning guidance standards.

The Department shall (i) establish a uniform definition of social-emotional learning and develop guidance standards for social-emotional learning for all public students in grades kindergarten through 12 in the Commonwealth; (ii) make such standards available to each local school division no later than July 1, 2021; and (iii) issue a report no later than November 1, 2021, on the resources needed to successfully support local school divisions with the implementation of a statewide social-emotional learning program.

2020, c. 339.

§ 22.1-18. Report on education and standards of quality for school divisions; when submitted and effective.

By December 1 of each year, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed standards of quality. Such standards of quality shall be subject to revision only by the General Assembly, pursuant to Article VIII, Section 2 of the Constitution of Virginia. Such report shall include:

1. A complete listing of the current standards of quality for the Commonwealth's public schools, together with a justification for each particular standard, how long each such standard has been in its current form, and whether the Board recommends any change or addition to the standards of quality;

2. Information regarding parent and student choice within each school division and any plans of such school divisions to increase school choice;

3. A complete listing of each report that local school divisions are required to submit to the Board or any other state agency, including name, frequency, and an indication of whether the report contains information that the local school division is also required to submit to the federal government;

4. An explanation of the need to retain or maintain the frequency of any report identified pursuant to subdivision 3; any recommendation for the elimination, reduction in frequency, or consolidation of reports identified pursuant to subdivision 3 when such elimination, reduction in frequency, or consolidation would require an amendment to the laws of the Commonwealth; and a description of any other report identified pursuant to subdivision 3 that the Board has eliminated, reduced in frequency, or consolidated; and

5. A complete listing of each report pertaining to public education that local school divisions are required to submit to the federal government, including name and frequency.

Code 1950, § 22-19.1; 1971, Ex. Sess., c. 160; 1973, c. 97; 1980, c. 559; 1984, c. 157; 2002, cc. 159, 253; 2013, c. 643; 2015, c. 386; 2016, c. 469; 2017, c. 235.

§ 22.1-18.01. Biennial review of the standards of quality required; budget estimates.

A. To ensure the integrity of the standards of quality, the Board of Education shall, in odd-numbered years, exercise its constitutional authority to determine and prescribe the standards, subject to revision only by the General Assembly, by reviewing the standards and either (i) proposing amendments to the standards or (ii) making a determination that no changes are necessary.

B. If the Board proposes changes to the standards of quality, the budget estimates that are required to be reported pursuant to § 2.2-1504 shall take into consideration the Board's proposed standards of quality.

2002, c. 498; 2006, cc. 42, 130; 2017, c. 787.

§ 22.1-18.1. Annual report on gifted education required; local advisory committee on gifted education.

Each local school board shall submit the annual report, "Programs for Gifted Education," as required by Board regulations, to the Department of Education.

Each school board may appoint, in accordance with the regulations of the Board of Education, a local advisory committee on gifted education. A local advisory committee on gifted education shall annually review the local plan for the education of gifted students, including revisions, and determine the extent to which the plan for the previous year was implemented. The comments and recommendations of the local advisory committee on gifted education shall be submitted in writing directly to the school board and the superintendent.

A school board shall comply with Board regulations governing gifted education relative to the use of multiple criteria for the identification of gifted students.

With such funds as may be appropriated for this purpose, the Department of Education shall conduct an annual review of all local gifted education programs, on such date as it may determine, to ensure full implementation and compliance with federal and state laws and regulations governing gifted education. The Department may conduct the review as an on-site observation or require certification of compliance from the division superintendent.

1998, c. 879; 1999, c. 554; 2012, cc. 805, 836.

§ 22.1-19. (Effective until July 1, 2021) Accreditation of elementary, middle, and high schools; nursery schools; recognition of certain organizations; child day center regulation.

The Board shall provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it. The Board may provide for the accreditation of private elementary, middle, and high schools in accordance with standards prescribed by it, taking reasonably into account the special circumstances and factors affecting such private schools. The Board in its discretion may recommend provisions for standards for private nursery schools. Any such accreditation shall be at the request of the private school only.

For the purposes of facilitating the transfer of academic credits for students who have attended private schools and are enrolling in public schools, and to meet the requirements of § 63.2-1717, the Board of Education shall authorize, in a manner it deems appropriate, the Virginia Council for Private Education to accredit private nursery, preschool, elementary, and secondary schools.

Code 1950, § 22-21; 1954, c. 326; 1968, c. 281; 1980, c. 559; 1991, c. 178; 1993, cc. 730, 742; 2000, c. 535; 2012, cc. 803, 835; 2016, c. 442.

§ 22.1-19. (Effective July 1, 2021) Accreditation of elementary, middle, and high schools; nursery schools; recognition of certain organizations; child day center regulation.

The Board shall provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it. The Board may provide for the accreditation of private elementary, middle, and high schools in accordance with standards prescribed by it, taking reasonably into account the special circumstances and factors affecting such private schools. The Board in its dis-

cretion may recommend provisions for accreditation standards for private nursery schools. Any such accreditation shall be at the request of the private school only.

For the purposes of facilitating the transfer of academic credits for students who have attended private schools and are enrolling in public schools, and to meet the requirements of § 22.1-289.032, the Board of Education shall authorize, in a manner it deems appropriate, the Virginia Council for Private Education to accredit private nursery, preschool, elementary, and secondary schools.

Code 1950, § 22-21; 1954, c. 326; 1968, c. 281; 1980, c. 559; 1991, c. 178; 1993, cc. 730, 742; 2000, c. 535; 2012, cc. 803, 835; 2016, c. 442; 2020, cc. 860, 861.

§ 22.1-19.1. Action for violations related to secure mandatory tests.

A. The Office of the Attorney General, on behalf of the Board of Education, may bring a cause of action in the circuit court having jurisdiction where the person resides or where the act occurred for injunctive relief, civil penalty, or both, against any person who knowingly and willfully commits any of the following acts related to secure mandatory tests required by the Board to be administered to students:

1. Permitting unauthorized access to secure test questions prior to testing;

2. Copying or reproducing all or any portion of any secure test booklet;

3. Divulging the contents of any portion of a secure test;

4. Altering test materials or examinees' responses in any way;

5. Creating or making available answer keys to secure tests;

6. Making a false certification on the test security form established by the Department of Education;

7. Excluding students from testing who are required to be assessed; or

8. Participating in, directing, aiding or abetting, or assisting in any of the acts prohibited in this section.

For the purpose of this subsection, "secure" means an item, question, or test that has not been made publicly available by the Department of Education.

B. Nothing in this section may be construed to prohibit or restrict the reasonable and necessary actions of the Board of Education, Superintendent of Public Instruction or the Department of Education or their agents or employees engaged in test development or selection, test form construction, standard setting, test scoring, reporting test scores, or any other related activities which, in the judgment of the Superintendent of Public Instruction or Board of Education, are necessary and appropriate.

C. Any person who violates any provisions of this section may be assessed a civil penalty not to exceed $1,000 for each violation. Furthermore, any person whose administrative or teaching license has been suspended or revoked pursuant to § 22.1-292.1 may be assessed a civil penalty for the same violation under this section and the reasonable costs of any review or investigation of a violation of test security.

All civil penalties paid to the Commonwealth pursuant to this section shall be deposited into the Literary Fund.

D. For the purpose of this section, "person" shall not mean a student enrolled in a public school.

2000, cc. 634, 659; 2004, cc. 939, 955; 2006, cc. 25, 95; 2011, c. 248.

§ 22.1-20. Retention of pupil personnel records.

The Board of Education is authorized to promulgate regulations governing the retention of pupil personnel records in public schools.

Code 1950, § 22-53.1; 1968, c. 351; 1970, c. 154; 1980, c. 559.

§ 22.1-20.1. Powers and duties of the Board related to public broadcasting stations; disbursement of funds.

A. As used in this section, unless the context requires a different meaning:

"Public broadcasting station" means any noncommercial, educational television or radio station that (i) is licensed and regulated by the Federal Communications Commission as a noncommercial, educational broadcasting station; (ii) is operated by a public agency or a nonprofit private foundation, corporation, or association; (iii) has offices and studios located in Virginia; and (iv) on or before January 1, 1997, was qualified to receive or was the recipient of a Virginia community service grant or other instructional television service funds, or, after January 1, 1997, until July 1, 2012, was qualified by the Virginia Public Broadcasting Board to receive state funds under standards and criteria established by the Virginia Public Broadcasting Board pursuant to law, or, after July 1, 2012, was qualified by the Board of Education in accordance with this section. Public broadcasting station shall not include any institution of higher education that produces or transmits distance education and other credit and noncredit television programs, unless such institution requests qualification as a public broadcasting station and the Board of Education approves its request.

B. The Board shall have the power and duty to:

1. Receive, allocate, and dispense funds appropriated by the General Assembly and funds received by the Board from other sources, subject to the approval of the Director of the Department of Planning and Budget;

2. Develop reasonable and fair formulas for allocating and distributing state funds and other funds of the Board to Virginia's public broadcasting stations consistent with the intent of such appropriations;

3. Apply for, accept, and receive grants of federal funds and funds from other public and private sources;

4. Adopt, administer, and apply standards and criteria by which the Board may permit television and radio stations to qualify as public broadcasting stations if those stations did not qualify for or receive Virginia community service grants or other instructional television service funds as of January 1, 1997, but otherwise qualify as such under the definition of a public broadcasting station in § 2.2-1122. To avoid unnecessary duplication of public broadcasting services, the Board shall consider: (i) the

adequacy of existing programming, coverage, and other public broadcasting services in the geographic area to be served and the extent to which those services would be duplicated by an additional public broadcasting station and (ii) the sufficiency of funds administered by the Board to support existing or proposed public broadcasting stations;

5. Coordinate such strategic planning by the public broadcasting stations as the Board deems appropriate and identify and communicate to the Governor and the General Assembly the funding and other requirements of Virginia's public broadcasting stations; and

6. Enter into contracts with public broadcasting stations, state agencies and institutions, public schools, and private entities for goods and services.

C. The Director of the Department of Planning and Budget shall oversee and approve the disbursement of all funds appropriated to the Board for the purposes enumerated in this section. Upon approval, the funds of the Board shall be disbursed for the following general purposes:

1. Annual operating-grant-funding to public broadcasting stations for developing, acquiring, producing, and distributing programs and related services that support local needs of preschool and adult education; disseminating information to the citizenry regarding the government and its affairs; promoting tourism and enhancing the Commonwealth's economic development; and supporting other programs that inform, educate, and entertain the citizenry with noncommercial programming.

2. Annual contract-funding to public broadcasting stations to regionally manage and provide programming and related services that directly support the instructional activities of local schools and home educators.

3. Matching-capital-funding to public broadcasting stations for construction and equipment modernization to keep Virginia stations consistent with industry standards.

4. Funding for specific programs and projects to be provided by a public broadcasting station that may not be included in another funding category.

2012, cc. 803, 835.

§ 22.1-20.2. Student data security.

A. The Department of Education shall develop, in collaboration with the Virginia Information Technologies Agency, and update regularly but in no case less than annually, a model data security plan for the protection of student data held by school divisions. Such model plan shall include (i) guidelines for access to student data and student data systems, including guidelines for authentication of authorized access; (ii) privacy compliance standards; (iii) privacy and security audits; (iv) procedures to follow in the event of a breach of student data; and (v) data retention and disposition policies. The model plan and any updates shall be made available to every school division.

B. The Department of Education shall designate a chief data security officer, with such state funds as made available, to assist school divisions, upon request, with the development and implementation of

their own data security plans and to develop best practice recommendations regarding the use, retention, and protection of student data.

2015, c. 561.

§ 22.1-20.3. Granting easements across lands of certain schools and institutions.

The Board may, subject to the prior written approval of the Governor, convey upon such terms and conditions and for such consideration as it deems proper easements upon, over, across, or under the property of any school or educational institution for which it serves as the governing board, to any political subdivision of the Commonwealth, public utility, public service company, or cable television company for the purpose of erecting or maintaining power, telephone, cable television, water, sewer, or gas lines and mains, provided that any such deed or other conveyance shall be in a form approved by the Attorney General and that any funds received by the Board in consideration for granting any such easement shall be paid into the general fund of the state treasury.

1952, c. 74, § 23-9.1; 1958, c. 47; 1986, c. 536; 2016, c. 588.

§ 22.1-20.4. Alternative assessments for students who are English language learners.

The Board of Education shall consider assessments aligned to the Standards of Learning that are structured and formatted in a way that measures the content knowledge of students who are English language learners and that may be administered to such students as Board of Education-approved alternatives to Standards of Learning end-of-course English reading assessments.

2016, cc. 58, 516.

Chapter 3 - SUPERINTENDENT OF PUBLIC INSTRUCTION

§ 22.1-21. Appointment and qualification.

The Superintendent of Public Instruction shall be appointed by the Governor, after consultation with the Board of Education among others, subject to confirmation by the General Assembly, for a term coincident with that of the Governor making the appointment. Any vacancy shall be filled in the same manner. The Superintendent of Public Instruction shall be an experienced educator.

Code 1950, § 22-22; 1977, c. 542; 1980, c. 559.

§ 22.1-22. Oath of office.

Before entering upon the duties of his office, the Superintendent of Public Instruction shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 (§ 49-1 et seq.) of Title 49.

Code 1950, § 22-24; 1980, c. 559.

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;

2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;

3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2025) At least annually, survey all local school divisions to identify critical shortages of (i) teachers and administrative personnel by geographic area, by school division, or by subject matter and (ii) school bus drivers by geographic area and local school division and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Develop and provide to local school divisions a model exit questionnaire for teachers;

6. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children;

7. Designate an employee of the Department of Education to serve as its liaison to the State Council of Higher Education for Virginia and the State Board for Community Colleges; and

8. Perform such other duties as the Board of Education may prescribe.

Code 1950, §§ 22-25, 22-26, 22-28; 1980, c. 559; 2001, cc. 689, 700; 2007, cc. 43, 55; 2015, c. 140; 2016, c. 594; 2020, cc. 379, 437.

§ 22.1-23.1. Model exit questionnaire for teachers.

The Department of Education (the Department) shall develop and oversee a pilot program to administer across five geographically and demographically diverse school divisions the model exit questionnaire for teachers developed by the Superintendent of Public Instruction (the Superintendent) pursuant to § 22.1-23, analyze the results of each such questionnaire, and include such results and analysis in the Superintendent's annual report beginning in 2018. The Department shall (i) administer such questionnaire to each teacher who ceases to be employed by the relevant school board for any reason and (ii) collect, maintain, and report on the results of each such questionnaire in a manner that ensures the confidentiality of each teacher's name and other personally identifying information.

2017, cc. 234, 308.

§ 22.1-23.2. Consolidation of surveys, etc.

The Superintendent of Public Instruction shall identify any survey, questionnaire, inquiry, or other communication that requires a response from a school board or division superintendent as required by this title, Board regulations, the Superintendent, the Department, or other state agencies and shall, in collaboration with any identified requesting entity, work to consolidate, as much as practicable, all such surveys, questionnaires, inquiries, and other communications in order to reduce the administrative burden of such response.

2019, c. 768.

§ 22.1-23.3. Treatment of transgender students; policies.

A. The Department of Education shall develop and make available to each school board model policies concerning the treatment of transgender students in public elementary and secondary schools that address common issues regarding transgender students in accordance with evidence-based best practices and include information, guidance, procedures, and standards relating to:

1. Compliance with applicable nondiscrimination laws;

2. Maintenance of a safe and supportive learning environment free from discrimination and harassment for all students;

3. Prevention of and response to bullying and harassment;

4. Maintenance of student records;

5. Identification of students;

6. Protection of student privacy and the confidentiality of sensitive information;

7. Enforcement of sex-based dress codes; and

8. Student participation in sex-specific school activities and events and use of school facilities. Activities and events do not include athletics.

B. Each school board shall adopt policies that are consistent with but may be more comprehensive than the model policies developed by the Department of Education pursuant to subsection A.

2020, cc. 153, 154.

§ 22.1-24. Administration of "National School Lunch Act.".

The Superintendent of Public Instruction is hereby designated as the "State Educational Agency" for the disbursement of funds received by the Commonwealth of Virginia under the provisions of Public Law 396, 79th Congress, known as the "National School Lunch Act" and any successor act or amendment thereto; and as such is authorized, empowered and directed to exercise the powers and perform the duties conferred and imposed by such act of Congress.

Code 1950, § 22-27; 1980, c. 559.

Chapter 4 - SCHOOL DIVISIONS, JOINT SCHOOLS AND CONTRACTS BETWEEN SCHOOL DIVISIONS

§ 22.1-25. How school divisions made.

A. The Board of Education shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the standards of quality required by of Article VIII, Section 2 of the Constitution of Virginia, subject to the following conditions:

1. The school divisions as they exist on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of this section except that when a town becomes an independent city, the town shall also become a school division.

2. No school division shall be divided or consolidated without the consent of the school board thereof and the governing body of the county or city affected or, if a town comprises the school division, of the town council.

3. No change shall be made in the composition of any school division if such change conflicts with any joint resolution expressing the sense of the General Assembly with respect thereto adopted at the session next following January 1 of the year in which the composition of such school division is to be changed.

B. Notice of any change in the composition of a school division proposed by the Board of Education shall be given by the Superintendent of Public Instruction, on or before January 1 of the year in which the composition of such school division is to be changed, to the clerks of the school board and of the governing body involved and to each member of the General Assembly.

C. Subject to the conditions set forth in subsection A, the Board of Education shall consider the following criteria in determining appropriate school divisions:

1. The school-age population of the school division proposed to be divided or consolidated.

2. The potential of the proposed school division to facilitate the offering of a comprehensive program for kindergarten through grade 12 at the level of the established standards of quality.

3. The potential of the proposed school division to promote efficiency in the use of school facilities and school personnel and economy in operation.

4. Anticipated increase or decrease in the number of children of school age in the proposed school division.

5. Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities.

6. The ability of each existing school division to meet the standards of quality with its own resources and facilities or in cooperation with another school division or divisions if arrangements for such cooperation have been made.

D. Consistent with the authority of the Board pursuant to Article VIII, Section 5 of the Constitution of Virginia to designate school divisions in the Commonwealth of such geographic size and school-age population as will best promote the realization of the standards of quality, local school boards may submit proposals for the consolidation of school divisions to the Board of Education. Prior to the submission of a consolidation proposal, the submitting school board shall give notice to the public and shall conduct one or more public hearings.

School divisions submitting proposals for consolidation shall include such information and data as may be necessary to support their proposal, including (i) the criteria set forth in subsection C; (ii) evidence of the cost savings to be realized by such consolidation; (iii) a plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division; (iv)

procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms; (v) a plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and (vi) evidence of local support for the proposed consolidation.

For five years following completion of such consolidation, the computation of the state and local share for an educational program meeting the standards of quality for school divisions resulting from consolidations approved pursuant to this subsection shall be the lower composite index of local ability-to-pay of the applicant school divisions, as provided in the appropriation act.

Code 1950, § 22-30.1; 1978, c. 456; 1980, c. 559; 2004, c. 917; 2013, cc. 644, 805; 2015, c. 369.

§ 22.1-26. Joint and regional schools; regional public charter schools.

A. Two or more school boards may, with the consent of the State Board, establish joint or regional schools, including regional public charter schools as defined in § 22.1-212.5, comprehensive schools offering all-day academic programs and career and technical education, and regional residential charter schools for at-risk pupils, for the use of their respective school divisions and may jointly purchase, take, hold, lease, convey and condemn both real and personal property for such joint, regional, or regional public charter schools. The school boards, acting jointly, shall have the same power of condemnation as other school boards except that land so condemned shall not be in excess of 30 acres for the use of any one joint or regional school. The title to all property acquired for such purposes shall vest jointly in the school boards in such respective proportions as the school boards may determine, and the schools shall be managed and controlled by the school boards jointly, in accordance with such regulations as are promulgated by the State Board. With the approval of the participating school boards and the respective local governing bodies, title to property acquired for a joint school shall be vested in the governing body of such school. The school boards operating a regional public charter school shall determine the school division to which any regional public charter school is assigned for the purposes of any restrictions on the number of public charter schools imposed by § 22.1-212.11.

B. Effective July 1, 2008, joint, regional, or regional charter schools in operation prior to the promulgation of new regulations may request a waiver of the new regulation requirements. This waiver request shall be submitted to the Board of Education on a form and in a manner prescribed by the Board. If the Board of Education grants the waiver request, the approved school shall continue to operate under the previous regulations.

C. Consistent with the provisions of this section, two or more school boards may, with the consent of the State Board, establish joint or regional schools, including regional public charter schools, to serve as high schools offering (i) in addition to a comprehensive high school curriculum, specialized training to students desiring to pursue careers in law enforcement, fire fighting, emergency and rescue services, and other occupations addressing public safety and welfare; or (ii) a specialized curriculum

leading to a high school diploma and a postsecondary credential, such as industry certification, career certificate, or degree; or (iii) both.

Such schools described in clause (i) may be designed to incorporate the instructional services of retired or disabled emergency, fire, rescue, and law-enforcement personnel and internships with local agencies and organizations providing such emergency, fire, rescue, and law-enforcement services.

The relevant school boards operating schools described in clause (ii) may, by agreement, establish alternative schedules for the delivery of instruction that may include alternatives to standard school day and year requirements, subject to the issuance of any necessary waivers by the Board of Education pursuant to § 22.1-79.1 and relevant Board regulations. Such school boards may contract with an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education, as the case may be, pursuant to Chapter 16 (§ 22.1-319 et seq.) of this title or Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1, to deliver such instruction, which may include specialized instruction and training for students who are eligible to enroll in public high schools, consistent with §§ 22.1-3, 22.1-5, and 22.1-213.

D. Joint or regional schools, such as academic year Governor's Schools, may set the school calendar so that the first day students are required to attend school shall comport with the calendar of any of the participating school divisions, including those granted a waiver, as prescribed in § 22.1-79.1. Such calendar must be approved by the governing board of the joint or regional school.

Code 1950, § 22-7; 1954, c. 638; 1980, c. 559; 1999, c. 449; 2000, cc. 631, 712, 1028; 2002, c. 366; 2003, c. 165; 2004, c. 256; 2007, c. 45; 2008, c. 49.

§ 22.1-26.1. Agreements for satellite classrooms.

A. School boards may enter into agreements with private business and industry for the establishment, installation, renovation, remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned by the business or industry and leased to the school board at no cost.

The local school board may adopt procedures for the enrollment of children of employees of the private industry who reside outside the attendance zone for such classrooms. Such procedures shall be designed to ensure compliance with all federal and state laws and regulations and constitutional provisions prohibiting discrimination that are applicable to public schools and with any court-ordered desegregation plan in effect for the school division.

Agreements for such satellite classrooms shall include, among other things:

1. A detailed description of the satellite site, the site development necessary for new construction, remodeling, or renovation for the accomplishment of the project, and any facility to be constructed.

2. A plan for the reimbursement of the school division by the private industry or business upon premature termination of any such lease agreement.

3. An enrollment plan, including grade levels to be served.

4. A description of any waivers to be requested from the Board of Education for the operation of such satellite classrooms.

B. The relevant governing body may, by ordinance duly adopted, exempt in whole or in part from any and all taxes authorized pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1, private businesses and industries entering into agreements pursuant to this section.

2002, c. 717.

§ 22.1-27. Contracts to furnish facilities and services.

A. A school board may enter into a contract with the school board of an adjacent school division for furnishing public school facilities and for school services.

B. Any contract for services may stipulate that the school division which is receiving services may have a representative on the school board of the school division which is providing services with the approval of the governing bodies of each political subdivision involved. For the term of the contract, any such representative shall have all the rights, duties and responsibilities of the members of the school board of the division providing services, including compensation as set forth by law, but he shall not participate in or vote on any matter involving the continuation of such school services or the interpretation or construction of the provisions of or amendment to or continuation of the contract.

C. Any such representative shall be appointed in the same manner as the members of the school board of the school division which is receiving services and may be a member of such school board. The representative shall serve a term of four years beginning the first day of July following his appointment. However, if the contract goes into effect on a date other than July 1, the term of the initial representative shall commence on the effective date of the contract and shall expire on the fourth June 30 following his appointment.

1980, c. 559; 1989, c. 197.

Chapter 4.1 - OPPORTUNITY EDUCATIONAL INSTITUTION [Repealed]

§§ 22.1-27.1 through 22.1-27.6. Repealed.

Repealed by Acts 2015, c. 369, cl. 2.

Chapter 5 - SCHOOL BOARDS; SELECTION, QUALIFICATION AND SALARIES OF MEMBERS

Article 1 - GENERAL PROVISIONS

§ 22.1-28. Supervision of schools in each division vested in school board.

The supervision of schools in each school division shall be vested in a school board selected as provided in this chapter or as otherwise provided by law.

1980, c. 559.

§ 22.1-29. Qualifications of members.

Each person appointed or elected to a school board shall, at the time of his appointment or election, be a qualified voter and a bona fide resident of the district from which he is selected if appointment or election is by district or of the school division if appointment or election is at large; and if he shall cease to be a resident of such district or school division, his position on the school board shall be deemed vacant.

Code 1950, §§ 22-68, 22-90; 1959, Ex. Sess., c. 78; 1969, Ex. Sess., c. 25; 1980, c. 559; 1997, c. 727.

§ 22.1-29.1. Public hearing before appointment of school board members.

At least seven days prior to the appointment of any school board member pursuant to the provisions of this chapter, of §§ 15.2-410, 15.2-531, 15.2-627 or § 15.2-837, or of any municipal charter, the appointing authority shall hold one or more public hearings to receive the views of citizens within the school division. The appointing authority shall cause public notice to be given at least ten days prior to any hearing by publication in a newspaper having a general circulation within the school division. No nominee or applicant whose name has not been considered at a public hearing shall be appointed as a school board member.

1985, c. 423; 1987, c. 430.

§ 22.1-30. Certain officers may not act on school board or serve as tie breaker.

A. No state, county, city or town officer, no deputy of any such officer, no member of the governing body of a county, city or town, no employee of a school board, and no father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of a member of the county governing body may, during his term of office, be appointed as a member of the school board for such county, city or town or as tie breaker for such school board except:

1. Local directors of social services;

2. Commissioners in chancery;

3. Commissioners of accounts;

4. Registrars of vital records and health statistics;

5. Notaries public;

6. Clerks and employees of the federal government in the District of Columbia;

7. Medical examiners;

8. Officers and employees of the District of Columbia;

9. In Northumberland County, oyster inspectors;

10. In Lunenburg County, members of the county library board and members of the local board of social services;

11. Auxiliary deputy sheriffs and auxiliary police officers receiving less than five dollars in annual compensation;

12. Members of the town councils serving towns within Craig, Giles and Wise Counties; and

13. Public defenders.

B. Nothing in this section shall be construed to prohibit the election of deputies of constitutional officers to school board membership, consistent with federal law and regulation.

Code 1950, §§ 22-69, 22-92; 1973, c. 63; 1980, c. 559; 1986, c. 260; 1990, c. 111; 1991, cc. 140, 163; 1993, c. 352; 1994, c. 723; 1995, c. 290; 2002, c. 747.

§ 22.1-31. Oath.

Before entering upon the duties of office, each person appointed to a school board shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 (§ 49-1 et seq.) of Title 49.

Code 1950, §§ 22-66, 22-91; 1980, c. 559.

§ 22.1-32. Salary of members.

A. Any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter.

B. The appointed school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack – $3,000.00;

Alleghany – $1,500.00;

Amherst – $2,200.00;

Brunswick – $1,800.00;

Cumberland – $3,600.00;

Essex – $1,800.00;

Greensville – $1,800.00;

Hanover – $8,000.00;

Isle of Wight – $4,000.00;

Northampton – $3,000.00;

Prince Edward – $2,400.00;

Richmond – $5,000.00;

Southampton – $5,300.00.

C. The appointed school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Charlottesville – $3,000.00;

Covington – $1,500.00;

Danville – $600.00;

Emporia – $240.00;

Fries – $240.00;

Hopewell – $3,600.00;

Lexington – $600.00;

Lynchburg – $2,400.00;

Manassas Park – $3,000.00;

Martinsville – $2,400.00;

Poquoson – $3,000.00;

Roanoke – $4,200.00;

Salem – $4,800.00;

South Boston – $600.00;

Winchester – $4,500.00.

D. Any school board may, in its discretion, pay the chairman of the school board an additional salary not exceeding $2,000 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

E. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

F. No appointed school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in subsections B and C unless such school board has taken an affirmative vote on the requested increase. Further, no elected school board shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase shall be approved. Local school boards shall adopt such increases according to the following procedures:

1. A local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1 of any year in which at least 40 percent of such members are to be elected or appointed. However, a school board serving a county having the county manager plan of

government and whose membership totals five may establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed. Such increase shall become effective on January 1 of the following year.

2. A local school board representing a city or town may establish a salary increase prior to December 31 in any year preceding a year in which members are to be elected or appointed. Such increase shall become effective on July 1 of the year in which the election or appointment occurs if the election or appointment occurs prior to July 1 and shall be become effective January 1 of the following year if the election or appointment occurs after June 30.

No salary increase may become effective during an incumbent member's term of office; however, this restriction shall not apply if the school board members are elected or appointed for staggered terms.

Code 1950, § 22-67.2; 1950, pp. 465, 490; 1952, c. 170; 1954, cc. 206, 709; 1956, c. 317; 1956, Ex. Sess., cc. 5, 44; 1958, c. 375; 1960, c. 217; 1962, c. 223; 1964, c. 166; 1966, c. 82; 1968, c. 731; 1970, c. 498; 1971, Ex. Sess., c. 93; 1972, c. 623; 1973, c. 153; 1974, cc. 158, 197; 1975, c. 468; 1976, cc. 127, 176; 1977, cc. 389, 512; 1978, c. 488; 1979, c. 237; 1980, c. 559; 1981, c. 482; 1982, c. 488; 1983, c. 562; 1984, c. 483; 1985, c. 493; 1986, cc. 446, 486; 1987, c. 348; 1988, cc. 567, 582; 1989, cc. 464, 504; 1990, cc. 805, 878; 1991, c. 279; 1992, c. 406; 1993, cc. 658, 783; 1994, cc. 847, 900; 1995, c. 487; 1996, cc. 898, 1041; 1997, cc. 233, 366; 1998, cc. 309, 395, 600, 872; 1999, cc. 423, 656, 689; 2000, cc. 721, 738; 2001, cc. 603, 607; 2002, cc. 669, 733, 739; 2003, cc. 175, 713; 2004, cc. 179, 199; 2005, cc. 489, 536; 2006, cc. 126, 840; 2007, c. 53; 2010, c. 723; 2013, c. 278; 2017, c. 323; 2018, cc. 65, 80; 2020, c. 1046.

§ 22.1-33. Special districts continued.

Special town school districts which now exist for the purposes of representation on division school boards shall continue.

Code 1950, § 22-43; 1954, c. 638; 1964, c. 490; 1971, Ex. Sess., c. 225; 1980, c. 559.

Article 2 - METHOD OF SELECTING SCHOOL BOARDS IN SCHOOL DIVISIONS COMPOSED OF A SINGLE COUNTY

§ 22.1-34. Application of article.

The school board in each county constituting a school division, except a county to which the provisions of §§ 15.2-410, 15.2-531, 15.2-627, 15.2-837 or § 22.1-44 are applicable, shall be selected as provided in this article.

1980, c. 559.

§ 22.1-35. School board selection commission.

In each county to which the provisions of this article are applicable there shall be a school board selection commission composed of three members appointed from the county at large or, upon the request of the county governing body, one member appointed from each election district of such county. Members shall be qualified voters, shall reside in the county and shall not be county or state officers.

Members shall be appointed by the circuit court of the county within thirty days after the first day of July, 1950, and every four years thereafter. Any vacancy occurring other than by expiration of term shall be filled by the circuit court within thirty days after the vacancy occurs. Each member shall receive twenty-five dollars for each day actually engaged in the performance of duties as such member, to be paid out of the funds of the school board. No person regularly employed by the school board of the division shall be eligible to serve on or as clerk of such school board selection commission.

Code 1950, § 22-60; 1956, c. 365; 1959, Ex. Sess., c. 79, § 1; 1972, cc. 224, 665; 1973, c. 275; 1980, c. 559.

§ 22.1-36. Composition of school board; to be appointed by commission.

The county school board shall consist of the same number of members from each magisterial district or, if the provisions of subsection C of § 15.2-1211 are applicable, election district in the county as there are members of the board of supervisors from each such district in the county. Each school board member shall be appointed by the school board selection commission. In addition to the members selected by districts, the governing body may authorize the school board selection commission to appoint no more than two members from the county at large.

Code 1950, § 22-61; 1969, Ex. Sess., c. 25; 1970, c. 88; 1971, Ex. Sess., c. 225; 1972, c. 137; 1980, c. 559.

§ 22.1-36.1. Composition of school board in certain cases.

Notwithstanding any other provision of law, when a county contains a town that is a separate school division, the school board for such county, regardless of whether it is elected or appointed, shall have no member representing such town. Instead, the county school board shall be comprised of one member elected or appointed from all of the election districts other than districts which have more than five percent of town residents, and an additional member elected or appointed at large from the entire county, excluding the town.

1993, c. 220; 1995, c. 316; 2002, cc. 146, 269.

§ 22.1-37. Notice by commission of meeting for appointment.

Before any appointment is made by the school board selection commission, it shall give notice, by publication once a week for four successive weeks in a newspaper having general circulation in such county, of the time and place of any meeting for the purpose of appointing the members of the county school board. Such notice shall be given whether the appointment is of a member or members of the county school board for the full term of office as provided by law or of a member to fill a vacancy occurring in the membership of the county school board or of a member from a new school district.

Code 1950, § 22-62; 1954, c. 638; 1980, c. 559; 1984, c. 131.

§ 22.1-38. Terms of members of school board.

Within sixty days prior to July 1 in each and every year, the school board selection commission shall appoint, for terms of four years beginning July 1 next following their appointment, successors to the members of the county school board whose terms of office expire on June 30 of such year.

In any county having five or more districts in which it is found by the school board selection commission that it is not in the best interest of the schools for the terms of the school board members from two certain districts to expire simultaneously and such terms have been so expiring, the commission may, on the next occasion thereafter for appointing successors to the school board members from such two districts, appoint the member from one of such districts for a term of one year with appointments thereafter to be made for terms of four years.

Code 1950, § 22-64; 1958, c. 515; 1980, c. 559.

§ 22.1-38.1. Provisions for school board where division consolidated as result of certain governmental consolidations.

A. Notwithstanding the provisions of §§ 22.1-38 and 22.1-57 or any other statutory provision, in any consolidation of school divisions comprised of single cities and single counties, which consolidation constitutes a part of a governmental consolidation resulting in the formation of a consolidated county and a tier-city, the consolidation agreement may provide as follows:

1. The effective date for consolidation of school divisions may be prior or subsequent to the effective date for general governmental consolidation.

2. Initial members of the consolidated school board selection committee may be selected as provided in § 22.1-35 from the consolidating divisions at any time after certification by the appropriate electoral boards of approval by referendum of the consolidation plan.

3. Initial members of the consolidated school board may be selected to assume office at any agreed time prior to the effective date for consolidation of school divisions, only for such of the following limited purposes as may be provided by the consolidation agreement or plan:

a. Organization of itself and election of one of its members as chairman.

b. Preparation and approval of an initial budget applicable to the newly consolidated school divisions.

c. Preparation of job descriptions, pay ranges and qualifications for each position in the consolidated school division.

d. Hiring of individuals to hold each position in the consolidated school division.

e. Designation of school attendance zones.

f. Allocation of office space and furniture to accommodate the administrative staff of the consolidated school division.

g. Preparation of seniority lists and reductions in force policy.

h. Approval of initial curriculum, grading systems, and all such forms of records as may be required.

i. Adoption of a transportation plan for the consolidated school division.

B. Any member of a school board of a consolidating school division may be appointed to the consolidated school board, and for the limited time period as provided in the consolidation agreement may hold both offices.

C. Upon the effective date of consolidation of school divisions, all school board members shall assume full powers, duties, rights and responsibilities of their offices.

1984, c. 695.

§ 22.1-39. Vacancies in school board.

Vacancies occurring in the membership of the county school board shall be filled for the unexpired term by the school board selection commission.

Code 1950, § 22-65; 1980, c. 559.

§ 22.1-40. Appointment of tie breaker.

The school board selection commission may, at the option of the governing body of the county, appoint a qualified voter who is a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The term of office of each tie breaker so appointed shall be four years whether the appointment is to fill a vacancy caused by expiration of term or otherwise. The commission shall give the notice required by § 22.1-37 before appointing any tie breaker.

1980, c. 559; 1981, c. 246.

Article 3 - ALTERNATE METHOD OF SELECTING SCHOOL BOARDS IN SCHOOL DIVISIONS COMPRISED OF A SINGLE COUNTY

§ 22.1-41. Application of article.

The provisions of this article shall be applicable in any county constituting a school division except a county to which the provisions of §§ 15.2-410, 15.2-531, 15.2-627 or § 15.2-837 are applicable.

1980, c. 559.

§ 22.1-42. Referendum on changing method of selection of members of school board.

Upon a petition filed with the circuit court of any county to which the provisions of this article are applicable signed by a number of registered voters of the county equal to fifteen per centum of the number of votes cast in the county in the preceding presidential election asking that a referendum be held on the question of changing the method of selection of members of the county school board, the court shall, by order entered of record, require the regular election officials on the day fixed in such order to open the polls and take the sense of the qualified voters of the county on the question printed on the ballot as herein provided. The clerk of the county shall cause a notice of such referendum to be published in some newspaper published or having a general circulation in the county once a week for three successive weeks prior to such referendum and shall post a copy of such notice during the same time at the front door of the courthouse of the county.

In lieu of such petition, the Board of Supervisors of Isle of Wight County or Roanoke County may cause to be passed a resolution requesting that such referendum be held; provided that prior to the passage of such resolution the Board of Supervisors shall hold a public hearing on the question of such referendum. The resolution shall be filed with the circuit court and upon receipt thereof, the court shall proceed as in the case of a petition.

The ballots used in the referendum shall be printed as follows:

"Shall the present method of selecting the members of the county school board be changed from appointment by the School Board Selection Commission to appointment by the governing body of the county?

Yes [ ]

No [ ]"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the State Board of Elections, the clerk of the county and the circuit court; and the court shall enter of record the results of such referendum.

Code 1950, § 22-79.4; 1970, c. 126; 1975, cc. 517, 567; 1979, c. 10; 1980, c. 559; 1992, c. 354.

§ 22.1-43. Abolition of school board selection commission.

If the majority of votes cast in the referendum held as provided in § 22.1-42 shall be for the proposition, the school board selection commission of the county shall be abolished. If the majority of the votes cast shall be against the proposition, the school board selection commission shall be retained.

Code 1950, § 22-79.5; 1970, c. 126; 1980, c. 559.

§ 22.1-44. Appointment of school board members and tie breaker by county governing body; terms; vacancies.

If, in a referendum held as provided in § 22.1-42, it shall be determined that the members of the county school board shall be appointed by the governing body of the county, such governing body shall, by majority vote, thereafter appoint all members of the school board and the tie breaker, if any. Members of the school board and the tie breaker in office at the time of the referendum shall complete their terms and their successors shall be appointed by the governing body. The governing body shall determine whether the office of the tie breaker shall continue after the expiration of the term of the incumbent. Appointments of school board members and tie breakers, if any, shall be made at public meetings. The terms of office of the members of the county school board shall continue to be four years. Vacancies in the office of members of the county school board occurring other than by expiration of term shall be filled by appointment by the governing body for the unexpired terms. The term of office of the tie breaker, if any, shall continue to be four years. Any appointment to fill a vacancy in the office of tie breaker, if any, whether or not by expiration of term, shall be for a four-year term.

The school board shall consist of the same number of members from each magisterial or election district as is provided in § 22.1-36. The governing body of the county may appoint no more than two additional members from the county at large.

Code 1950, §§ 22-61, 22-79.1, 22-79.3; 1969, Ex. Sess., c. 25; 1970, cc. 88, 126; 1971, Ex. Sess., c. 225; 1972, c. 137; 1980, c. 559; 1981, c. 246.

§ 22.1-45. Referendum to revert to appointment by school board selection commission.

A. Upon a petition (i) filed with the circuit court of any county which has changed the method of appointment of the members of the school board to appointment by the governing body as a result of a referendum as provided in this article or former §§ 22-79.1 through 22-79.6, (ii) signed by a number of registered voters of the county equal to fifteen per centum of the number of votes cast in the county in the preceding presidential election, and (iii) asking that a referendum be held on the question of changing the method of selection of members of the county school board, the court shall, by order entered of record, require the regular election officials on the day fixed in such order to open the polls and take the sense of the qualified voters of the county on the question printed on the ballot as herein provided. The clerk of the county shall cause a notice of such referendum to be published in some newspaper published or having a general circulation in the county once a week for three successive weeks prior to such referendum and shall post a copy of such notice during the same time at the front door of the courthouse of the county. The ballots used in such referendum shall be printed as follows:

"Shall the present method of selecting the members of the county school board be changed from appointment by the governing body of the county to appointment by a school board selection commission?

Yes [ ]

No [ ]"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the State Board of Elections, the clerk of the county and the circuit court; and the court shall enter of record the results of such referendum.

B. If the majority of the votes cast in such referendum shall be for the proposition, a school board selection commission shall be appointed as provided in § 22.1-35 and the commission shall appoint the members of the county school board and the tie breaker as provided in Article 2 (§ 22.1-34 et seq.) of this chapter as the terms of the incumbents expire or as vacancies otherwise occur.

If a majority of the votes cast in such referendum are against the proposition, the members of the school board and the tie breaker shall continue to be appointed by the governing body as provided in this article.

1980, c. 559.

§ 22.1-46. Limitation on time of holding subsequent referendum.

Regardless of its results, following any referendum provided for in this article, no further such referendum shall be held within four years thereafter.

Code 1950, § 22-79.6; 1970, c. 126; 1980, c. 559.

Article 4 - SELECTION OF SCHOOL BOARDS IN SCHOOL DIVISIONS COMPRISED OF COUNTIES HAVING COUNTY MANAGER OR COUNTY BOARD FORM OF GOVERNMENT

§ 22.1-47. Composition of boards; appointment and terms; tie breakers.

A. The school board of a school division composed of a county having a county manager plan form of government provided for in Article 2 (§ 15.2-702 et seq.) of Chapter 7 of Title 15.2 shall be composed of not less than three nor more than seven members who shall be chosen by the board of county supervisors. The exact number of members shall be determined by the board of county supervisors. Each member shall be appointed for a term of four years, provided that initial appointments may be for such terms as will stagger the expiration of terms and that appointments to fill vacancies other than by expiration of term shall be for the unexpired term. The governing body of the county may also appoint a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. Each tie breaker, if any, shall be appointed for a four-year term whether the appointment is to fill a vacancy caused by expiration of term or otherwise. Notwithstanding any contrary provisions of this section, any such county may have an elected school board pursuant to Article 4.1 (§ 22.1-47.1 et seq.).

B. It is further provided that those counties having a county board form of government as contained in Chapter 4 (§ 15.2-400 et seq.) of Title 15.2 shall select their school board as provided in § 15.2-410, as amended.

Code 1950, §§ 22-80, 22-83.1; 1956, c. 591; 1964, c. 100; 1980, c. 559; 1981, c. 246; 2018, c. 385.

Article 4.1 - POPULAR ELECTION OF SCHOOL BOARD IN COUNTIES WITH COUNTY MANAGER PLAN OF GOVERNMENT

§ 22.1-47.1. Applicability.

The provisions of Article 7 (§ 22.1-57.1 et seq.) of this chapter shall be applicable, except as otherwise specifically provided in this article, to any school division comprised of a county having the county manager plan of government.

1993, c. 88.

§ 22.1-47.2. Petitions for a referendum on direct election of school board members.

Petitions circulated pursuant to § 22.1-57.2 or § 22.1-57.4 may be circulated for a period not to exceed one calendar year. If the period from the date of the earliest signature to the latest signature exceeds one calendar year, all signatures shall be invalid.

At the time the petitions are filed, the petitions shall contain the required number of signatures of voters who are currently registered to vote in the county.

Persons signing petitions for a referendum to be held at the November 1994 general election and on subsequent November general election dates shall date their signatures on the petitions.

Any petition circulated pursuant to § 22.1-57.2 or this article which calls for a November 1993 referendum (i) shall not be subject to the requirements of this section that the signatures be dated and that the petition be circulated no longer than one calendar year and (ii) may be circulated for signatures in both 1992 and 1993.

1993, c. 88.

§ 22.1-47.3. Transition from appointed to elected school board.

If the change to an elected school board is approved by the voters, the appointed members of the school board in office at the time of the referendum approving the change shall continue in office for the balance of their appointed terms except that each term shall expire on the December 31 immediately succeeding the June 30 expiration date for the appointed term. In the event of a vacancy in an unexpired term of any appointed school board member, a replacement shall be elected at the next regularly scheduled general election to fill the remainder of the term. No special election shall be held, however, if the general election at which it is to be held is scheduled in the year in which the term expires.

At the first and each succeeding November election, one school board member shall be elected for each position on the school board occupied by an appointed member whose term expires the following December 31 until the school board is composed entirely of elected members. Successor school board members shall be elected each November for four-year terms commencing on January 1 of the year following the election. The requirement of subsection B of § 22.1-57.3 that the same number of members of the governing body and school board be elected at each November election shall not be applicable.

1993, c. 88; 1996, c. 185.

§ 22.1-47.4. Benefits, expenses, and reimbursements for the school board members of certain county.

An elected school board of a school division comprised of a county having the county manager plan of government may, in accordance with the procedures applicable to the setting of its salary, grant itself fringe benefits, expenses, and reimbursements, or any of them, as it deems appropriate, and in the manner and form as such fringe benefits, expenses, and reimbursements are provided for school board employees. Such school board serving a county having the county manager plan of government whose membership totals five may establish such fringe benefits, expenses, and reimbursements by July 1 in any year in which two of the five members are to be elected. Any such fringe benefits, expenses, and reimbursements shall become effective on January 1 of the following year.

2004, c. 532; 2006, c. 126.

Article 5 - SELECTION OF SCHOOL BOARDS IN CITIES AND TOWNS CONSTITUTING SCHOOL DIVISIONS

§ 22.1-48. Application of article.

The provisions of this article shall be applicable in each city and town which constitutes a school division unless otherwise provided by its charter.

1980, c. 559.

§ 22.1-49. City school districts.

As used in this article, "district" shall mean a school district. The school board of a city to which the provisions of this article are applicable shall have power, subject to the approval of the governing body of the city, to prescribe the number and boundaries of the school districts; but until such provision is made every such city which is not divided into wards shall constitute a single school district, and in every city which is divided into wards, each ward shall be a school district. The number and boundaries of districts shall be duly reported to the Superintendent of Public Instruction and recorded in his office and also in that of the clerk of the circuit court of the city.

Code 1950, § 22-44; 1980, c. 559.

§ 22.1-50. Appointment and term generally; vacancies.

The school board of a school division composed of the city or town to which the provisions of this article are applicable shall be appointed by the governing body of such city or town and shall consist of three members for each district in such city or town. However, the school board of a school division composed of any city or town having only one district shall consist of five members. Members shall be appointed for three-year terms except that initial appointments shall be for such terms that the term of one member from each district expires each year. However, the additional two members of the school board of a school division composed of any city or town having only one district, who are appointed after July 1, 1992, shall be appointed for such terms that the terms of one or two members expire each year. The governing body may, by duly adopted ordinance, limit the number of consecutive terms served by school board members. Terms shall commence on July 1. A vacancy occurring on the school board at any time other than by expiration of term shall be filled by the governing body for the unexpired term. Within thirty days preceding July 1 of each year, the governing body shall appoint a successor to each member whose term expires on June 30 of that year, provided the office of that member has not been abolished in redistricting the city or town.

Code 1950, § 22-89; 1959, Ex. Sess., c. 78; 1972, c. 662; 1980, c. 559; 1991, c. 182; 1992, c. 182.

§ 22.1-51. Repealed.

Repealed by Acts 2016, c. 385, cl. 1, effective March 11, 2016.

Article 6 - SCHOOL BOARDS IN OTHER SCHOOL DIVISIONS

§ 22.1-52. Application of article; single school board required.

The provisions of this article shall be applicable to each school division which is composed of less than one county or city or part or all of more than one county or city. The supervision of schools in each such school division shall be vested in a single school board.

Code 1950, § 22-100.1; 1954, c. 391; 1971, Ex. Sess., c. 161; 1980, c. 559.

§ 22.1-53. How composed; appointment and terms of members; vacancies; tie breaker.

A. The school board of each school division to which the provisions of this article are applicable shall be composed of no fewer than six nor more than nine members, the exact number to be determined by the governing body of the county or city if the school division is composed of less than one county or city or by agreement of the governing bodies of the counties and cities in the school division if composed of part or all of more than one county or city. Unless the governing bodies of the counties and cities in a school division composed of part or all of more than one county or city agree upon some other equitable and reasonable criteria, the number of members of the school board from each county and city or part thereof in the division shall be apportioned according to the population in the school division of each such county or city or part thereof, provided that each county or city shall have at least one member.

B. Within sixty days prior to the effective date for the formation of the division school board, the governing body of each county and city or part thereof in the school division shall appoint the required number of members of the division school board from such county or city as follows: if there be one member, he shall be appointed for a term of four years; if there be two members, one shall be appointed for a term of two years and one for a term of four years; if there be three members, one shall be appointed for a term of two years, one for a term of three years, and one for a term of four years; if there be four members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years; if there be five members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for terms of four years; if there be six members, one shall be appointed for a term of one year, one for a term of two years, two for terms of three years and two for terms of four years. Within sixty days prior to the first day of July in each and every year thereafter, there shall be appointed by such governing body for a term of four years beginning the first day of July next following their appointment, successors to the members of the division school board appointed by it whose terms expire on the thirtieth day of June in each such year. Any vacancy occurring in the membership of the division school board shall be filled for the unexpired term by the governing body appointing such member.

C. If each county or city in a division composed of part or all of more than one county or city has an equal number of members, the governing bodies concerned shall jointly select for a term of four years one person who shall be a member of the division school board only for the purpose of voting in case of an equal division of the regular members of the board on any question requiring the action of such board. Such person shall be known as the tie breaker. If the governing bodies are not able to agree as to the person who shall be the tie breaker, then upon application by any of the governing bodies

involved to a circuit court having jurisdiction in such school division, the judge thereof shall name the tie breaker and his decision shall be final.

Code 1950, § 22-100.3; 1954, c. 391; 1956, c. 671; 1971, Ex. Sess., c. 161; 1980, c. 559.

§ 22.1-54. Members need not be appointed by districts.

Members of a school board in a school division to which the provisions of this article are applicable need not be appointed by districts, if deemed advisable by the governing body making the appointments.

Code 1950, § 22-100.4; 1954, c. 391; 1980, c. 559.

§ 22.1-55. Compensation of members.

A school board of a school division to which the provisions of this article are applicable may pay each of its members an annual salary not to exceed the amount authorized by § 22.1-32, if any, for the county or city from which such member was appointed.

Code 1950, § 22-100.6; 1954, c. 391; 1971, Ex. Sess., c. 161; 1980, c. 559.

§ 22.1-56. Transfer of title to school property; adjudication of ownership.

The title to all school property in the school division shall be vested in the division school board. The school board of every county or part thereof included in such school division and the city council or the school board, whichever holds title to the school property included in such school division, shall transfer title to the school property included in such school division to the division school board.

If, at the time a school division to which the provisions of this article are applicable is formed, the ownership of school property, real or personal, has not been determined or the title thereto is in question or there is a dispute as to the ownership or title, then such question of ownership or title may be determined before the formation of the school division either by a written agreement between the participating divisions with the approval of the respective governing bodies thereof or by any participating division petitioning a circuit court in the jurisdiction where the property or any part thereof lies to determine the title to the property, and such adjudication of ownership or title shall be conclusive thereafter.

Code 1950, § 22-100.7; 1954, c. 391; 1956, c. 671; 1971, Ex. Sess., c. 161; 1980, c. 559.

§ 22.1-57. Effective date for formation of board.

The effective date for the formation of any school division to which the provisions of this article are applicable and the school board thereof and the supervision and operation of the schools in the school division by such school board shall be as of the first day of July of a school year, and the school board or boards as then constituted in the school division shall cease to exist in such school division as of such effective date.

Code 1950, § 22-100.11; 1954, c. 391; 1956, c. 671; 1971, Ex. Sess., c. 161; 1980, c. 559.

Article 7 - POPULAR ELECTION OF SCHOOL BOARD

§ 22.1-57.1. Applicability.

The provisions of this article shall apply to any county, city, or town constituting a separate and entire school division. If a town within a county constitutes a separate school division and the balance of that county constitutes a separate school division, the term county as used in this article shall be construed to mean the balance of the county excepting the town. If a county and city, or any combination thereof, constitute a consolidated school division, each county or city shall be treated as a separate entity for the purposes of this article and be entitled to hold its own referendum and proceed to elect the same number of members to the consolidated board as have been appointed from the county or city. The provisions of this article shall apply to every school division, county, city, and town notwithstanding any other provision of this chapter, of Title 15.2, or of any charter.

1992, c. 594.

§ 22.1-57.1:1. Referendum in certain consolidated cities.

Notwithstanding the provisions of this article or any other statutory provision, where an existing city and a county consolidate into a consolidated city and where the county at the time of consolidation is providing all school services to the existing city by contract pursuant to § 22.1-27 and the voters of the county have approved direct election of the school board, the consolidation plan or agreement shall provide for the election of school board members directly by the voters of the consolidated city without the necessity of a further referendum under § 22.1-57.2; in such case, the consolidation plan or agreement shall provide that the members of the initial school board shall be elected from the municipal election districts designated in the consolidation plan or agreement. The provisions of § 22.1-57.3 shall apply in all other respects.

1995, c. 728.

§ 22.1-57.2. Referendum on direct election of school board members by the voters.

The registered voters of any such county, city, or town may, by petition filed with the circuit court thereof, ask that a referendum be held on the question of whether the members of the school board of the county, city, or town shall be elected directly by the voters. The petition shall be signed by registered voters equal in number to at least 10 percent of the number registered in such locality on the January 1 preceding its filing. Upon the filing of a petition, the circuit court shall order and require the election officials at the next general election to open the polls and take the sense of the voters therein on that question. The petition shall be filed with the court not less than 111 days prior to the general election. The clerk of the court shall cause notice of the referendum to be published once a week for the three consecutive weeks prior to the referendum in a newspaper having general circulation in the county, city, or town, and a copy of the notice shall be posted during the same time on the door of the courthouse of the county or city, or of the county within which the town is located. The question on the ballot shall be:

"Shall the method of selecting the school board be changed from appointment by the governing body (or the school board selection commission, whichever is applicable) to direct election by the voters?

[ ] YES

[ ] NO"

The election shall be held and the results certified as provided in § 24.2-684.

1992, c. 594; 2011, c. 599.

§ 22.1-57.3. Election of school board members; election of tie breaker.

A. If a majority of the qualified voters voting in such referendum vote in favor of changing the method of selecting school board members to direct election by the voters, then the members of the school board shall be elected by popular vote. Elections of school board members in a county, city, or town shall be held to coincide with the elections for members of the governing body of the county, city, or town at the regular general election in November or the regular general election in May, as the case may be.

B. The initial elected board shall consist of the same number of members as the appointed school board it replaces, and the members shall be elected from the established county or municipal election districts, at large, or a combination thereof, on the same basis as the school board previously was appointed. If the appointed school board being replaced has not been appointed either on an at-large basis or on the basis of the established county or municipal election districts, or a combination thereof, the members shall be elected at large unless the governing body of the county, city, or town provides for the election of school board members on the basis of the established county or municipal election districts. If the appointed school board being replaced has been appointed at large, the governing body of the county, city, or town may establish school election districts for the election of school board members. The governing body may provide for a locality-wide district, one or more districts comprised of a part of the locality, or any combination thereof, and for the apportionment of one or more school board members to any district.

The terms of the members of the elected school board for any county, city, or town shall be the same as the terms of the members of the governing body for the county, city, or town. In any locality in which both the school board and the governing body are elected from election districts, as opposed to being elected wholly on an at-large basis, the elections of the school board member and governing body member from each specific district shall be held simultaneously except as otherwise provided in §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2.

At the first election for members of the school board, so many members shall be elected as there are members to be elected at the regular election for the governing body. At each subsequent regular election for members of the governing body, the same number of members of the school board shall be elected as the number of members to be elected at the regular election to the governing body. However, if the number of members on the school board differs from the number of members of the governing body, the number of members elected to the school board at the first and subsequent

general election shall be either more or less than the number of governing body members, as appropriate, to the end that the number of members on the initial elected school board is the same as the number of members on the appointed board being replaced.

Except as provided in §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2, the terms of the members of the school board shall be staggered only if the terms of the members of the governing body are staggered. If there are more, or fewer, members on the school board than on the governing body, the number of members to be elected to the school board at the first and subsequent election for school board members shall be the number required to establish the staggered term structure so that (i) a majority of the members of the school board is elected at the same time as a majority of the members of the governing body; (ii) if one-half of the governing body is being elected and the school board has an even number of members, one-half of the members of the school board is elected; (iii) if one-half of the governing body is being elected and the school board has an odd number of members, the majority by one member of the school board is elected at the first election and the remainder of the school board is elected at the second election; or (iv) if a majority of the members of the governing body is being elected and the school board has an even number of members, one-half of the members of the school board is elected.

If the school board is elected at large and the terms of the members of the school board are staggered, the school board members to be replaced at the first election shall include all appointed school board members whose appointive terms are scheduled to expire on December 31 or on June 30, as the case may be, next following the first election of county, city or town school board members. If the number of school board members whose appointive terms are so scheduled to expire is zero or less than the number of school board members to be elected at the first election, the appointed school board members to be replaced at the first election shall also include those whose appointive terms are scheduled to expire next subsequent to the date on which the terms of office of the first elected school board members will commence. If the appointive terms of more than one school board member are scheduled to expire simultaneously, but less than all of such members are to be replaced at the first election, then the identity of such school board member or members to be replaced at the first election shall be determined by a drawing held by the county or city electoral board at least ten days prior to the last day for a person to qualify as a candidate for school board member.

In any case in which school board members are elected from election districts, as opposed to being elected from the county, city, or town at large, the election districts for the school board shall be coterminous with the election districts for the county, city, or town governing body, except as may be specifically provided for the election of school board members in a county, city, or town in which the governing body is elected at large.

C. The terms of office for the school board members shall commence on January 1 or July 1, as the case may be, following their election. On December 31 or June 30, as the case may be, following the first election of county, city or town school board members, the terms of office of the members of the school board in office through appointment shall expire and the school board selection commission, if

there is one, shall be abolished. If the entire school board is not elected at the first election of school board members, only the terms of the appointed members being replaced shall so expire and the terms of the appointed members being replaced at a subsequent election shall continue or be extended to expire on December 31 or June 30, as appropriate, of the year of the election of the school board members replacing them.

D. Except as otherwise provided herein, a vacancy in the office of any elected school board member shall be filled pursuant to §§ 24.2-226 and 24.2-228. In any county that has adopted the urban county executive form of government and that has adopted an elected school board, any vacancy on the elected school board shall be filled in accordance with the procedures set forth in § 15.2-802, mutatis mutandis. Notwithstanding any provision of law or charter to the contrary, if no candidates file for election to a school board office and no person who is qualified to hold the office is elected by write-in votes, a vacancy shall be deemed to exist in the office as of January 1 or July 1, as the case may be, following the general election. For the purposes of this subsection and Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2, local school boards comprised of elected and appointed members shall be deemed elected school boards.

E. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506.

F. For the purposes of this section, the election and term of the mayor or chairman of the board of supervisors shall be deemed to be an election and term of a member of the governing body of the municipality or county, respectively, whether or not the mayor or chairman is deemed to be a member of the governing body for any other purpose.

G. No employee of a school board shall be eligible to serve on the board with whom he is employed.

H. Any elected school board may have a position of tie breaker for the purpose of casting the deciding vote in cases of tie votes of the school board as provided in § 22.1-75. The position of tie breaker, if any, shall be held by a qualified voter who is a resident of the county, city, or town and who shall be elected in the same manner and for the same length of term as members of the school board and at a general election at which members of the school board are elected. A vacancy in the position of tie breaker shall be filled pursuant to §§ 24.2-226 and 24.2-228.

1992, c. 594; 1993, c. 878; 1994, c. 723; 1996, c. 873; 2000, c. 1045; 2006, c. 29; 2007, c. 100; 2010, c. 95; 2011, c. 776; 2014, c. 772.

§ 22.1-57.3:1. Staggered terms of elected school boards in certain counties [Not set out].
(1993, c. 878; 1994, c. 744; 2002, c. 74.)

§ 22.1-57.3:1.1. Loudoun County school board; staggered terms.
Notwithstanding § 22.1-57.3:1 and the second enactment of Chapter 744 of the Acts of Assembly of 1994, the school board of Loudoun County shall be elected as provided in § 22.1-57.3, except that upon a majority vote of its members the terms of school board members may be staggered as provided in this section. At the November 2011 general election, the at-large member and the

members from four districts, to be determined by lot by the electoral board of the county prior to its meeting immediately preceding the deadline for candidate filing, shall be elected for four-year terms and the remaining districts' successful candidates shall be elected for two-year terms.

Thereafter, all members shall be elected for four-year terms and the school board elections shall be conducted biennially for staggered terms.

2010, c. 95.

§ 22.1-57.3:1.2. Pittsylvania County school board; staggered terms.
The school board of Pittsylvania County shall be elected as provided in § 22.1-57.3, except that upon a majority vote of its members the terms of school board members may be staggered as provided in this section. At the November 2011 general election, the members from four districts, to be determined by lot by the electoral board of the county as soon as practicable before the election, shall be elected for four-year terms and the remaining districts' successful candidates shall be elected for two-year terms.

Thereafter, all members shall be elected for four-year terms and the school board elections shall be conducted biennially for staggered terms.

2011, c. 776.

§ 22.1-57.3:2. Terms of school board members appointed to represent towns in Montgomery County [Not set out].
(1994, c. 377.)

§ 22.1-57.3:2.1. Appointment and terms of school board members for City of Williamsburg [Not set out].
(1998, cc. 125, 218.)

§ 22.1-57.3:3. Election of school board and chairman in certain counties.
A. The provisions of this section shall be applicable in any county (i) which has the county executive form of government and which is contiguous to a county having the urban county executive form of government and (ii) in which the chairman of the board of supervisors is elected at large.

B. Following a referendum held in 1994 or thereafter in which the qualified voters of the county approve a change to an elected school board, the school board shall be elected as provided in § 22.1-57.3 except as otherwise provided in this section. One member of the school board shall be elected at large. All other members shall be elected from the same districts from which the members of the board of supervisors other than the chairman are elected. The member of the school board who is elected at large at the initial or any subsequent election shall be the chairman of the school board during his term of office notwithstanding the provisions of § 22.1-76.

1995, c. 842.

§ 22.1-57.4. Referendum to revert to appointment of the school board.

A. By the same procedure and under the same requirements as provided in § 22.1-57.2, the registered voters of any county, city, or town which selects members of the school board by direct election of the voters may petition for, and the circuit court shall so order, a referendum on the question of changing from direct election of the school board to appointment of school board members by the governing body or, if the petition so states in the case of a county, by a school board selection commission. The question on the ballot shall be:

"Shall the method of selecting the school board be changed from direct election by the voters to appointment by the governing body (or, if the petition in a county so requests, a school board selection commission)?

[ ] YES

[ ] NO"

B. If a majority of the qualified voters voting in such referendum vote in favor of changing the method of selecting school board members to appointment by the governing body or by a school board selection commission, as the case may be, the terms of the school board members in office through direct election shall terminate on June 30 following the referendum. A school board selection commission shall be appointed pursuant to § 22.1-35 if a majority have voted in the referendum for that selection method. The members of the appointed school board shall be appointed for the terms and in the manner provided in the article of this chapter or the chapter of Title 15.2 applicable to the county, city, or town in which the referendum has been held.

1992, c. 594.

§ 22.1-57.5. Limitation on time of holding subsequent referendum.

Following any referendum provided for in this article and regardless of its results, no other referendum provided for in this article shall be held within the same locality for the four years thereafter.

1992, c. 594.

Chapter 6 - Division Superintendents

§ 22.1-58. Division superintendent required.

For each school division there shall be a division superintendent of schools.

1980, c. 559.

§ 22.1-59. Qualifications of superintendent.

The Board of Education shall prescribe by regulation the minimum qualifications for the position of division superintendent of schools and a copy of such regulations shall be furnished to all applicants.

Code 1950, § 22-31; 1980, c. 559.

§ 22.1-60. Appointment and term of superintendent; certain contractual matters.

A. The division superintendent of schools shall be appointed by the school board of the division from the entire list of eligibles certified by the State Board. All contract terms for superintendents shall

expire on June 30. The division superintendent shall serve for an initial term of not less than two years nor more than four years. At the expiration of the initial term, the division superintendent shall be eligible to hold office for the term specified by the employing school board, not to exceed four years.

Except as provided in subsection B, the division superintendent shall be appointed by the school board within 180 days after a vacancy occurs. In the event a school board appoints a division superintendent in accordance with the provisions of this section and the appointee seeks and is granted release from such appointment prior to assuming office, the school board shall be granted a 60-day period from the time of release within which to make another appointment.

B. A school board that has not appointed a superintendent within 120 days of a vacancy shall submit a written report to the Superintendent of Public Instruction demonstrating its timely efforts to make an appointment. Upon request, a school board shall be granted up to an additional 180 days within which to appoint a division superintendent.

C. No school board shall renegotiate a superintendent's contract during the period following the election or appointment of new members and the date such members are qualified and assume office.

D. Whenever a superintendent's contract is being renegotiated, all members of the school board shall be notified at least 30 days in advance of any meeting at which a vote is planned on the renegotiated contract unless the members agree unanimously to take the vote without the 30 days' notice. Each member's vote on the renegotiated contract shall be recorded in the minutes of the meeting.

Code 1950, §§ 22-32, 22-33; 1954, c. 638; 1958, c. 44; 1970, c. 155; 1971, Ex. Sess., c. 225; 1972, c. 434; 1980, c. 559; 1983, c. 145; 1989, c. 550; 1992, c. 164; 1996, c. 759; 2002, cc. 165, 374; 2003, c. 866; 2018, c. 136.

§ 22.1-60.1. Evaluation of superintendent.

Each local school board shall evaluate the division superintendent annually consistent with the performance objectives set forth in Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Administrators, and Superintendents as required by § 22.1-253.13:5.

1999, cc. 1030, 1037; 2005, cc. 331, 450.

§ 22.1-61. When Board to appoint superintendent.

In the event that a school board fails to appoint a division superintendent within the time prescribed by § 22.1-60, the State Board shall appoint such division superintendent.

Code 1950, § 22-33; 1954, c. 638; 1972, c. 434; 1980, c. 559.

§ 22.1-62. Appointment of same person by two or more school divisions; approval of part-time superintendent by State Board.

A. Any two or more school divisions may appoint the same person to be division superintendent.

B. No person may be employed as a part-time division superintendent without the approval of the Board of Education.

Code 1950, §§ 22-32, 22-37; 1956, c. 633; 1958, c. 44; 1964, c. 428; 1966, c. 601; 1968, c. 454; 1970, cc. 155, 691; 1971, Ex. Sess., c. 225; 1972, c. 581; 1980, c. 559.

§ 22.1-63. Certain officers ineligible for or to hold office of superintendent.

A. No member of the governing body of a county, city or town and no member of a school board shall be eligible for the office of division superintendent of schools in the school division in which he serves.

B. No federal officer or employee, no state officer, except an officer appointed by the Governor, no state employee, no deputy of such officers, no officer or employee or the deputy of an officer of a city, county or town, no member of the governing body of a county, city or town, no member of a school board and no chairman of any political party shall be eligible to hold the office of division superintendent of schools.

Code 1950, § 22-35; 1954, c. 334; 1956, c. 620; 1980, c. 559.

§ 22.1-64. Oath of superintendent.

Every division superintendent, before entering upon the duties of office, shall take and subscribe the oath prescribed for an officer of this Commonwealth as provided in Chapter 1 (§ 49-1 et seq.) of Title 49 of this Code, and a certificate of the clerk of the court in which the oath is administered setting forth the qualification and its record shall be furnished the Superintendent of Public Instruction.

Code 1950, § 22-39; 1980, c. 559.

§ 22.1-65. Punishment of division superintendents.

A division superintendent may be assessed a reasonable fine, suspended from office for a limited period or removed from office by either the Board of Education, upon recommendation of the Superintendent of Public Instruction or the school board of the division for sufficient cause. A division superintendent may appeal to the appropriate circuit court any decision of the Board of Education or school board to assess a fine against him or to suspend or remove him from office and shall be entitled to a trial de novo on such appeal of whether there was sufficient cause therefor.

Code 1950, § 22-40; 1980, c. 559; 1990, c. 517.

§ 22.1-66. Vacancy in office.

The office of any division superintendent, whether full-time or part-time, shall be deemed vacant upon his engaging in any other business or employment during his term of office as such superintendent unless such superintendent was granted prior approval by the school board or school boards appointing him, or upon his resignation or his removal from office.

Code 1950, § 22-38; 1971, Ex. Sess., c. 225; 1974, c. 191; 1980, c. 559.

§ 22.1-67. Expenses of superintendents.

Each school board shall provide for the necessary traveling and office expenses of the division superintendent. Detailed records of all such expenses shall be kept by the division superintendent.

Code 1950, § 22-37; 1956, c. 633; 1964, c. 428; 1966, c. 601; 1968, c. 454; 1970, c. 691; 1972, c. 581; 1980, c. 559; 1985, c. 324; 1988, c. 95.

§ 22.1-68. Records.

Each division superintendent shall ensure that an accurate record of all receipts and disbursements of school funds and all statistical information which may be required by the State Board is kept.

Code 1950, § 22-36.1; 1980, c. 559.

§ 22.1-69. Superintendent to attend meetings.

The division superintendent or, in his absence or inability to attend, a person designated by him and approved by the school board shall be present at all meetings of the school board except that on affirmative vote of a majority of the members of the school board, attendance of the division superintendent or his designee may be dispensed with at a special meeting of the school board. If matters pertaining to the division superintendent personally are under discussion at any such meeting, he shall remain subject to the call of the school board.

Code 1950, § 22-49; 1973, c. 63; 1980, c. 559.

§ 22.1-70. Powers and duties of superintendent generally.

A division superintendent shall perform such other duties as may be prescribed by law, by the school board and by the State Board.

Code 1950, § 22-36; 1980, c. 559.

§ 22.1-70.1. Reports of certain ratios to local school boards.

The division superintendent shall report annually to the local school board regarding divisionwide ratios of students in average daily membership to full-time equivalent teaching positions. The report shall indicate, among other things, the ratio of regular classroom teachers, excluding resource teachers, to students in average daily membership in each of the grades for all public schools in the division. The ratio of regular classroom teachers, including resource teachers, to students in average daily membership in each of the grades for all public schools in the division shall be indicated separately in the same annual report.

1998, c. 815.

§ 22.1-70.2. Acceptable Internet use policies for public and private schools.

A. Every two years, each local school board shall review, amend if necessary, and approve the school division's acceptable use policy for the Internet. At a minimum, the policy shall contain provisions that (i) are designed to prohibit use by division employees and students of the division's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet; (ii) seek to prevent access by students to material that the school division deems to be harmful to juveniles as defined in § 18.2-390; (iii) select a technology for the division's computers having Internet access to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1 and obscenity as defined in § 18.2-372; (iv) establish appropriate measures to be taken against persons who violate the policy; and (v) include a component on Internet safety for students that is integrated in a division's instructional program. The policy may include such other terms, conditions, and requirements as deemed appropriate, such as requiring written parental

authorization for Internet use by juveniles or differentiating acceptable uses among elementary, middle, and high school students.

Each school division's policy shall be posted on its website in accordance with § 22.1-253.13:7. Additionally, each local school division shall certify compliance with these requirements annually to the Department of Education.

B. The superintendent shall take such steps as he deems appropriate to implement and enforce the division's policy.

C. In addition to the foregoing requirements regarding public school Internet use policies, the principal or other chief administrator of any private school that satisfies the compulsory school attendance law pursuant to § 22.1-254 and accepts federal funds for Internet access shall select a technology for its computers having Internet access to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1 and obscenity as defined in § 18.2-372.

D. The Superintendent of Public Instruction shall issue guidelines to school divisions regarding instructional programs related to Internet safety.

1999, c. 64; 2001, c. 269; 2006, cc. 52, 474; 2010, c. 61.

§ 22.1-70.3. (Expires July 1, 2025) Designation of teacher shortage areas.
Each division superintendent shall at least annually, if so requested by the local school board pursuant to subdivision 9 of § 22.1-79, survey the relevant local school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the school board, Superintendent of Public Instruction, and to the Virginia Retirement System.

2004, c. 563; 2020, cc. 379, 437.

Chapter 7 - General Powers and Duties of School Boards

§ 22.1-71. School board constitutes body corporate; corporate powers.
The duly appointed or elected members shall constitute the school board. Every such school board is declared a body corporate and, in its corporate capacity, is vested with all the powers and charged with all the duties, obligations and responsibilities imposed upon school boards by law and may sue, be sued, contract, be contracted with and, in accordance with the provisions of this title, purchase, take, hold, lease and convey school property, both real and personal. School board members appointed or elected by district or otherwise shall have no organization or duties except such as may be assigned to them by the school board as a whole.

Code 1950, §§ 22-63, 22-94; 1980, c. 559; 1998, c. 102.

§ 22.1-72. Annual organizational meetings of school boards.
Each school board shall hold its annual organizational meeting for the purpose of establishing its regular meeting schedule for the ensuing year as follows: (i) in January or July, if the school board serves

a city or town constituting a school division, regardless of whether its members are appointed or elected or any combination thereof; (ii) in July, if the school board serves a county constituting a school division and its members are solely appointed; or (iii) in January or July, if the school board serves a county constituting a school division and its members are elected in whole or in part.

A school board may also hold special meetings when necessary. Each school board shall fix its own procedure for calling and holding any special meeting.

Code 1950, §§ 22-45, 22-46, 22-97; 1954, c. 291; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1971, Ex. Sess., c. 161; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559; 1995, c. 74; 2002, cc. 222, 231.

§ 22.1-73. Quorum.

At any meeting of a school board a majority of such board shall constitute a quorum.

Code 1950, § 22-51; 1980, c. 559.

§ 22.1-74. Minutes of meetings.

The minutes of all school board meetings shall be signed by the chairman and clerk.

Code 1950, § 22-52; 1980, c. 559.

§ 22.1-75. Procedure in case of tie vote.

In any case in which there is a tie vote of the school board of any school division when all the members are not present, the question shall be passed by until the next meeting when it shall again be voted upon even though all members are not present. In any case in which there is a tie vote on any question after complying with this procedure or in any case in which there is a tie vote when all the members of the school board are present, the proceedings thereon shall be in conformity with the proceedings prescribed below, except that the tie breaker, if any, appointed pursuant to § 15.2-410, 15.2-531, 15.2-837, 22.1-40, 22.1-44, or 22.1-47, or elected pursuant to § 15.2-627 or 22.1-57.3, whichever is applicable, shall cast the deciding vote.

In any case in which there is a tie vote of the school board, the clerk shall record the vote; immediately notify the tie breaker to vote; and request his presence, if practicable, at the present meeting of the board. However, if that is not practicable, the board may adjourn to a day fixed in the minutes of the board or, in case of a failure to agree on a day, to a day the clerk fixes and enters in the minutes. At the present meeting or on the day named in the minutes, the tie breaker shall attend. He shall be entitled to be fully advised on the matter upon which he is to vote. If not prepared to vote at the time, he may require the clerk to enter an order adjourning the meeting to some future day, not to exceed thirty days, to be named in the minutes. He may have continuances, not to exceed thirty days, entered until he is ready to vote. When he votes, the clerk shall record his vote; the tie shall be broken; and the question shall be decided as he votes. If a meeting for any reason is not held on the day named in the minutes, the clerk shall enter on the minute book a day within ten days as a substitute day and notify all the members, and this shall continue until a meeting is held. After a tie has occurred, the tie breaker shall be considered a member of the board for the purpose of counting a quorum for the sole purpose of breaking the tie.

Code 1950, § 22-70; 1972, c. 129; 1980, c. 559; 1981, c. 246; 1995, c. 56; 2006, c. 29; 2007, c. 100; 2014, c. 772.

§ 22.1-76. Chairman; clerk; vice-chairman; deputy clerk; terms; compensation and bonds of clerk and deputy clerk; officers ineligible to serve as clerk and deputy clerk; approval of division superintendent's designee.

A. Except as provided in § 22.1-57.3:3, at its annual meeting each school board shall elect one of its members as chairman, shall approve a designee of the division superintendent to attend meetings of the school board in the absence or inability to attend of the superintendent and on recommendation of the division superintendent shall appoint a clerk of the school board. The school board may also elect one of its members as vice-chairman and may appoint a deputy clerk who shall be empowered to act in all matters in case of the absence or inability to act of the chairman or clerk, respectively, or as otherwise provided by resolution of the school board. The term of the chairman, clerk and any vice-chairman and deputy clerk shall be one year.

B. The school board shall fix the compensation of the clerk and any deputy clerk.

C. The school board shall require the clerk and any deputy clerk each to furnish a corporate surety bond conditioned upon the faithful performance and discharge of his duties as such. The school board shall fix the amount of each bond which shall not be less than $10,000. The premium for each bond shall be paid by the school board.

D. No mayor, member of the governing body, other officer or deputy officer of a city, town or county, other than the division superintendent, shall be eligible for appointment as clerk or deputy clerk of a school board in such city, town or county.

Code 1950, §§ 22-48, 22-48.1, 22-48.2, 22-71, 22-98; 1952, cc. 280, 593; 1954, c. 638; 1980, c. 559; 1995, c. 842.

§ 22.1-77. Duties of clerk.

The clerk of the school board shall keep in a separate volume the minutes of the meetings of the school board, including all bids submitted on any building, material, supplies, work, or project to be let to contract by such school board, and in another volume a receipt and disbursement record as prescribed by the Board of Education and shall keep on file vouchers, contracts, and other official papers. They shall be subject to such periodic examinations as shall be prescribed or approved by the Board of Education. The clerk may keep such volumes, vouchers, contracts, and other official papers electronically. The clerk shall discharge, under the general direction of the division superintendent, such other duties in connection with the business of the school division as may be required of him by the school board or the Board of Education.

Code 1950, § 22-53; 1980, c. 559; 2015, cc. 330, 388.

§ 22.1-78. Bylaws and regulations.

A school board may adopt bylaws and regulations, not inconsistent with state statutes and regulations of the Board of Education, for its own government, for the management of its official business and for

the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.

Code 1950, §§ 22-72, 22-96, 22-97; 1954, cc. 289, 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1968, c. 501; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1980, c. 559.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division

pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school division pursuant to § 9.1-914.

Code 1950, §§ 22-72, 22-97; 1954, cc. 289, 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1968, c. 501; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1980, c. 559; 1985, c. 8; 1987, c. 402; 1991, cc. 553, 668; 1994, c. 596; 1996, cc. 485, 790, 798; 1997, c. 382; 2004, c. 563; 2006, cc. 857, 914; 2009, c. 459; 2013, cc. 588, 650; 2020, cc. 379, 437, 829.

§ 22.1-79.1. (Effective until July 1, 2022) Opening of the school year; approvals for certain alternative schedules.

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be no earlier than 14 days before Labor Day. In each school division in which the school board sets the school calendar so that the first day students are required to attend school is before Labor Day, such school board shall close each school in the school division from the Friday immediately preceding Labor Day through Labor Day. The Board of Education may waive this requirement based on a school board certifying that it meets the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means a school division is providing its students, in the school year for which the waiver is sought, with instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools. Any waiver provided pursuant to this subsection shall only apply to the opening date for those schools where such year-round instructional programs are offered.

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of

schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through 12 and 540 hours for kindergarten.

D. Notwithstanding the provisions of this section or any other provision of law, the school board of any school division located in Planning District 16 that was not granted a good cause waiver pursuant to this section for the 2018-2019 school year but would qualify for such a waiver pursuant to this section as it was in effect prior to July 1, 2019, for the 2019-2020 school year may set the school calendar so that the first day students are required to attend is earlier than Labor Day, including earlier than 14 days before Labor Day. Additionally, the school board of any school division located in Planning District 16 that is entirely surrounded by two school divisions that either were granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, or would qualify for a good cause waiver pursuant to this section as it was in effect prior to July 1, 2019, for the 2019-2020 school year may open schools on the same opening date as either such surrounding school division.

E. Notwithstanding the provisions of this section or any other provision of law, the school board of any school division from which students attend Northern Neck Technical Center may set the school calendar so that the first day that students are required to attend school is earlier than Labor Day, including earlier than 14 days before Labor Day.

1986, c. 587; 1998, c. 702; 2003, c. 724; 2010, cc. 49, 88; 2011, cc. 216, 387; 2015, cc. 701, 702; 2019, cc. 569, 570, 637; 2020, c. 695.

§ 22.1-79.1. (Effective July 1, 2022) Opening of the school year; approvals for certain alternative schedules.

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be no earlier than 14 days before Labor Day. In each school division in which the school board sets the school calendar so that the first day students are required to attend school is before Labor Day, such school board shall close each school in the school division from the Friday immediately preceding Labor Day through Labor Day. The Board of Education may waive this requirement based on a school board certifying that it meets the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means a school division is providing its students, in the school year for which the waiver is sought, with instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools. Any waiver provided pursuant to this subsection shall only apply to the opening date for those schools where such year-round instructional programs are offered.

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades kindergarten through 12.

D. Notwithstanding the provisions of this section or any other provision of law, the school board of any school division located in Planning District 16 that was not granted a good cause waiver pursuant to

this section for the 2018-2019 school year but would qualify for such a waiver pursuant to this section as it was in effect prior to July 1, 2019, for the 2019-2020 school year may set the school calendar so that the first day students are required to attend is earlier than Labor Day, including earlier than 14 days before Labor Day. Additionally, the school board of any school division located in Planning District 16 that is entirely surrounded by two school divisions that either were granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, or would qualify for a good cause waiver pursuant to this section as it was in effect prior to July 1, 2019, for the 2019-2020 school year may open schools on the same opening date as either such surrounding school division.

E. Notwithstanding the provisions of this section or any other provision of law, the school board of any school division from which students attend Northern Neck Technical Center may set the school calendar so that the first day that students are required to attend school is earlier than Labor Day, including earlier than 14 days before Labor Day.

1986, c. 587; 1998, c. 702; 2003, c. 724; 2010, cc. 49, 88; 2011, cc. 216, 387; 2015, cc. 701, 702; 2019, cc. 569, 570, 637; 2020, cc. 582, 695.

§ 22.1-79.2. Uniforms in public schools; Board of Education guidelines.

A. The Board of Education shall develop model guidelines for local school boards to utilize when establishing requirements for pupils to wear uniforms. In developing these guidelines, the Board shall consider (i) ways to promote parental and community involvement, (ii) relevant state and federal constitutional concerns, such as freedom of religion and freedom of speech, and (iii) the ability of pupils to purchase such clothing.

B. Upon approval by the Board of the model guidelines, local school boards may establish requirements, consistent with the Board's guidelines, for the students enrolled in any of their schools to wear uniforms while in attendance at such school during the regular school day. No state funds may be used for the purchase of school uniforms.

1995, cc. 508, 521, 526.

§ 22.1-79.3. Policies regarding certain activities.

A. Local school boards shall develop and implement policies to ensure that public school students are not required to convey or deliver any materials that (i) advocate the election or defeat of any candidate for elective office, (ii) advocate the passage or defeat of any referendum question, or (iii) advocate the passage or defeat of any matter pending before a local school board, local governing body or the General Assembly of Virginia or the Congress of the United States.

Nothing in this subsection shall be construed to prohibit the discussion or use of political or issue-oriented materials as part of classroom discussions or projects or to prohibit the delivery of informational materials.

B. Local school boards shall develop and implement policies to prohibit the administration of questionnaires or surveys to public school students during the regular school day or at school-sponsored events without written, informed parental consent for the student's participation when participation in

such questionnaire or survey may subsequently result in the sale for commercial purposes of personal information regarding the individual student.

C. In any case in which a questionnaire or survey requesting that students provide sexual information, mental health information, medical information, information on student health risk behaviors pursuant to § 32.1-73.8, other information on controlled substance use, or any other information that the school board deems to be sensitive in nature is to be administered, the school board shall notify the parent concerning the administration of such questionnaire or survey in writing not less than 30 days prior to its administration. The notice shall inform the parent regarding the nature and types of questions included in the questionnaire or survey, the purposes and age-appropriateness of the questionnaire or survey, how information collected by the questionnaire or survey will be used, who will have access to such information, the steps that will be taken to protect student privacy, and whether and how any findings or results will be disclosed. In any case in which a questionnaire or survey is required by state law or is requested by a state agency, the relevant state agency shall provide the school board with all information required to be included in the notice to parents. The parent shall have the right to review the questionnaire or survey in a manner mutually agreed upon by the school and the parent and exempt his child from participating in the questionnaire or survey. Unless required by federal or state law or regulation, school personnel administering any such questionnaire or survey shall not disclose personally identifiable information.

D. No questionnaire or survey requesting that students provide sexual information shall be administered to any student in kindergarten through grade six.

E. Local school boards shall develop and implement policies to advise the parent of each student enrolled in the school division of the availability of information in the Sex Offender and Crimes Against Minors Registry and the location of the website. Local school boards shall also develop protocols governing the release of children to persons who are not their parent.

F. No local school board providing access and opportunity to use school facilities or to distribute literature may deny equal access or fair opportunity to use such school facilities or to distribute literature, or otherwise discriminate against the Boy Scouts of America or the Girl Scouts of the USA.

Nothing in this subsection shall be construed to require any school or school division to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from school board policies governing access to and use of school facilities and distribution of literature.

G. Local school boards shall develop and implement policies to allow a parent of twins or higher order multiples in the same grade level to request that the children be placed in the same classroom or in separate classrooms if they are at the same elementary school. Such policies shall also provide that (i) schools may recommend classroom placement to the parent; (ii) schools must provide the placement requested by the children's parent, unless the division superintendent or his designee makes a classroom placement determination following the school principal's request in accordance with this subsection; (iii) a parent must request the classroom placement no later than three days after the first

day of each school year or three days after the first day of attendance of the children during a school year; and (iv) at the end of the initial grading period, if the school principal, in consultation with the children's classroom teacher, determines that the requested classroom placement is disruptive to the school or is harmful to the children's educational progress, the school principal may request that the division superintendent or his designee determine the children's classroom placement.

H. Local school boards may adopt and implement policies pursuant to which electronic records and electronic signatures may be accepted from any parent, guardian, or other person having control or charge of a child enrolled in the relevant school division, provided such policies are consistent with the provisions of Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1.

I. Local school boards may develop a single, standardized form to obtain parental consent for the release of student data. If developed by the local school board, such form shall be used by Community Policy and Management Teams and the Departments of Health, Social Services, Juvenile Justice, and Behavioral Health and Developmental Services.

2000, c. 1063; 2001, cc. 688, 820; 2002, c. 160; 2003, c. 693; 2006, cc. 145, 857, 914; 2009, c. 195; 2011, cc. 261, 726; 2012, c. 546; 2015, c. 703.

§ 22.1-79.4. Threat assessment teams and oversight committees.

A. Each local school board shall adopt policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Virginia Center for School and Campus Safety (the Center) in accordance with § 9.1-184. Such policies shall include procedures for referrals to community services boards or health care providers for evaluation or treatment, when appropriate.

B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams operating within the division, which may be an existing committee established by the division. The committee shall include individuals with expertise in human resources, education, school administration, mental health, and law enforcement.

C. Each division superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in counseling, instruction, school administration, and law enforcement. Threat assessment teams may be established to serve one or more schools as determined by the division superintendent. Each team shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement policies adopted by the local school board pursuant to subsection A.

D. Upon a preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the division superintendent or his designee. The division superintendent or his designee shall immediately attempt to

notify the student's parent or legal guardian. Nothing in this subsection shall preclude school division personnel from acting immediately to address an imminent threat.

E. Each threat assessment team established pursuant to this section shall collect and report to the Center quantitative data on its activities using the case management tool developed by the Center.

F. Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal history record information, as provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03. No member of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

2013, c. 710; 2014, cc. 7, 158; 2016, c. 554; 2019, cc. 39, 456.

§ 22.1-79.5. Policy regarding tobacco and nicotine vapor products.

Each school board shall develop and implement a policy to prohibit, at any time, the use and distribution of any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.

Each school board shall work to ensure adequate notice of this policy.

2014, c. 326; 2019, cc. 172, 246.

§ 22.1-79.6. Employee lactation support policy.

Each local school board shall adopt a policy to set aside, in each school in the school division, a non-restroom location that is shielded from the public view to be designated as an area in which any mother who is employed by the local school board or enrolled as a student may take breaks of reasonable length during the school day to express milk to feed her child until the child reaches the age of one.

2014, c. 380.

§ 22.1-79.7. School meal policies; donations.

A. Each local school board shall adopt policies that:

1. Prohibit school board employees from requiring a student who cannot pay for a meal at school or who owes a school meal debt to throw away or discard a meal after it has been served to him, do chores or other work to pay for such meals, or wear a wristband or hand stamp; and

2. Require school board employees to direct any communication relating to a school meal debt to the student's parent. Such policy may permit such communication to be made by a letter addressed to the parent to be sent home with the student.

B. Any school board may solicit and receive any donation or other funds for the purpose of eliminating or offsetting any school meal debt at any time and shall use any such funds solely for such purpose.

2018, cc. 384, 712; 2020, cc. 509, 575.

§ 22.1-79.7:1. (Effective July 1, 2021) School meals; availability to students.

A. Each school board shall require each public elementary and secondary school in the local school division to participate in the federal National School Lunch Program and the federal School Breakfast Program administered by the U.S. Department of Agriculture and to make lunch and breakfast available pursuant to such programs to any student who requests such a meal, regardless of whether such student has the money to pay for the meal or owes money for meals previously provided, unless the student's parent has provided written permission to the school board to withhold such a meal from the student.

B. Nothing in this section shall be construed to limit the ability of a school board to collect payment for meals provided pursuant to subsection A, provided, however, that no such school board shall utilize a nongovernmental third-party debt collector to collect on such debt.

2020, c. 683.

§ 22.1-79.8. Policies regarding job assistance for certain persons.

The Department of Education and local school boards shall adopt policies to implement the provisions of 20 U.S.C. § 7926 that prohibit any local school board or any individual who is an employee, contractor, or agent of a local school board from assisting an employee, contractor, or agent of such local school board in obtaining a new job if such local school board or individual knows or has probable cause to believe that the employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of law.

2018, cc. 513, 514.

§ 22.1-80. Development of park areas adjacent to public schools.

Whenever an undeveloped or unused public park area owned by the Commonwealth or any of its political subdivisions exists adjacent to any public school, the school board is authorized and encouraged to develop or improve such area in extension of such school's programs or facilities, subject to the approval and cooperation of the Commonwealth or political subdivision, as the case may be. In the case of an undeveloped or unused public park area owned by a park authority created by more than one political subdivision, a school board in any such political subdivision is authorized and encouraged to develop or improve such area in extension of its school program or facilities, subject to approval and cooperation of the park authority.

Code 1950, § 22-72.2; 1966, c. 606; 1980, c. 559.

§ 22.1-81. Annual report.

Unless for good cause shown an extension of time not to exceed fifteen days is granted by the Superintendent of Public Instruction, each school board, with the assistance of the division superintendent, shall, on or before September 15 of each year, make a report covering the work of the schools for the year ending the preceding June 30 to the Board of Education on forms supplied by the Superintendent of Public Instruction.

Code 1950, § 22-54; 1980, c. 559; 1987, c. 205; 1999, cc. 191, 492.

§ 22.1-82. Employment of counsel to advise or defend school boards and officials; payment of costs, expenses and liabilities; consent of governing bodies required prior to institution of proceedings.

A. Notwithstanding any other provision of law, the attorney for the Commonwealth or other counsel may be employed by a school board to advise it concerning any legal matter or to represent it, any member thereof or any school official in any legal proceeding to which the school board, member or official may be a party, when such proceeding is instituted by or against it or against the member or official by virtue of his actions in connection with his duties as such member or official.

B. All costs and expenses of such advice and all costs, expenses and liabilities of such proceedings shall be paid out of funds appropriated to the school board.

C. A school board shall, prior to instituting any legal action or proceeding against any other governmental agency in Virginia or expending any funds therefor, first secure the authorization of the governing body of the county, city or town constituting the school division or the governing bodies of the counties or cities in the school division if the division is composed of more than one county or city except as to legal actions or proceedings arising between the school board and the governing body or bodies.

Code 1950, §§ 22-56.1, 22-72; 1954, c. 289; 1956, Ex. Sess., cc. 60, 63; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1973, cc. 134, 299; 1975, cc. 308, 328; 1980, c. 559.

§ 22.1-83. Payment of employee's legal fees and expenses.

If an employee of a school board is arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his duties as such employee and such charge is subsequently dismissed or a verdict of not guilty is rendered or if an employee of a school board is made a defendant in any civil action arising out of his actions in connection with his duties as such employee, the school board may pay the legal fees and expenses of such employee.

Code 1950, § 22-56.1:1; 1978, c. 135; 1980, c. 559.

§ 22.1-84. Insurance.

A school board may provide for insurance on school properties against loss by fire and against such other losses as it deems necessary and may provide liability insurance, or may provide self-insurance, for certain or all of its officers and employees and for student teachers and other persons performing

functions or services for any school in the school division, even though any such student teacher or other person performs such functions or services without payment therefor, to cover the costs and expenses incident to liability, including those for settlement, suit or satisfaction of judgment, arising from their conduct in discharging their duties or in performing functions or services for a school. The liability insurance coverage shall be placed with insurance companies authorized to do business in this Commonwealth.

Code 1950, §§ 22-56.2, 22-72; 1954, c. 289; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1976, c. 407; 1980, c. 559.

§ 22.1-85. Fund for payment of hospital, medical, etc., services provided officers, employees and dependents.

Any school board may establish a fund for the payment of hospital, medical, surgical and related services provided any of its officers, employees and their dependents out of funds appropriated to the school board or by payroll deductions or other mode consistent with state and federal income tax law and regulations. In addition, any school board may establish a fund for the payment of expenses incurred by its officers and employees for dependent care assistance through payroll deductions or other mode consistent with state and federal income tax law and regulations.

Code 1950, § 22-56.3; 1979, c. 624; 1980, c. 559; 1993, c. 287.

§ 22.1-86. Meetings of people of school division; local committees.

It shall be the duty of each school board to call meetings of the people of the school division for consultation in regard to the school interests thereof when deemed necessary by the school board. The chairman, if present, or, if not, some other member of the school board shall preside at such meetings.

Each school board is authorized to appoint a committee of not less than three nor more than seven members for each public school in the school division. The committee's duty shall be to advise the members of the school board with reference to matters pertaining to the school and to cooperate with the school board in the care of the school property and in the successful operation of the school. Such committee shall serve without compensation.

Code 1950, § 22-79; 1952, c. 72; 1980, c. 559.

§ 22.1-86.1. Appointment of student representatives to local school boards.

A. The local school board may adopt procedures for the appointment of student representatives from among the students enrolled in the public schools in the division. The student representative shall serve in a nonvoting, advisory capacity and shall be appointed under such circumstances and serve for such terms as the board prescribes.

B. Nothing in this section shall prohibit any school board from excluding the nonvoting student representative from executive sessions or closed meetings pursuant to § 2.2-3711.

C. Student representatives shall not be construed to be members of local school boards for any purpose, including, but not limited to, establishing a quorum or making any official decision.

1999, c. 431.

§ 22.1-87. Judicial review.

Any parent, custodian, or legal guardian of a pupil attending the public schools in a school division who is aggrieved by an action of the school board may, within thirty days after such action, petition the circuit court having jurisdiction in the school division to review the action of the school board. Such review shall proceed upon the petition, the minutes of the meeting at which the school board's action was taken, the orders, if any, of the school board, an attested copy of the transcript, if any, of any hearing before the school board, and any other evidence found relevant to the issues on appeal by the court. The action of the school board shall be sustained unless the school board exceeded its authority, acted arbitrarily or capriciously, or abused its discretion.

Code 1950, § 22-57; 1968, c. 139; 1980, c. 559; 1981, c. 229.

Chapter 8 - PUBLIC SCHOOL FUNDS

Article 1 - STATE AND LOCAL FUNDS

§ 22.1-88. Of what school funds to consist.

The funds available to the school board of a school division for the establishment, support and maintenance of the public schools in the school division shall consist of state funds appropriated for public school purposes and apportioned to the school board, federal funds appropriated for educational purposes and apportioned to the school board, local funds appropriated to the school board by a local governing body or such funds as shall be raised by local levy as authorized by law, donations or the income arising therefrom, and any other funds that may be set apart for public school purposes.

Code 1950, § 22-116; 1971, Ex. Sess., c. 162; 1980, c. 559; 1988, c. 576.

§ 22.1-89. Management of funds.

Each school board shall manage and control the funds made available to the school board for public schools and may incur costs and expenses. If funds are appropriated to the school board by major classification as provided in § 22.1-94, no funds shall be expended by the school board except in accordance with such classifications without the consent of the governing body appropriating the funds.

Code 1950, §§ 22-72, 22-97, 22-127; 1954, cc. 289, 291; 1956, Ex. Sess., cc. 60, 67; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1968, cc. 501, 614; 1970, c. 71; 1971, Ex. Sess., cc. 161, 162; 1972, c. 511; 1975, cc. 308, 328, 443; 1978, c. 551; 1980, c. 559.

§ 22.1-89.1. Management of cafeteria funds.

Notwithstanding any other provision of law including, but not limited to this article, §§ 15.2-2503 and 15.2-2506, a school board may, in its discretion, establish a decentralized system for management

and control of cafeteria funds without including in its annual budget an estimate of the total amount of such decentralized cafeteria funds, or receiving an appropriation of these decentralized cafeteria funds from the local governing body.

All decentralized cafeteria funds shall continue to be audited as required by the Superintendent of Public Instruction pursuant to his authority under § 22.1-24 and by the Auditor of Public Accounts pursuant to his authority under § 15.2-2511.

1984, c. 138.

§ 22.1-89.2. Financial records retention and disposition schedule.

School boards shall retain and dispose of financial records in accordance with the regulations concerning financial records retention and disposition promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board. However, school boards shall not be required to retain any such records pertaining to nonappropriated school activity funds for longer than five years.

1990, c. 451.

§ 22.1-89.3. Funds from telephone service or credit cards.

Any school board may enter into a contract with a commercial institution for the issuance of a telephone service or credit card that would bear the name of the school board. No such card shall contain an image of the seal of the Commonwealth or any of its localities. Each card issued shall bear on the front of such card words which indicate that the credit card is not a government credit card. The contract shall (i) provide that the contract is not to be interpreted as authority to license the locality or school board name or endorse commercial products in exchange for revenue, (ii) contain language indemnifying and protecting the locality and school board from legal action arising from the issuance of such card, and (iii) provide that a portion or percentage of the revenue generated by the use of such card will be returned to the local governing body, to be placed in a fund for public school purposes, for subsequent appropriation to the school board. Any such appropriation shall supplement, not supplant, any local funding for educational purposes.

The school board shall not enter into any such contract without following the provisions of, nor shall any such contract conflict with, any applicable budget or procurement statute, ordinance, or regulation of the state, locality or school board.

1998, c. 595.

§ 22.1-89.4. Certain policy required; partnerships and sponsorships.

Each school board shall develop and implement, and may, from time to time, revise, a policy relating to commercial, promotional, and corporate partnerships and sponsorships involving the public schools within the division.

2001, c. 467.

§ 22.1-90. Annual report of expenditures.

Every school board shall submit at least once each year to the governing body or bodies appropriating funds to the school board a report of all its expenditures. Such report shall also be made available to the public either on the official school division website, if any, or in hard copy at the central school division office, on a template prescribed by the Board of Education.

Code 1950, § 22-97; 1954, c. 291; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1971, Ex. Sess., c. 161; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559; 2009, c. 104.

§ 22.1-90.1. Inclusion of instructional spending in the School Performance Report Card.

The Department shall include in the annual School Performance Report Card for school divisions the percentage of each division's annual operating budget allocated to instructional costs. For this purpose, the Department shall (i) establish a methodology for allocating each school division's expenditures to instructional and noninstructional costs in a manner that, except in the case of the hardware necessary to support electronic textbooks, is consistent with the funding of the Standards of Quality as approved by the General Assembly and (ii) allocate to instructional costs each school division's expenditures on the hardware necessary to support electronic textbooks. Further, at the discretion of the Superintendent, the Department may also report on other methods of measuring instructional spending such as those used by the U.S. Census Bureau and the U.S. Department of Education.

2012, c. 212; 2015, c. 563.

§ 22.1-91. Limitation on expenditures; penalty.

No school board shall expend or contract to expend, in any fiscal year, any sum of money in excess of the funds available for school purposes for that fiscal year without the consent of the governing body or bodies appropriating funds to the school board. Any member of a school board or any division superintendent or other school officer violating, causing to be violated or voting to violate any provision of this section shall be guilty of malfeasance in office.

Code 1950, § 22-120; 1980, c. 559.

§ 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

A. It shall be the duty of each division superintendent to prepare, with the approval of the school board, and submit to the governing body or bodies appropriating funds for the school division, by the date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division. The estimate shall set up the amount of money deemed to be needed for each major classification prescribed by the Board of Education and such other headings or items as may be necessary.

Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division, each division superintendent shall also prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of the estimated average per pupil cost for public education in the school division for the coming school year in accordance with the budget estimates provided to the local governing body or bodies. Such notification shall also include actual per pupil state and local education expenditures for the previous

school year. The notice may also include federal funds expended for public education in the school division.

The notice shall be made available in a form provided by the Department of Education and shall be published on the school division's website or in hard copy upon request. To promote uniformity and allow for comparisons, the Department of Education shall develop a form for this notice and distribute such form to the school divisions for publication.

B. Before any school board gives final approval to its budget for submission to the governing body, the school board shall hold at least one public hearing to receive the views of citizens within the school division. A school board shall cause public notice to be given at least 10 days prior to any hearing by publication in a newspaper having a general circulation within the school division. The passage of the budget by the local government shall be conclusive evidence of compliance with the requirements of this section.

Code 1950, §§ 22-120.3, 22-120.5; 1959, Ex. Sess., c. 79, § 1; 1980, c. 559; 1986, c. 282; 1994, cc. 453, 788; 2011, c. 216; 2012, cc. 805, 836.

§ 22.1-93. Approval of annual budget for school purposes.

Notwithstanding any other provision of law, including but not limited to Chapter 25 (§ 15.2-2500 et seq.) of Title 15.2, the governing body of a county and the governing body of a municipality shall each prepare and approve an annual budget for educational purposes by May 15 or within 30 days of the receipt by the county or municipality of the estimates of state funds, whichever shall later occur. Upon approval, each local school division shall publish the approved annual budget in line item form, including the estimated required local match, on the division's website, and the document shall also be made available in hard copy as needed to citizens for inspection.

The Superintendent of Public Instruction shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, submit estimates to be used for budgetary purposes relative to the Basic School Aid Formula to each school division and to the local governing body of each county, city and town that operates a separate school division. Such estimates shall be for each year of the next biennium or for the then next fiscal year.

Code 1950, § 22-127; 1956, Ex. Sess., c. 67; 1959, Ex. Sess., c. 79, § 1; 1968, c. 614; 1971, Ex. Sess., c. 162; 1975, c. 443; 1978, c. 551; 1980, c. 559; 1981, c. 541; 2008, cc. 353, 404; 2009, c. 280; 2011, c. 216; 2015, cc. 143, 370, 371.

§ 22.1-94. Appropriations by county, city or town governing body for public schools.

A governing body may make appropriations to a school board from the funds derived from local levies and from any other funds available, for operation, capital outlay and debt service in the public schools. Such appropriations shall be not less than the cost apportioned to the governing body for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law. The amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications prescribed by the Board of Education pursuant to § 22.1-115.

The appropriations may be made on the same periodic basis as the governing body makes appropriations to other departments and agencies.

Code 1950, § 22-127; 1956, Ex. Sess., c. 67; 1959, Ex. Sess., c. 79, § 1; 1968, c. 614; 1971, Ex. Sess., c. 162; 1975, c. 443; 1978, c. 551; 1980, c. 559; 1989, c. 94.

§ 22.1-95. Duty to levy school tax.

Each county, city and town is authorized, directed and required to raise money by a tax on all property subject to local taxation at such rate as will insure a sum which, together with other available funds, will provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law.

Code 1950, § 22-126.1; 1971, Ex. Sess., c. 162; 1980, c. 559.

§ 22.1-96. Proration of operating cost, expenditures for capital outlay purposes and indebtedness for construction of buildings in certain school divisions.

In a school division composed of part or all of more than one county or city, the operating cost as well as the expenditures for capital outlay purposes and indebtedness for the construction of school buildings shall be on a pro rata basis on enrollment of pupils unless some other basis is agreed upon by the division school board and the governing bodies of the participating counties and cities.

Code 1950, § 22-100.9; 1954, c. 391; 1956, c. 671; 1971, Ex. Sess., c. 161; 1980, c. 559.

§ 22.1-97. Calculation and reporting of required local expenditures; procedure if locality fails to appropriate sufficient educational funds.

A. The Department of Education shall collect annually the data necessary to make calculations and reports required by this subsection.

At the beginning of each school year, the Department shall make calculations to ensure that each school division has appropriated sufficient funds to support its estimated required local expenditure for providing an educational program meeting the prescribed Standards of Quality, required by Article VIII of the Constitution of Virginia and Chapter 13.2 (§ 22.1-253.13:1 et seq.) of this title. At the conclusion of the school year, the Department shall make calculations to verify whether the locality has provided the required expenditure, based on average daily membership as of March 31 of the relevant school year.

The Department shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the results of such calculations and the degree to which each school division has met, failed to meet, or surpassed its required expenditure.

The Joint Legislative Audit and Review Commission shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the state expenditure provided each locality for an educational program meeting the Standards of Quality.

The Department and the Joint Legislative Audit and Review Commission shall coordinate to ensure that their respective reports are based upon comparable data and are delivered together, or as closely following one another as practicable, to the appropriate standing committees.

B. Whenever such calculations indicate that the governing body of a county, city or town fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the Standards of Quality, the Board of Education shall notify the Attorney General of such failure or refusal in writing signed by the president of the Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the circuit court for the county, city or town a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriation as is required by law.

The petition shall be in the name of the Board of Education, and the governing body shall be made a party defendant thereto. The court may, in its discretion, cause such other officers or persons to be made parties defendant as it may deem proper. The court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be given first priority on the docket of such court and shall be heard expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and the writ of mandamus shall be awarded or denied according to the law and facts of the case and with or without costs, as the court may determine. The order of the court shall be final upon entry. Any appeal therefrom shall be heard and disposed of promptly by the Supreme Court next after habeas corpus cases already on the docket.

Code 1950, § 22-21.2; 1971, Ex. Sess., c. 160; 1980, c. 559; 2003, c. 948.

§ 22.1-98. Reduction of state aid when length of school term below 180 days or 990 hours.

A. For the purposes of this section:

1. "Declared state of emergency" means the declaration of an emergency before or after an event, by the Governor or by officials in a locality, that requires the closure of any or all schools within a school division.

2. "Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including natural and man-made disasters, energy shortages, or power failures.

B. Except as provided in this section:

1. The length of every school's term in every school division shall be at least 180 teaching days or 990 teaching hours in any school year; and

2. If the length of the term of any school or the schools in a school division shall be less than 180 teaching days or 990 teaching hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as otherwise hereinafter provided or as otherwise provided

by law, be reduced in the same proportion as the length of the school term has been reduced in any school or the schools in the school division from 180 teaching days or 990 teaching hours.

C. Notwithstanding the requirements of subsection B, in any case in which severe weather conditions or other emergency situations, as defined in this section, result in the closing of a school or the schools in a school division, the amount paid by the Commonwealth from the Basic School Aid Fund shall not be reduced if the following schedule of make-up days is followed:

1. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for five or fewer days, the school or the schools in the school division shall make up all missed days by adding teaching days to the school calendar or extending the length of the school day;

2. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for six days or more, the school or the schools in the school division shall make up the first five days plus one day for each two days missed in excess of the first five by adding teaching days to the school calendar or extending the length of the school day; or

3. When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division and such school has been unable to meet the 180 teaching day requirement, the school division may make up the missed teaching days by providing its students with instructional hours equivalent to such missed teaching days to meet the minimum 990 teaching hour requirement.

D. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall also not be proportionally reduced by any local governing body because of any reduction in the length of the term of any school or the schools in a school division authorized by subsection C.

E. The foregoing provisions of this section notwithstanding, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency or severe weather conditions or other emergency situations. If the local school board desires a waiver, it shall submit a request to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of this requirement. If the waiver is denied, the school division shall make up the missed instructional time in accordance with this section.

If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

F. Notwithstanding the provisions of this section, the Board of Education shall waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from an evacuation directed and compelled by the Governor pursuant to § 44-146.17 for up to five teaching days. If the local school board desires such a waiver, it shall notify the Board of Education and provide evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted. After receiving such notification, the Board shall grant the waiver and there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

G. If the professional personnel of any such school division actually render service for less than the contracted period for such school year and their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the Commonwealth for the personnel component of the Basic School Aid Fund for such school year shall be reduced pro rata.

Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of the term for any school or for the schools in the school division is reduced as provided in this section may pay its professional personnel such salary as they would have received if the term had not been so reduced.

H. In developing the school calendar as provided for in § 22.1-79.1, each local school board shall establish such calendars and teaching contracts in accordance with applicable regulations of the Board of Education to include contingencies for making up teaching days and teaching hours missed for emergency situations described in this section. Historical data shall be used to determine the needs of the locality including scheduled holidays and breaks and work days.

I. The Board of Education may authorize the Superintendent of Public Instruction to approve, in compliance with this section, reductions in the school term for a school or the schools in a school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

J. With the exception of the Basic School Aid Fund as provided for above, the Commonwealth shall not distribute funds to a locality for costs not incurred when the school term is reduced below 180 teaching days or 990 teaching hours.

K. As part of the annual report required by § 22.1-81, the division superintendent and local school board chairman shall certify the total number of teaching days and teaching hours each year.

Code 1950, § 22-5; 1956, Ex. Sess., c. 66; 1977, c. 316; 1978, cc. 105, 204; 1979, c. 177; 1980, c. 559; 1987, c. 65; 1988, c. 112; 1990, c. 213; 2004, cc. 839, 868, 887; 2006, cc. 26, 96; 2015, c. 706; 2019, cc. 644, 645.

§ 22.1-98.1. Extended School Year Incentive Program.

From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the Extended School Year Incentive Program, hereinafter referred to as the "Program," to be administered by the Board of Education.

In accordance with the appropriation act, any funds appropriated or otherwise provided for the Program shall be disbursed to award incentive grants to public school divisions for the operation of schools beyond the 180-day school year or 990 hours in any school year as required by § 22.1-98 and the Standards of Accreditation. However, the grants shall not be awarded to support summer school initiatives.

2000, c. 858.

§ 22.1-98.2. Certain agreements; adjustment of state share for basic aid.

A. Any school board of a school division in which fewer than 1,100 students were included in average daily membership for the preceding school year, in a locality that has a local composite index of .6000 or greater, and has 65 percent or more of its local taxes coming from real estate taxes, as calculated by the Auditor of Public Accounts and reported annually to the Department of Education, upon entering into certain cost-savings agreements with a contiguous school division for the consolidation or sharing of educational, administrative, or support services, shall receive the state share for basic aid computed on the basis of the composite index of local ability-to-pay of the contiguous school division, calculated annually.

The Board of Education shall develop eligibility criteria for such cost-savings and service-sharing agreements and for the adjustment of the state share for basic aid, consistent with the appropriation act.

The Governor shall approve the adjustment to the state share prior to the disbursement of funds. The Department of Education shall annually report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance the cost-savings agreements made and the adjusted state shares so approved.

B. The local school board receiving the adjusted state share shall not use the additional funds received to supplant local funds appropriated for education. The adjusted state share shall be used solely for educational purposes and shall not be used to reduce local operating expenditures for public education from the prior fiscal year. However, no school division shall be required to maintain a per pupil expenditure for operations that exceeds the per pupil expenditure in the prior fiscal year. The superintendent of the school division shall inform the Superintendent of Public Instruction of the public education purpose for which these local funds shall be used.

C. Nothing in this section shall prohibit the Commonwealth from terminating or modifying any program or function under which distribution to a local school board has been made, and if so terminated or

modified all obligations hereunder shall cease or be reduced in proportion with such modifications, as the case may be.

D. Except as provided in subsection C, such contractual agreements shall remain in effect until terminated by the relevant school divisions. If any such contractual agreements between the relevant school divisions terminate, the Commonwealth's obligation under this section shall cease.

E. This agreement and adjusted state payment shall be in lieu of any existing funds a locality receives from a Small School Division Assistance grant.

F. Any standard of quality set forth in this act that is not required as of June 30, 2004, and for which additional state funding is required, shall not take effect unless the state's share of funding that standard is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor.

2004, c. 820; 2008, cc. 589, 705; 2019, cc. 405, 406.

§ 22.1-99. Approval and certification of apportionment of school funds.

Subject to approval or amendment by the Board of Education, the Superintendent of Public Instruction shall apportion the state funds appropriated for public school purposes among the several school divisions and, when approved, the Superintendent of Public Instruction shall certify to the Comptroller such apportionment for the payment of the same.

Code 1950, § 22-140; 1972, c. 663; 1980, c. 559.

§ 22.1-100. Unexpended school and educational funds.

All sums of money derived from the Commonwealth which are unexpended in any year in any school division shall revert to the fund of the Commonwealth from which derived unless the Board of Education directs otherwise. All sums derived from local funds unexpended in any year shall remain a part of the funds of the governing body appropriating the funds for use the next year, but no local funds shall be subject to redivision outside of the locality in which they were raised.

Code 1950, § 22-138; 1956, Ex. Sess., c. 67; 1980, c. 559.

§ 22.1-100.1. Lottery proceeds nonrecurring costs escrow accounts.

A. Notwithstanding the provisions of § 22.1-100, the governing body of any locality may authorize the local treasurer or fiscal officer, by ordinance or resolution, to create a separate escrow account upon the books of the locality for the deposit of that portion of the locality's appropriation from the lottery proceeds which are designated, pursuant to Item 139 B 4 of Chapter 935 of the 1999 Acts of Assembly or any other state law, for nonrecurring costs incurred by the relevant school division.

Such nonrecurring costs shall include school construction, additions, infrastructure, site acquisition, renovations, technology, and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the last ten years. Upon adoption of the proper ordinance or resolution, the treasurer or local fiscal officer of the locality shall place such appropriation into a separate lottery proceeds nonrecurring costs escrow account. Under no circumstances

shall the escrow account allowed for the school construction grants pursuant to § 22.1-175.5 be used for these deposits.

B. The escrow account shall be known as the "County/City/Town of _____ Lottery Proceeds Nonrecurring Costs Fund." All principal deposited to such fund, together with all income from or attributable to the fund, shall be used solely for (i) construction, additions, renovations, including retrofitting and enlarging public school buildings, infrastructure, including technology infrastructure, and site acquisition for public school buildings and facilities or (ii) debt service payments, or a portion thereof, for any such projects completed in the previous ten years if so designated.

No disbursement from the fund may be made except upon specific appropriation by the governing body in accordance with applicable law. If a locality establishes such a fund and designates any portion of the funds deposited therein to pay debt service for (i) any general obligation of the locality held by the Virginia Public School Authority or (ii) any Literary Fund loan, the locality shall obtain an opinion of bond counsel that designation of funds to pay debt service on obligations described in clauses (i) and (ii) hereof does not adversely impact the tax-exempt status of such obligations.

C. All moneys deposited in the fund, including all income from or attributable to such fund, shall be deemed public funds of the locality and shall be subject to all limitations upon deposit and investment provided by general law, including, but not limited to, the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). Income, dividends, distributions, and grants accruing to the fund shall be retained in such fund and shall be expended only in accordance with the terms of this section.

D. Nothing in this section shall be deemed or construed to authorize a school board or school division to receive, hold or invest funds in its own name, or to expend funds in the absence of a specific appropriation by the governing body of the locality in accordance with applicable law.

2000, cc. 635, 693.

§ 22.1-101. Repealed.

Repealed by Acts 1988, c. 101.

§ 22.1-101.1. Increase of funds for certain nonresident students; how increase computed and paid; billing of out-of-state placing agencies or persons.

A. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child who is not a child with disabilities and who is not a resident of such school division under the following conditions:

1. When such child has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children;

2. When such child has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

B. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child with disabilities who is not a resident of such school division under the following conditions:

1. When the child with disabilities has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children;

2. When such child with disabilities has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child with disabilities, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

C. Each school division shall keep an accurate record of the number of days which any child, identified in subsection A or B above, was enrolled in its public schools, the required local expenditure per child, the handicapping condition, if applicable, the placing agency or person and the jurisdiction from which the child was sent. Each school division shall certify this information to the Board of Education by July 1 following the end of the school year in order to receive proper reimbursement. No school division shall charge tuition to any such child.

D. When a child who is not a resident of Virginia, whether disabled or not, has been placed by an out-of-state agency or a person who is the resident of another state in foster care or other custodial care or in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 located within the geographical boundaries of the school division, the school division shall not be reimbursed for the cost of educating such child from funds appropriated by the General Assembly. The school division in which such child has been enrolled shall bill the sending agency or person for the cost of the education of such child as provided in subsection C of § 22.1-5.

The costs of the support and maintenance of the child shall include the cost of the education provided by the school division; therefore, the sending agency or person shall have the financial responsibility for the educational costs for the child pursuant to Article V of the Interstate Compact on the Placement of Children as set forth in Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2. Upon receiving the bill for the educational costs from the school division, the sending agency or person shall reimburse the billing school division for providing the education of the child. Pursuant to Article III of the Interstate Compact on the Placement of Children, no sending agency or person shall send, bring, or cause to be sent or brought into this Commonwealth any child for placement unless the

sending agency or person has complied with this section by honoring the financial responsibility for the educational cost as billed by a local school division.

E. To the extent that state funds appropriated by the General Assembly pursuant to subsection A or B or other state funds, such as those provided on the basis of average daily membership, do not cover the full cost of educating a child pursuant to this subsection, a school division shall be reimbursed by (i) the school division in which a child's custodial parent or guardian resides or (ii) in the case of a child who has been placed in the custody of the Department of Social Services, the school division in which the parent or guardian who had custody immediately preceding the placement resides, for any remaining costs of educating such child, whether disabled or not, who has been placed, not solely for school purposes, in (a) foster care or other custodial care within the geographical boundaries of the school division to be reimbursed, or (b) a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 that is located within the geographical boundaries of the school division to be reimbursed.

1988, c. 101; 1992, cc. 837, 880; 1994, c. 854; 2014, c. 790.

Article 2 - SPECIAL TAXES; UNIFORM LEVIES

§ 22.1-102. Special tax for capital expenditures or payment of indebtedness or rent.

For capital expenditures and for the payment of indebtedness or rent, a governing body may, in addition to the levy and appropriation required under the provisions of §§ 22.1-94 and 22.1-95, levy a special county tax, a special district tax, a special city tax or a special town tax, as the case may be, on all property subject to local taxation. Such levy or levies shall be at such rate or rates as the governing body levying the tax may deem necessary for the purpose or purposes for which levied, except that where the tax is for raising funds for capital expenditures the rate shall not be more than $2.50 on each $100 of the assessed value of such property in any one year.

Code 1950, § 22-128; 1959, Ex. Sess., c. 79, § 1; 1971, Ex. Sess., c. 162; 1980, c. 559.

§ 22.1-103. Uniform county levy in lieu of district levies; request by school board; petition for referendum.

In any county in which the governing body imposes district levies for school purposes, the school board may, by resolution, request the governing body to impose a uniform county levy for school purposes with the proceeds to be expended as provided by law and such expenditures shall include the repayment of district school obligations. Upon the receipt of any such resolution the governing body shall petition the circuit court of the county to fix a date for a referendum to obtain the sense of the qualified voters upon such change.

Code 1950, § 22-130.1; 1958, c. 45; 1980, c. 559.

§ 22.1-104. Same; order for referendum; notice.

Upon receiving such petition, the court shall enter an order setting a date for the referendum in accordance with §§ 24.2-682 and 24.2-684. A certified copy of the order shall be served upon the election

officials of the county. Notice of the date of the referendum and the purpose thereof shall be posted on the front door of the courthouse.

Code 1950, § 22-130.2; 1958, c. 45; 1975, c. 517; 1980, c. 559.

§ 22.1-105. Same; conduct of referendum; certification of results.

On the day named in the order the election officials of the county shall open a poll and take the sense of the voters upon the question set forth in the order. The referendum shall be conducted in accordance with §§ 24.2-682 and 24.2-684 and the results thereof ascertained and certified in accordance therewith.

Code 1950, § 22-130.3; 1958, cc. 45, 632; 1975, c. 517; 1980, c. 559.

§ 22.1-106. Same; levy in accordance with results of referendum.

If a majority of those voting in the referendum vote against a uniform county school levy the governing body may levy such taxes as it deems best, subject to law. But if a majority of those voting vote for a uniform county school levy the governing body of the county thereafter shall, for each succeeding tax year, lay a uniform county school levy and the proceeds thereof shall be expended as provided by law for school purposes including the repayment of district school obligations.

Code 1950, § 22-130.4; 1958, cc. 45, 632; 1980, c. 559.

Article 3 - OTHER FUNDS; TEMPORARY LOANS; TRUST FUNDS

§ 22.1-107. Glebe lands and church property; revenue and income therefrom.

All glebe lands and church property, or the proceeds thereof, which may be appropriated under § 57-3 for education shall be vested in the school board of the school division within whose boundaries the property lies and shall be managed and applied by the school board according to the wishes of the donor. The revenue or income therefrom shall be applied as that portion of the Literary Fund which is allotted to such school division, subject to the same laws and penalties.

Code 1950, § 22-118; 1980, c. 559.

§ 22.1-108. Money derived from forest reserve.

All federal funds paid to the Commonwealth arising from the forest reserve shall be paid to the State Treasurer to be distributed and disposed of as provided in this section.

The treasurer of each school division within whose boundaries there is located any land owned by the United States government and held as a forest reserve shall ascertain the area of such land so situated in the school division and the reserve in which the same is located and make a report thereof to the Comptroller. Upon receipt of such information from the treasurer, the Comptroller shall apportion all federal funds arising from such forest reserve among the school divisions in which such forest reserve is located according to the area in each school division. The Comptroller shall keep separate accounts of all federal forest reserve funds received by him.

Code 1950, § 22-119; 1960, c. 463; 1980, c. 559.

§ 22.1-109. Federal funds apportioned to school divisions containing lands leased for flood control purposes.

All funds paid to the State Treasurer by the Secretary of the Treasury of the United States under the provisions of Section 5 of Public Law 526 of the 79th Congress, end session, shall be apportioned by the State Comptroller among the school divisions in which lands acquired by the United States for flood control purposes were leased, according to the amounts derived from each school division as stated by the Secretary of the Treasury of the United States.

Code 1950, § 22-119.1; 1952, Ex. Sess., c. 31; 1980, c. 559.

§ 22.1-110. Temporary loans to school boards.

No school board shall borrow any money in any manner for any purpose without express authority of law. Any loan negotiated in violation of this section shall be void. Subject to the approval of the governing body or bodies appropriating funds to the school board, any school board is authorized to borrow money, when necessary, not to exceed in the aggregate one-half of the amount produced by the school levy for the school division for the year in which such money is so borrowed or one-half of the amount of the cash appropriation made to such school board for the preceding year or, in school divisions for which there is both a school levy and appropriation, one-half of the amount of each. Such loans shall be evidenced by notes or bonds negotiable or nonnegotiable, as the school board determines. In the case of temporary loans in anticipation of loans from the Literary Fund, such loans shall be repaid within two years of their dates. Other temporary loans shall be repaid within one year of their dates. However, loans made to purchase new school buses to replace obsolete or worn out equipment shall be repaid within not less than 10 years of their dates.

Code 1950, § 22-120; 1980, c. 559; 1987, c. 251; 2006, c. 239.

§ 22.1-111. Trust funds.

In cases where funds or other property are held by trustees for purposes of public school education, a school board shall have the power and duty to examine into the manner in which such trusts are administered. All such trustees shall render reports to the school board whenever called on and afford every facility needed by the school board to obtain a full understanding of all the points connected with such administration. If such examination reveals any defect or irregularity in the administration of such trust funds or other property, it shall be the duty of the school board to institute prompt proceedings for carrying the matter before the courts. In cases where donations or other funds have been set apart for the education of the poor, a school board is authorized to receive and apply the same in connection with the public schools in obedience to the will of the donor. Nothing in this section shall be construed to apply to the twenty-fifth clause of the will of Samuel Miller, deceased, or in anywise to affect or impair any rights or interests whatsoever, either public or private, arising under such clause.

Code 1950, § 22-144; 1980, c. 559.

§ 22.1-112. Deposit and disbursement of donations.

Any donations made to the Board of Education or to any member thereof for the benefit of any public school or schools in the Commonwealth shall, upon acceptance, be paid into the state treasury and kept in a separate account on the books of the Comptroller. Such donations shall be expended by the Board in accordance with the wishes of the donor.

Code 1950, § 22-145; 1980, c. 559.

Article 4 - TOWN SCHOOL DIVISION FUNDS

§ 22.1-113. Town school division's share of county school funds.

A. Funds to be paid by county treasurer to town treasurer. -- For the benefit of each school division composed of a town, the treasurer of the county in which the town is located shall pay over to the town treasurer, if and when properly bonded, the following funds to be used for public school purposes within such town school division:

1. From the amount derived from a county school levy for public school purposes, a sum equal to the pro rata amount from such levy derived from such town;

2. From federal funds allocated to and received by the county on the basis of federally-connected pupils for operations or capital outlay purposes, to be apportioned between the county and the town on the same basis of distribution as used in making the allotment of such federal funds to the county and in the ratio that such federally-connected pupils residing in the town bear to the total of such federally-connected pupils residing in the county including the town and which were included in the county's application for such federal funds.

B. Division located in adjoining counties. -- Where a town school division is located partly in each of two adjoining counties and operated by a town school board created or constituted by the charter of such town, each county treasurer shall pay over to the town treasurer, if and when properly bonded, from the amount derived from a county school levy or appropriations in each respective county for public school purposes, a sum equal to the pro rata amount from such levy or appropriations derived from such town to be used for public school purposes within the town school division.

C. State funds from special sources. -- None of the provisions of this section shall require the county treasurer to pay over to the town treasurer of a town school division any funds received from the Commonwealth from special sources, including funds distributed to the localities from the profit realized from the operation of the state alcoholic beverage control system, when the town has received direct appropriations or allocations from the Commonwealth from the same special sources.

Code 1950, § 140.1; 1972, c. 663; 1980, c. 559.

§ 22.1-114. Town school division's share of general county funds.

For the benefit of each school division composed of a town, the governing body of the county in which such town is located shall require the county treasurer to pay over to the town treasurer, if and when properly bonded, the following funds to be placed in the general fund of the town, subject to appropriation by the governing body of the town as it may deem necessary:

From the amount derived from a general or unit levy for all county purposes, a sum equal to such town's pro rata share of the general or unit levy receipts derived from the taxable property within the town, including real estate, tangible personal property, merchants' capital and machinery and tools. The pro rata share of the town shall be determined by allocating to the town the same percentage of general or unit levy receipts as is appropriated by the county governing body for the support of public schools.

Code 1950, § 22-141.2; 1972, c. 746; 1980, c. 559.

Article 5 - TREASURERS; ACCOUNTS

§ 22.1-115. System of accounting; statements of funds available; classification of expenditures.

The State Board, in conjunction with the Auditor of Public Accounts, shall establish and require of each school division a modern system of accounting for all school funds, state and local, and the treasurer or other fiscal agent of each school division shall render each month to the school board a statement of the funds in his hands available for school purposes. The Board shall prescribe the following major classifications for expenditures of school funds: (i) instruction, (ii) administration, attendance and health, (iii) pupil transportation, (iv) operation and maintenance, (v) school food services and other noninstructional operations, (vi) facilities, (vii) debt and fund transfers, (viii) technology, and (ix) contingency reserves.

Code 1950, § 22-143; 1979, c. 630; 1980, c. 559; 1984, c. 130; 1989, c. 94; 2002, c. 470; 2008, c. 131.

§ 22.1-116. How and by whom funds for school division kept and disbursed.

The treasurer or comparable officer of each county, city or part thereof constituting a school division or town, if the town constitutes the school division, shall be charged with the responsibility for the receipt, custody and disbursement of the funds of the school board and shall keep such funds in an account or accounts separate and distinct from all other funds.

Code 1950, §§ 22-132, 22-133; 1959, Ex. Sess., c. 79, § 1; 1960, c. 222; 1980, c. 559.

§ 22.1-116.1. Receipt of payment by credit cards; service charge.

School boards may accept payment for services and goods by credit or debit cards. School boards accepting credit or debit card payments may, in addition to any penalties and interest, add to such payment a sum as a service charge for the acceptance of such method of payment.

2002, cc. 164, 238.

§ 22.1-117. Fiscal agents of certain school divisions.

The fiscal agent for the school board of a school division composed of part or all of more than one county or city shall be the treasurer of one of the participating counties or cities, as agreed upon by the division school board and the governing bodies. In the event agreement on the selection of a fiscal agent cannot be reached, the Board of Education shall designate such fiscal agent. For his services as fiscal agent, the treasurer shall be paid such salary as the school board and treasurer may agree upon. In the event the school board and the treasurer so designated cannot agree on such

compensation, the amount of salary to be paid shall be determined by a court of competent jurisdiction. The amount so fixed by the court shall be binding upon both the treasurer and the school board. Nothing contained in this section shall affect the regular salary or expense allowance of the treasurer as fixed annually by the State Compensation Board.

Code 1950, § 22-100.10; 1954, c. 391; 1980, c. 559.

§ 22.1-118. Management of funds for joint school; county or city treasurer as fiscal agent.

The treasurer of a county or city in which a joint school is located shall be the fiscal agent of such school and shall receive and disburse the funds thereof. However, the participating school boards of a joint school, including an academic year Governor's School operated by two or more school divisions, may by agreement and with the approval of the respective local governing bodies, select the fiscal agent for the joint school from among the treasurers, as defined in § 58.1-3123, of the participating localities. All disbursements shall be by warrant signed by the clerk of the committee for control of such school and countersigned by such treasurer as fiscal agent.

For his services as fiscal agent, the treasurer shall be paid such salary as may be agreed upon by the committee for control of the joint school and treasurer. In the event they cannot agree, then the amount of salary to be paid shall be submitted to the circuit court of the county or city in which the school is located for hearing and determination, and the amount so fixed by the court shall be binding upon both the treasurer and the committee. Nothing contained in this section shall affect the regular salary allowance of the treasurer as fixed annually by the State Compensation Board.

The provisions of this section shall not apply to the property and school known as New London Academy leased under the provisions of Chapter 174 of the Acts of Assembly of 1887, approved May 10, 1887, and acts amendatory thereof, nor shall they apply in Albemarle County.

Code 1950, § 22-133.1; 1970, c. 215; 1980, c. 559; 1993, cc. 7, 161; 2003, c. 702; 2007, cc. 45, 813.

§ 22.1-119. No commission for treasurer.

No treasurer shall receive any commission upon any money loaned from the Literary Fund, upon donations by individuals or foundations, upon funds from insurance on any school building destroyed by fire, upon money derived from the sale of school property or upon funds derived from loans or bond issues.

Code 1950, § 22-134; 1980, c. 559.

§ 22.1-120. Settlement by treasurer.

Treasurers or other fiscal agents shall settle with school boards for the school funds as of June thirtieth of each year not later than August fifteenth of each year.

Code 1950, § 22-135; 1980, c. 559.

§ 22.1-121. Proceedings against officers, etc., to compel settlement of accounts.

The school board shall have the power and duty, in the event of any delinquency or any irregularity in the acts of any treasurer, officer, agent or employee handling school funds or of any member of such

school board, to take such steps and institute such legal proceedings as may be necessary and proper in order to secure complete settlement of the accounts of such treasurer, officer, agent, employee or member of such school board and a full and clear exhibit of the transactions of such treasurer, officer, agent, employee or member of such school board in connection with the receipts and disbursements of any funds for public school purposes and to compel the payment of any balances that may be in the hands of such treasurer or other person. The school board shall have the power and duty to take such steps and institute such legal proceedings as may be necessary and proper to secure a complete settlement of the accounts of any trustees to whom any funds or other property for the purposes of public school education shall have been entrusted and to secure a full and proper administration of such trusts; and to this end it may institute suit for the removal, for good cause shown, of such trustee or trustees and for the appointment of new trustees either to replace those removed or to fill vacancies and may institute such suits or actions as may be necessary to compel the payment of any balances in the hands of the old trustee or trustees so removed or to correct any defect or irregularity whatever in the administration of such trust fund or other property.

Code 1950, § 22-136; 1980, c. 559.

Article 6 - PAYMENT OF CLAIMS

§ 22.1-122. Approval and payment of claims; warrants; prohibited acts.

A. Except as provided in § 22.1-122.1, a school board shall examine all claims against it and, when approved, shall order or authorize the payment thereof. A record of such approval and order or authorization shall be made in the minutes of the school board. Payment of each claim shall be ordered or authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody and disbursement of the funds of the school board. The warrant shall be signed by the chairman or vice-chairman of the school board, countersigned by the clerk or deputy clerk thereof, made payable to the person or persons, firm or corporation entitled to receive such payment and recorded in the form and manner prescribed by the Board of Education. There shall be stated on the face of the warrant the purpose or service for which such payment is drawn and the date of the order entered or authority granted by the school board.

B. A school board may, in its discretion by resolution, appoint an agent, and a deputy agent to act for the agent in his absence or inability to perform this duty, to examine and approve such claims and, when approved by him or his deputy, to order or authorize the payment thereof. A record of such approval and order or authorization shall be made and kept with the records of the school board. Payment of each such claim so examined and approved by such agent or his deputy shall be ordered or authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody, and disbursement of the funds made available to the school board. The warrant shall be signed by such agent or his deputy and countersigned by the clerk or deputy clerk of the school board, payable to the person or persons, firm or corporation entitled to receive such payments; provided, however, that when the agent appointed by the school board is the division superintendent

and the division superintendent and clerk is one and the same person, all such warrants shall be countersigned by the chairman or vice-chairman of the school board and when the deputy agent and deputy clerk is one and the same person, the warrant shall be countersigned by either the clerk or the agent of the school board. There shall be stated on the face of the warrant the purpose or service for which such payment is made and also that such warrant is drawn pursuant to authority delegated to such agent or his deputy by the school board on the..... day of..... The school board shall require such agent and his deputy to furnish a corporate surety bond conditioned upon the faithful performance and discharge of the duties herein assigned to each such official. The school board shall fix the amount of such bond or bonds and the premium therefor shall be paid out of the funds made available to the school board.

C. The school board of any school division composed of a county may provide, by resolution, for the drawing of special warrants in payment of compensation, when such compensation has been earned and is due, for (i) all employees and school bus operators under written contract, (ii) upon receipt of certified time sheets or other evidence of service performed, the payment of all other employees whose rates of pay have been established by the school board or its properly delegated agent, and (iii) for payment on contracts for school construction projects according to the terms of such contracts. All such special warrants so authorized shall be signed by the clerk or deputy clerk of the school board and countersigned by the division superintendent or the chairman or vice-chairman of the school board. When the division superintendent and clerk is one and the same person, such special warrants shall be countersigned by such chairman or vice-chairman. Such payrolls and contracts so paid shall be reviewed and approved by the school board at its next regular meeting.

D. Any warrant provided for in this section may be converted into a negotiable check when the name of the bank upon which the funds stated in the warrant are drawn or by which the check is to be paid is designated upon its face and is signed by the treasurer or other officer charged by law with the responsibility for the receipt, custody and disbursement of the funds of the school board.

E. The acts prohibited by § 15.2-1244 with respect to the ordering of the issuance of warrants by a board of supervisors and the signing and countersigning of such warrants by the clerk, deputy clerk, chairman, and vice-chairman of such board shall apply to the ordering of the issuance of warrants by a school board and to the signing and countersigning thereof by the chairman, vice-chairman, clerk, deputy clerk, agent and deputy agent of the school board. Any clerk, deputy clerk, agent, deputy agent or member of any school board who violates any provision of this section shall be guilty of both a Class 3 misdemeanor and malfeasance in office.

Code 1950, §§ 22-73, 22-75, 22-76, 22-77, 22-78, 22-97; 1954, c. 291; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1971, Ex. Sess., c. 161; 1972, c. 426; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559; 1989, c. 179.

§ 22.1-122.1. Accounts to purchase certain materials and supplies.

A school board, by resolution and subject to the approval of the governing body, may establish accounts in each of its departments and schools committed solely for the purchase of instructional materials and office supplies. The school board may authorize the transfer of a percentage of the funds budgeted for a school or division department, not to exceed thirty-five percent of the allocation, into such account.

Such account shall be managed by the principal of the school or head of the division department who shall file a monthly accounting of the funds with the division superintendent. No additional funds shall be transferred into any such account unless the monthly accounting has been filed. The funds in the account may be disbursed for payment of obligations by issuing a negotiable check signed by the principal or head of the division department, and a second person to be designated by the school board. At the close of the fiscal year, all funds remaining in the accounts shall be returned to the school board simultaneously with a full accounting of the disbursements. All such accounts shall be subject to the requirements of § 15.2-2511 and relevant provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

1989, c. 179; 1992, c. 175; 1999, c. 388.

§ 22.1-123. Petty cash funds; payment of claims from petty cash.

Any school board may by resolution establish one or more petty cash funds, not exceeding $2,000 each, for the payment of claims arising from commitments made pursuant to provisions of law.

A school board may appoint an agent or other person who shall be authorized only to approve payment of claims arising from commitments made pursuant to provisions of law from such petty cash funds as may be established by the school board. Any agent or person into whose hands any such fund is placed may pay such claims therefrom without necessity of prior receipt and audit of the claims by the school board and without approval and issuance of the warrant of the school board.

The clerk of the school board shall report this action to the school board or to any appointed agent of the school board for approval and reimbursement at least within thirty days of the month following the month in which any claim has been paid.

Any agent or person into whose hands such fund is placed shall give bond with surety in the amount of $4,000, provided that additional bond shall not be required of any agent or person already bonded in the required amount.

Code 1950, § 22-74; 1972, c. 462; 1976, c. 18; 1980, c. 559; 1985, c. 194; 1991, c. 386; 1994, c. 55.

§ 22.1-124. Officers may not purchase warrants for less than face value.

It shall be unlawful for any county, municipal or state officer to acquire by purchase, directly or indirectly, at less than its face value any warrant or other evidence of indebtedness issued for any school purpose whatsoever by the governing body of any county, city or town or by any school board. Any violation of the provisions of this section shall be a Class 3 misdemeanor. Upon the conviction of any such officer of a violation of this section, his office shall be deemed vacant.

Code 1950, § 22-212; 1980, c. 559.

Chapter 9 - School Property

Article 1 - GENERAL PROVISIONS

§ 22.1-125. Title to property vested in school board; exception; extent of school board's authority.
A. The title to all school property, both real and personal, within a school division shall be vested in the school board, except that by mutual consent of the school board of a school division composed solely of part or all of a city and the governing body of the city, the title to property may vest in the city.

B. The official care and authority of a school board shall cover all territory included in the geographical boundaries of the school division and all school property located without and contiguous to the boundaries of such school division when the title to such property is vested either in the school board or a city; provided, however, that school property lying without the corporate limits of a city but not adjacent thereto on January 1, 1968, shall be subject to the official care and authority of the school board of such city or the city.

Code 1950, §§ 22-94, 22-95; 1968, c. 702; 1972, c. 662; 1980, c. 559.

§ 22.1-126. Property given, devised or bequeathed to school board.
When any real or personal property is given, devised or bequeathed to any school board or for public school purposes, it shall be vested in the school board unless inconsistent with the terms of the gift, devise or bequest and shall be managed and applied by the school board according to the wishes of the donor or testator. The school board shall, in addition to the regular settlement which it is required to make of all school funds, settle annually before the commissioner of accounts so far as the management of the property so bequeathed or devised is concerned, and the court having jurisdiction shall have the right to compel such a settlement, as is provided for in § 64.2-1216.

In the case of any change in the boundaries of any school division, the school board shall make provision for continuing the fulfillment of the purposes of such donor or testator as far as practicable and settlement shall be made as provided for above.

Code 1950, § 22-148; 1980, c. 559.

§ 22.1-126.1. Acquisition of property for educational purposes by counties, cities and towns.
Any county, city or town or any combination thereof acting jointly may acquire for educational purposes by gift, purchase, condemnation or otherwise, real property and any improvements thereon within the county, city, town or combination thereof acquiring the property or within any county or city adjacent to any such county, city or town and may construct buildings thereon to be used for educational purposes. The powers of condemnation granted by this section shall be subject to the provisions of § 25.1-102 to the same extent as though such county, city or town were a corporation possessing the power of eminent domain. Whenever the property is not within a county, city or town acquiring the property, not more than 50 acres may be acquired. Property acquired pursuant to this section shall be under the control of the school board of the county, city or town acquiring it, or, in the case of joint action by two or more counties, cities or towns or combinations thereof, control of such

property shall be under a board chosen in the manner and for the term provided in § 22.1-53. Such property may be leased on such terms as may be agreed upon to any public institution of higher education to provide for education beyond high school of residents in the general region of such political subdivisions, or the property may, with the approval of the governing body of each such participating political subdivision, be conveyed to any such institution of higher education upon such terms and conditions as shall be agreed upon by such governing bodies and the governing body of the institution and approved by the Governor.

1995, c. 250; 2003, c. 940.

§ 22.1-127. Condemnation of land for school purposes; right of entry; location of school outside boundaries of school division.

A school board shall have the power to exercise the right of eminent domain and may condemn land or other property or any interest or estate therein, including dwellings, yards, gardens or orchards, necessary for public school purposes pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1. To determine the suitability of the land for school purposes, a school board shall have the same right of entry under the same conditions as a county, city, or town pursuant to § 25.1-203. A school board shall have no authority to locate any school which was not begun prior to January 1, 1978, on property outside the boundaries of the school division unless the school board first obtains the approval of the governing body of the county, city or town in which a proposed school will be located.

Code 1950, §§ 22-97, 22-149; 1952, c. 87; 1954, c. 291; 1959, Ex. Sess., c. 79, § 1; 1966, c. 273; 1968, c. 501; 1971, Ex. Sess., c. 161; 1972, c. 549; 1973, c. 186; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559; 1994, c. 786; 2003, c. 940.

§ 22.1-128. Title to school board real estate.

Whenever any school board purchases real estate or acquires title thereto, the title to such real estate shall be certified in writing by a competent and discreet attorney-at-law selected by the school board, or title insurance, approved by a competent and discreet attorney-at-law selected by the school board, shall be purchased for such real estate. Such certification or policy of insurance shall be filed with the clerk of the school board along with the recorded deed or other papers by which the title is conveyed. No contract for any such purchase shall bind the school board until the title to such real estate is thus certified or insured.

The school board shall pay to the attorney reasonable compensation for these services.

Code 1950, § 22-150; 1978, c. 26; 1980, c. 559; 1983, c. 32; 1987, c. 188.

§ 22.1-129. Surplus property; sale, exchange or lease of real and personal property.

A. Whenever a school board determines that it has no use for some of its real property, the school board may sell such property and may retain all or a portion of the proceeds of such sale upon approval of the local governing body and after the school board has held a public hearing on such sale and retention of proceeds, or may convey the title to such real property to the county or city or

town comprising the school division or, if the school division is composed of more than one county or city, to the county or city in which the property is located. To convey the title, the school board shall adopt a resolution that such real property is surplus and shall record such resolution along with the deed to the property with the clerk of the circuit court for the county or city where such property is located. Upon the recording of the resolution and the deed, the title shall vest in the appropriate county, city or town.

B. A school board shall have the power to exchange real and personal property, to lease real and personal property either as lessor or lessee, to grant easements on real property, to convey real property in trust to secure loans, to convey real property to adjust the boundaries of the property and to sell personal property in such manner and upon such terms as it deems proper. As lessee of real property, a school board shall have the power to expend funds for capital repairs and improvements on such property, if the lease is for a term equal to or longer than the useful life of such repairs or improvements.

C. Notwithstanding the provisions of subsections A and B, a school board shall have the power to sell career and technical education projects and associated land pursuant to § 22.1-234.

Notwithstanding the provisions of subsections A and B, a school board of the City of Virginia Beach shall have the power to sell property to the Virginia Department of Transportation or the Commissioner of Highways when the Commissioner has determined that (i) such conveyance is necessary and (ii) when eminent domain has been authorized for the construction, reconstruction, alteration, maintenance, and repair of the public highways of the Commonwealth, and for all other purposes incidental thereto, including, but not limited to, the relocation of public utilities as may be required.

D. School boards may donate obsolete educational technology hardware and software that is being replaced pursuant to subdivision B 4 of § 22.1-199.1. Any such donations shall be offered to other school divisions, to students, as provided in Board of Education guidelines, and to preschool programs in the Commonwealth. In addition, elected school boards may donate such obsolete educational technology hardware and software and other obsolete personal property to a Virginia nonprofit organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

Code 1950, § 22-161; 1968, c. 261; 1973, c. 220; 1980, c. 559; 1989, c. 102; 1991, c. 298; 1995, c. 513; 1997, c. 686; 2000, c. 93; 2001, c. 483; 2005, c. 446; 2007, c. 813; 2010, c. 763; 2012, cc. 805, 836.

§ 22.1-129.1. Transfer of assistive technology devices.

A. For the purposes of this section:

"Assistive technology device" means any device, including equipment or a product system, which is used to increase, maintain, or improve functional capabilities of a child with a disability. Assistive technology device shall not include surgically implanted medical devices, such as cochlear implants.

"Child with a disability" means the same as that term is defined in § 22.1-213.

"Transfer" means the process by which a school division that has purchased an assistive technology device may sell, lease, donate, or loan the device pursuant to subsection B.

B. An assistive technology device may be transferred to (i) the school division to which a child with a disability transfers from the school division that purchased the device; (ii) a state agency, including the Department for Aging and Rehabilitative Services, that provides services to a child with a disability following the child's graduation or when a school division ceases to provide special education services for the student; or (iii) the parents of a child with a disability, or the child with a disability if the child with a disability is age 18 or older and has capacity to enter into a contract.

2012, c. 214; 2016, cc. 720, 750.

§ 22.1-130. Authority to acquire property from United States or any agency thereof.

A. Notwithstanding the provisions of any other law or of any charter or any ordinance, any school board may, by resolution, authorize the acquisition and purchase from the United States or any agency thereof of any equipment, supplies, materials, or other property, real or personal, in such manner as such school board may determine.

B. It is the purpose of this section to enable school boards to secure from time to time promptly the benefits of acquisitions and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends school boards shall have power to do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed.

Code 1950, § 22-151; 1980, c. 559.

§ 22.1-130.1. Access to high schools and high school students for military recruiters.

Pursuant to Standard 1 of the Standards of Quality (Chapter 13.2 (§ 22.1-253.13:1 et seq.) of Title 22.1), all school boards are required to implement career and technical education programs promoting knowledge of careers and various employment opportunities, including, but not limited to, military careers. Therefore, any school board that provides access to one or more of its high schools and contact with such high school's student body or other contact with its high school students during a school or school division-sponsored activity whether conducted on school board property or other property to persons or groups for occupational, professional or educational recruitment shall provide equal access on the same basis to official recruiting representatives of the military forces of the Commonwealth and the United States.

2001, c. 262.

§ 22.1-131. Boards may permit use of various school property; general conditions; electric vehicle charging stations.

A. A school board may permit the use, upon such terms and conditions as it deems proper, of such school property as will not impair the efficiency of the schools. The school board may authorize the division superintendent to permit use of the school property, including buildings, grounds, vehicles,

and other property, under such conditions as it deems will not impair the efficiency of the schools and are, therefore, proper. The division superintendent shall report to the school board at the end of each month his actions under this section. Permitted uses of buildings may include, but are not limited to, use as voting places in any primary, regular or special election and operation of a local or regional library pursuant to an agreement between the school board and a library board created as provided in § 42.1-35.

B. Any school board may locate and operate retail fee-based electric vehicle charging stations on school property, provided that the use of each such station during the school day is restricted to school board employees, students, and authorized visitors and each such station is accompanied by appropriate signage that provides reasonable notice of such restriction.

Code 1950, §§ 22-164, 22-164.1; 1973, c. 245; 1980, c. 559; 2000, c. 754; 2017, c. 239.

§ 22.1-132. Boards may impose certain conditions on use of property.

Permits for the use of school property may contain, among other matters, (i) provisions limiting the use of the property while classes are in session and (ii) an undertaking by the lessee to return the property so used in as good condition as when leased, normal wear and tear excepted.

Code 1950, § 22-164.2; 1980, c. 559.

§ 22.1-132.01. Youth-oriented, community organizations on school property.

Local school boards shall, subject to the provisions of § 22.1-131, provide reasonable and appropriate access to school property to youth-oriented, community organizations such as the Boy Scouts of America and Girl Scouts of the USA, and their volunteers and staff, to distribute and provide instructional materials in order to encourage participation in such organizations and their activities. Any such access provided during the school day shall not conflict with instructional time. Such access may also include after-school sponsored activities such as "Back to School" events, where it can be reasonably accommodated.

2016, c. 647.

§ 22.1-132.1. Daycare programs in certain localities.

A. Upon agreement of the relevant governing body, a school board may establish day-care programs outside the regular school hours for students who attend elementary and middle schools. In order to be eligible to attend such programs, a student shall be enrolled in a public or private school or reside in the relevant school division. Such programs may be conducted before or after school hours or both.

B. The school board of the City of Petersburg may establish day-care programs during school hours for children of students who reside in the relevant school division and who are enrolled in a public school in the said city.

C. No state or local funds appropriated for educational purposes shall be used to support any programs established pursuant to subsections A and B of this section.

The school boards shall contract only with those agencies which are licensed or certified by the Commissioner of Social Services.

This provision shall not be construed to apply to programs implemented pursuant to § 22.1-131.

1988, c. 670; 1989, c. 507; 1990, cc. 411, 415, 612, 939; 1991, c. 569; 1992, cc. 204, 336; 1993, cc. 176, 207, 777, 889.

§ 22.1-132.2. Integrated pest management on school property.

The Department of Education shall make information available to school boards on integrated pest management programs that appropriately address the application of chemical pesticides and other pest control measures on school property. For purposes of this section, "integrated pest management" shall mean a managed pest control and suppression program that uses various integrated methods to keep pests from causing economic, health-related, or aesthetic injury and minimizes the use of pesticides and the risk to human health and the environment associated with pesticide applications. Methods may include the utilization of site or pest inspections, pest population monitoring, evaluation of control requirements, and the use of one or more pest control methods including sanitation, structural repair, nonchemical methods, and pesticides when nontoxic options produce unsatisfactory results or are impractical. Each local school division shall maintain documentation of any pesticide application that includes the target pest, the formulation applied, and the specific location of the application. The guidelines and programs adopted pursuant to this section shall permit the immediate application of pesticides or other effective control measures to eradicate pest infestations that pose an acute danger to students and staff.

2009, c. 440; 2010, c. 40.

§ 22.1-133. Flags.

The flags of the United States of America and of the Commonwealth shall be flown in accordance with protocol and in an appropriate place at every public school. A flag of the Commonwealth shall be furnished by the Commonwealth for each new public school upon request of the school board directed to the Governor.

Code 1950, §§ 7.1-36, 22-133; 1956, Ex. Sess., c. 30; 1959, Ex. Sess., c. 79, § 1; 1960, c. 222; 1966, c. 102; 1980, c. 559.

§ 22.1-134. Maintenance, etc., of school buildings and buses by county department of public works.

Insofar as permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia, in any county operating under an optional form of organization and government provided for in Chapter 6 (§ 15.2-600 et seq.) of Title 15.2, the board of supervisors of such county, at the request of the county school board, may transfer the maintenance of school buildings and grounds and operation and maintenance of school buses from the department of education to the department of public works; and such board of supervisors, at the request of the county school board, may authorize the construction of new school buildings and additions to existing school buildings under direction of its department of public works.

Code 1950, § 22-151.1; 1971, Ex. Sess., c. 1; 1980, c. 559.

Article 2 - SCHOOL BUILDINGS

§ 22.1-135. Health and decency.

No public school shall be allowed in any building which is not in such condition and provided with such conveniences as are required by a due regard for decency and health.

Code 1950, §§ 22-97, 22-157; 1954, c. 291; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1971, Ex. Sess., c. 161; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559.

§ 22.1-135.1. Potable water; lead testing.

Each local school board shall develop and implement a plan to test and, if necessary, remediate potable water from sources identified by the U.S. Environmental Protection Agency as high priority for testing, including bubbler-style and cooler-style drinking fountains, cafeteria or kitchen taps, classroom combination sinks and drinking fountains, and sinks known to be or visibly used for consumption. Such plan shall be consistent with guidance published by the U.S. Environmental Protection Agency or the Department of Health. The local school board shall give priority in the testing plan to schools whose school building was constructed, in whole or in part, before 1986. Each local school board shall submit such testing plan and report the results of any such test to the Department of Health. Each local school board shall take all steps necessary to notify parents if testing results indicate lead contamination that exceeds 10 parts per billion.

2017, c. 628; 2020, cc. 293, 884.

§ 22.1-136. Duty of division superintendent to close buildings.

When a public school building appears to the division superintendent to be unfit for occupancy, it shall be his duty to close the same and immediately to give notice thereof in writing to the members of the school board. No public school shall be held therein nor shall any state or local funds be applied to support any school in such building until the division superintendent shall certify in writing to the school board that he is satisfied with the condition of such building and with the appliances pertaining thereto.

Code 1950, §§ 22-97, 22-158; 1954, c. 291; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1971, Ex. Sess., c. 161; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559.

§ 22.1-137. Fire drills.

In every public school there shall be a fire drill at least twice during the first 20 school days of each school session, in order that pupils may be thoroughly practiced in such drills. Every public school shall hold at least two additional fire drills during the remainder of the school session.

Code 1950, § 22-156; 1971, Ex. Sess., c. 163; 1980, c. 559; 1993, c. 212; 2016, c. 524.

§ 22.1-137.1. Tornado drills.

In every public school there shall be at least one tornado drill every school year, in order that students may be thoroughly practiced in such drills.

2001, c. 841.

§ 22.1-137.2. Lock-down drills.

A. In every public school there shall be a lock-down drill at least twice during the first 20 school days of each school session, in order that students and teachers may be thoroughly practiced in such drills. Every public school shall hold at least one additional lock-down drill after the first 60 days of the school session. Every public school shall provide the parents of enrolled students with at least 24 hours' notice before the school conducts any lock-down drill, provided, however, that nothing in this section shall be construed to require such notice to include the exact date and time of the lock-down drill.

B. Pre-kindergarten and kindergarten students shall be exempt from mandatory participation in lock-down drills during the first 60 days of the school session. Local school boards shall develop policies to implement such exemption. Notwithstanding the foregoing provisions of this subsection, each pre-kindergarten and kindergarten student shall participate in each lock-down drill after the first 60 days of each school session.

2013, c. 609; 2016, c. 524; 2020, cc. 378, 1040.

§ 22.1-137.3. School safety procedures; emergency situations; annual training.

In addition to complying with the requirements for drills set forth in §§ 22.1-137, 22.1-137.1, and 22.1-137.2, each school board shall develop training on safety procedures in the event of an emergency situation on school property. Such training shall be delivered to each student and employee in each school at least once each school year.

2019, cc. 61, 140.

§ 22.1-138. (Effective until July 1, 2021) Minimum standards for public school buildings.

A. The Board of Education shall prescribe by regulation minimum standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specifically addressed in the Uniform Statewide Building Code.

B. By July 1, 1994, every school building in operation in the Commonwealth shall be tested for radon pursuant to procedures established by the United States Environmental Protection Agency (EPA) for radon measurements in schools.

School buildings and additions opened for operation after July 1, 1994, shall be tested for radon pursuant to such EPA procedures and regulations prescribed by the Board of Education pursuant to subsection A of this section. Each school shall maintain files of its radon test results and make such files available for review. The division superintendent shall report radon test results to the Department of Health.

C. Each school board shall, in consultation with the local building official and the state or local fire marshal, develop a procurement plan to ensure that all security enhancements to public school buildings

are in compliance with the Uniform Statewide Building Code (§ 36-97 et seq.) and Statewide Fire Prevention Code (§ 27-94 et seq.).

D. No school employee shall open or close an electronic room partition in any school building unless (i) no student is present in such building, (ii) (a) no student is present in the room or area in which such partition is located and (b) such room or area is locked or otherwise inaccessible to students, or (iii) such partition includes a safety sensor that automatically stops the partition when a body passes between the leading edge and a wall, an opposing partition, or the stacking area.

E. Any annual safety review or exercise for school employees in a local school division shall include information and demonstrations, as appropriate, regarding the provisions of subsection D.

F. The Department of Education shall make available to each school board model safety guidance regarding the operation of electronic room partitions.

1980, c. 559; 1993, c. 765; 2019, cc. 121, 369.

§ 22.1-138. (Effective July 1, 2021) Minimum standards for public school buildings.

A. The Board of Education shall prescribe by regulation minimum standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specifically addressed in the Uniform Statewide Building Code (§ 36-97 et seq.).

B. By July 1, 1994, every school building in operation in the Commonwealth shall be tested for radon pursuant to procedures established by the U.S. Environmental Protection Agency (EPA) for radon measurements in schools.

School buildings and additions opened for operation after July 1, 1994, shall be tested for radon pursuant to such EPA procedures and regulations prescribed by the Board of Education pursuant to subsection A. Each school shall maintain files of its radon test results and make such files available for review. The division superintendent shall report radon test results to the Department of Health.

C. Each school board shall maintain a water management program for the prevention of Legionnaires' disease at each public school building in the local school division. Each school board shall validate each water management program on at least an annual basis to maintain the health and decency of such buildings. Each public school shall maintain files related to its water management program, including the results of all validation and remediation activities, and make such files available for review.

D. Each local school board shall develop and implement a plan to test and, if necessary, a plan to remediate mold in public school buildings in accordance with guidance issued by the U.S. Environmental Protection Agency. Each local school board shall (i) submit such testing plan and report the results of any test performed in accordance with such plan to the Department of Health and (ii) take all steps necessary to notify school staff and the parents of all enrolled students if testing results indicate the presence of mold in a public school building at or above the minimum level that raises a concern for the health of building occupants, as determined by the Department of Health.

E. Each school board shall, in consultation with the local building official and the state or local fire marshal, develop a procurement plan to ensure that all security enhancements to public school buildings are in compliance with the Uniform Statewide Building Code (§ 36-97 et seq.) and Statewide Fire Prevention Code (§ 27-94 et seq.).

F. No school employee shall open or close an electronic room partition in any school building unless (i) no student is present in such building, (ii)(a) no student is present in the room or area in which such partition is located and (b) such room or area is locked or otherwise inaccessible to students, or (iii) such partition includes a safety sensor that automatically stops the partition when a body passes between the leading edge and a wall, an opposing partition, or the stacking area.

Any annual safety review or exercise for school employees in a local school division shall include information and demonstrations, as appropriate, regarding the provisions of this subsection.

The Department of Education shall make available to each school board model safety guidance regarding the operation of electronic room partitions.

1980, c. 559; 1993, c. 765; 2019, cc. 121, 369; 2020, cc. 776, 780.

§ 22.1-138.1. School maintenance program established.

In compliance with the provisions of the appropriation act relating to the maintenance supplement program and with such funds as are appropriated for such purpose, each school board shall establish a program for ongoing school maintenance needs.

1998, c. 73.

§ 22.1-139. Repealed.

Repealed by Acts 2010, c. 61, cl. 2.

§ 22.1-140. Plans for buildings to be approved by division superintendent.

No public school building or addition or alteration thereto, for either permanent or temporary use, shall be advertised for bid, contracted for, erected, or otherwise acquired until the plans and specifications therefor (i) have been approved in writing by the division superintendent; (ii) are accompanied by a statement by an architect or professional engineer licensed by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects that such plans and specifications are, in his professional opinion and belief, in compliance with the regulations of the Board of Education and the Uniform Statewide Building Code; and (iii) have been reviewed by an individual or entity with professional expertise in building security and crime prevention through building design. The division superintendent's approval, architect's or engineer's statement, all reviewers' comments, and a copy of the final plans and specifications shall be submitted to the Superintendent of Public Instruction.

Code 1950, §§ 22-97, 22-152, 22-153; 1954, cc. 257, 291; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1971, Ex. Sess., c. 161; 1975, cc. 308, 328; 1978, c. 430; 1980, c. 559; 1991, c. 550; 1993, c. 227; 1998, c. 27; 2019, c. 226.

§ 22.1-141. Repealed.

Repealed by Acts 1982, c. 647.

Article 3 - Public School Building and Facilities Modernization

§ 22.1-141.1. Standards for buildings and facilities.

It is the intent of the General Assembly that new public school buildings and facilities and improvements and renovations to existing public school buildings and facilities be designed, constructed, maintained, and operated to generate more electricity than consumed and that such energy-positive building design be based on industry standards (i) contained in the design guide of the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE), entitled "Achieving Zero Energy-Advanced Energy Design Guide for K-12 School Buildings," dated February 1, 2018, and any subsequent updates or (ii) similar industry standards.

2019, cc. 818, 819.

§ 22.1-141.2. Authority to modernize public school lease agreements.

A. Prior to undertaking the design, construction, maintenance, and operation of a new public school building or facility or the improvement or renovation of an existing school building or facility, a local school board may evaluate whether entering into a lease with a private entity will assist the school board in meeting the standards set forth in § 22.1-141.1.

B. In order to meet the design, construction, maintenance, and operation standards set forth in § 22.1-141.1, a school board may enter into a lease with a private entity that may include the following: (i) design of the building and facilities; (ii) construction of the building and facilities; (iii) financing of the project as defined in § 15.2-1815; (iv) operation of the heating, cooling, and renewable energy systems, including interconnect agreements with the regulated electric utility, maintenance of all such systems, responding to comfort complaints, and any other operational or maintenance-related issues during the lease term; and (v) such other terms as mutually agreed upon by the local school board and the private entity. Such lease may (a) be for the real property primarily used by the local school board and owned by the private entity, (b) be a capital or operating lease, (c) be exempt from real property taxation pursuant to subdivision (a)(1) of Article X, Section 6 of the Constitution of Virginia, and (d) contain a covenant that the rent shall not be reduced from the rent stated in the lease. Such lease shall not exceed 35 years in duration. The Virginia Public Procurement Act (§ 2.2-4300 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) shall apply to any lease agreement solicited by a local school board pursuant to this section.

2019, cc. 818, 819.

Chapter 10 - LITERARY FUND

§ 22.1-142. (Effective until October 1, 2019) How Fund constituted; management.

There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund," the present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the

Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary Fund pursuant to Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 and the proceeds of (i) all public lands donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture except those items specifically exempted, (v) all fines collected for offenses committed against the Commonwealth, and (vi) the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board of Education as prescribed by § 22.1-145.

Code 1950, § 22-101; 1971, Ex. Sess., c. 128; 1980, c. 559; 2012, cc. 283, 756.

§ 22.1-142. (Effective October 1, 2019) How Fund constituted; management.

There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund," the present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary Fund pursuant to Chapter 25 (§ 55.1-2500 et seq.) of Title 55.1 and the proceeds of (i) all public lands donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture except those items specifically exempted, (v) all fines collected for offenses committed against the Commonwealth, and (vi) the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board of Education as prescribed by § 22.1-145.

Code 1950, § 22-101; 1971, Ex. Sess., c. 128; 1980, c. 559; 2012, cc. 283, 756.

§ 22.1-143. Money belonging to Fund received in treasury; accountant.

All moneys belonging to the Literary Fund shall be paid into the State Treasury to the credit of the Literary Fund and shall be used for no other purpose whatsoever. The State Treasurer shall be the accountant of the Fund.

Code 1950, §§ 22-101, 22-103; 1971, Ex. Sess., c. 128; 1980, c. 559.

§ 22.1-144. Recovery of moneys due Fund.

Any funds which ought to be paid into the State Treasury to the credit of the Literary Fund shall, unless otherwise provided, be recoverable with interest. Proceedings to recover such funds shall be instituted by the Board of Education in the name of the Commonwealth in the appropriate circuit court.

The Board may appoint agents for the collection of its debts or claims and authorize them to secure payment thereof on such terms as it may approve.

When the estate of any person that is taken under execution or that is for sale under any decree or deed of trust for any debt or claim due the Literary Fund or for any fine will not sell for the amount of such debt, claim or fine, such agent may, under the direction of the Board as to the price, purchase such estate for the Board. He shall immediately report to it every such purchase and the terms thereof. The Board may sell, or appoint an agent to sell, any estate so purchased. Such agent shall sell at such time and on such terms as the Board may authorize. The Board shall take bond from such agent if any money is to come into his hands. Any agent selling land under this section shall, when directed

so to do by the Board, execute a deed, with the resolution giving such direction thereto annexed, conveying to the purchaser all the interest which the Board may have in such land. For the service of any agent under this section, the Board may allow compensation, not exceeding in any case ten per centum of the money actually paid into the State Treasury.

Code 1950, § 22-104; 1980, c. 559.

§ 22.1-145. Investment of Fund.

The Board of Education shall invest the Literary Fund in securities that are legal investments under the laws of the Commonwealth for public funds. The Board may call in any such investment and reinvest the same whenever it deems proper for the preservation, security or improvement of the Literary Fund. Whenever the Board shall invest in bonds of this Commonwealth, no premium shall be required or paid on such investment. All securities for money belonging to the Literary Fund shall be deposited with the State Treasurer for safekeeping, who shall return with his annual report a list thereof with a statement of their value.

Code 1950, § 22-102; 1956, c. 184; 1971, Ex. Sess., c. 128; 1980, c. 559; 1985, c. 139.

§ 22.1-146. Power of Board to make loans from fund for erection, etc., of school buildings and fueling facilities for school buses.

The Board of Education may make loans or, subject to the approval of the General Assembly, loan interest rate subsidy payments from the Literary Fund to the school boards of the several school divisions making application therefor in the manner prescribed by law, authorized by the governing body and the school board, for the purposes of (i) erecting, altering or enlarging school buildings in such school divisions; (ii) purchasing and installing educational technology equipment and infrastructure; (iii) equipping school buses for alternative fuel conversions and for construction of school bus fueling facilities for supplying compressed natural gas or other alternative fuels; and (iv) refinancing or redemption of negotiable notes, bonds, and other evidences of indebtedness or obligations incurred by a locality on behalf of a school division which has an application for a Literary Fund loan for an approved school project pending before the Board of Education. For the purpose of this section, "alternative fuels" means motor fuels other than gasoline and diesel fuel.

Code 1950, § 22-105; 1980, c. 559; 1988, c. 88; 1991, c. 682; 1994, c. 689; 1997, c. 372; 2007, c. 121.

§ 22.1-146.1. School modernization loan interest rate subsidy payments.

A. The Board of Education shall establish a program to subsidize interest payments on certain loans made by the Virginia Public School Authority to local governing bodies and school boards for the design and construction of new school buildings and facilities or the modernization and maintenance of existing school buildings and facilities as follows:

1. For school divisions with a composite index of local ability-to-pay that is greater than 0.2500 but less than 0.4000 at the time an application to the program is made, the Board may subsidize up to 50 percent of the interest due on such loan; or

2. For school divisions with a composite index of local ability-to-pay that is 0.2500 or less at the time an application to the program is made, the Board may subsidize up to 100 percent of the interest rate on such loan.

B. The aggregate amount of subsidies provided pursuant to this section shall not exceed the allocation specified in the general appropriation act for each fiscal year.

C. For each loan, the annual subsidy amount shall not include both:

1. Interest or other loan-related costs related to any part of the loan that exceed $7.5 million in loan value; and

2. Interest on any part of the loan that exceeds the rate that the local governing body or school board would have obtained for such loan under the provisions of §§ 22.1-146 and 22.1-150.

2019, c. 807.

§ 22.1-147. Distribution of funds.

The Board of Education shall provide for an equitable distribution of the funds loaned or provided as loan interest rate subsidy payments from the Literary Fund among the several school divisions. In providing for such equitable distribution, the Board shall impose a maximum limit of not more than $7.5 million on the amount of any loan from the Literary Fund.

Code 1950, § 22-106; 1977, c. 157; 1980, c. 559; 1988, c. 88; 1997, c. 384; 1998, c. 70.

§ 22.1-148. Restrictions upon making loans; retirement of previous loans.

A. No loan from the Literary Fund shall exceed 100% of the cost of the building, addition thereto, and site on account of which such loan is made. No loan shall be made from the Literary Fund to aid in the erection of a building or addition to cost less than $500. Whenever a loan is made from the Literary Fund for the purpose of enlarging a building, any part of the proceeds of such loan may, in the discretion of the Board, be used to retire any previous loan or loans on such building although not matured at the time of such additional loan. The Board may refuse to make any loan from the Literary Fund to any school board which is in default in the payment of any part of the principal of any previous loan from the Literary Fund or which for the two years next preceding the loan has been more than six months in default in the payment of interest due on any loan from the Literary Fund.

B. Any school division which has an application for a Literary Fund loan for an approved school project pending before the Board of Education shall not be denied or delayed in obtaining such loan solely for the reason that alternative financing had been obtained to begin or complete construction on such project.

Code 1950, § 22-111; 1980, c. 559; 1985, c. 226; 1994, c. 689; 2007, c. 121.

§ 22.1-149. Additional funds for loans.

When loans have been approved by the Board from time to time in such amounts that no sufficient balance is left in the Literary Fund from which to make additional loans, the Board is authorized to sell the bonds, notes or other evidences of debt of the school boards for which such loans are approved for

investment of the trust funds of the Virginia Retirement System in such amount as may be approved by the Board of Trustees of the Virginia Retirement System in accordance with the provisions of § 51.1-124.30, in order to make such additional loans.

Code 1950, § 22-112; 1954, c. 476; 1958, c. 162; 1980, c. 559.

§ 22.1-150. Rate of interest.

The Board of Education is authorized in its discretion to fix the interest rate on all loans made from the Literary Fund at not less than two per centum per annum and not more than six per centum per annum, payable annually. Every loan made under the provisions of this chapter by selling the bonds, notes or other evidences of debt of school boards for investment of the trust funds of the Virginia Retirement System shall bear interest at a rate not to exceed six per centum per year.

Code 1950, § 22-112; 1954, c. 476; 1958, c. 162; 1980, c. 559.

§ 22.1-151. Evidence of loan.

A. A loan from the Literary Fund shall be evidenced by bonds or notes payable to the Commonwealth of Virginia for the benefit of the Literary Fund, executed or signed by the mayor or the chairman of the governing body and the chairman of the school board and attested by the clerk thereof. Evidence of debt taken for such loans shall be deposited with the State Treasurer and kept by him.

B. Upon the request of a locality, any memorandum of lien held on behalf of the Literary Fund prior to July 1, 2007, and deposited with the State Treasurer or recorded in the appropriate circuit court shall be marked as released. The release of such lien shall in no way affect the obligations of the locality under the loan.

Code 1950, § 22-112; 1954, c. 476; 1958, c. 162; 1980, c. 559; 2007, c. 121; 2008, c. 365.

§ 22.1-152. Payment of principal and interest.

Payments of interest and principal shall be made to the State Treasurer. A loan from the Literary Fund shall be repayable in annual installments from five to thirty years. The time of payment may be extended in the discretion of the Board of Education; but if the Board of Education has assigned any of the bonds, notes or other evidences of the loan to the Board of Trustees of the Virginia Retirement System under the provisions of § 51.1-124.30 and the same are held by the Board of Trustees of the Virginia Retirement System, the time of payment thereof may not be extended by the Board of Education but may be extended by the Board of Trustees of the Virginia Retirement System, in its discretion.

Code 1950, § 22-112; 1954, c. 476; 1958, c. 162; 1980, c. 559.

§ 22.1-153. School boards authorized to borrow from Fund; form of application.

The school boards of the several school divisions are authorized to borrow money belonging to the Literary Fund, and any school board desiring to borrow from the Fund shall make written application to the Board of Education for such loan on a form to be prescribed by the Board. In the case of a regional or joint school, the school boards of the school divisions participating in such school may jointly apply to borrow money for the benefit of the regional or joint school.

The Board shall not disburse any proceeds of any approved loan prior to its receipt of the concurrent approval of the governing body at the time of initial disbursement and an acceptable opinion of bond counsel obtained by the governing body as to the validity of the loan.

Code 1950, § 22-107; 1980, c. 559; 2007, c. 121; 2018, c. 591.

§§ 22.1-154 through 22.1-157. Repealed.

Repealed by Acts 2007, c. 121, cl. 2.

§ 22.1-158. Provisions for payment.

The governing body of any county, city or town, if the town constitutes the school division, in which the school board has borrowed money from the Literary Fund shall include in its levies and appropriate to the school board a fund sufficient to meet the liabilities of the school board on such loan for the construction or renovation or enlarging of any school building, regardless of whether the title to the site is held by the school board, the local governing body or by a third party with whom the school board has entered into a long-term lease. The governing body of any county in which the school board thereof has borrowed money from the Literary Fund for construction of school facilities located in a town in such county constituting a separate school division shall have authority to include in its levies for such town, a levy sufficient to meet the liabilities of the school board on such loan and shall levy a separate tax in the rest of the county to meet its liabilities on any contract for school facilities constructed outside such town. In the event that such school board shall fail to pay any installment of interest or principal promptly, upon notice in writing to that effect from the State Treasurer, the county, city or town treasurer shall pay to the State Treasurer any such past-due installment of interest or principal, out of the funds in his hands belonging to such county, city or town. The failure of such governing body to provide for the payment of such loan or the interest thereon when and as due shall be deemed a cause for removal of the members thereof from office on motion before the circuit court having jurisdiction in such county, city or town, instituted by the attorney for the Commonwealth of such county or city or by the Attorney General where the attorney for the Commonwealth refuses or neglects to act after demand is made on him to proceed.

For the purposes of this section, "long-term lease" means a lease for a term of twenty-five years or more.

Code 1950, § 22-113; 1976, c. 334; 1980, c. 559; 1998, c. 719.

§ 22.1-159. Loans for construction of school facilities to serve portions of counties; levy of taxes for purpose of repaying such loans.

Notwithstanding any other provision of law to the contrary, the school board of any school division composed of part or all of a county, with the approval of the governing body of the county, is authorized to borrow from the Literary Fund for the purpose of constructing school facilities in such county to serve a portion of such county. Taxes on property in the magisterial districts served by such facilities shall be levied by the governing body of the county and collected for the purpose of repaying such loan; provided that, for the purposes of this section, a magisterial district shall not include a town

constituting a separate school division but the governing body of the county may levy a separate tax on property in a town in such county constituting a separate school division to repay money borrowed by such county from the Literary Fund for the purpose of constructing school facilities in such town. Except as otherwise provided by this section all other provisions of law relating to Literary Fund loans shall apply to a loan authorized by this section.

Code 1950, § 22-107.3; 1962, c. 177; 1976, c. 334; 1980, c. 559.

§ 22.1-160. School boards authorized to anticipate payment of loans.
Any school board which is indebted for any money borrowed from the Literary Fund may anticipate the payment of the principal amount of any such loan or loans, or any part thereof, by the payment of such principal amount with interest thereon to the date of such anticipated payment and may borrow money and issue bonds for the purpose of raising funds to pay any notes or other obligations of the school board now and hereafter held by the Literary Fund.

Code 1950, § 22-115; 1980, c. 559.

§ 22.1-161. Loan declared indebtedness of the county, city or town; lien on locality's funds created.
Any bonds or notes of a school board held by the Literary Fund are hereby declared to be valid and legally binding indebtedness of the county, city or combination thereof constituting the school division or of the town if the town constitutes the school division. There shall be a lien in favor of the Literary Fund on all funds and income of the county, city or town for the amount of such bonds and notes. Therefore, Literary Fund loans are considered to be general obligation debt of the governing body as defined in § 15.2-2602, and are subject to the provisions of §§ 15.2-2638 and 15.2-2659. The provisions of this section shall not be affected by the release of any memorandum of lien pursuant to subsection B of § 22.1-151.

Code 1950, §§ 22-102, 22-115; 1956, c. 184; 1971, Ex. Sess., c. 128; 1980, c. 559; 2007, c. 121; 2008, c. 365.

Chapter 10.1 - BORROWING BY SCHOOL BOARDS FROM VIRGINIA RETIREMENT SYSTEM

§ 22.1-161.1. Borrowing for capital projects for school purposes authorized.
In conformity with Article VII, Section 10 of the Constitution of Virginia, any school board is hereby authorized to contract to borrow money from the Virginia Retirement System for capital projects for school purposes, with the approval of the governing body of each county and city or part thereof constituting the school division, or of the town if the town constitutes the school division; and the Board of Trustees of the Virginia Retirement System is hereby authorized to lend the money if it is available for investment, subject to and in conformity with the provisions of this chapter.

1995, c. 250.

§ 22.1-161.2. Resolution by school board; approval or rejection by governing body; indebtedness evidenced by bonds.

Whenever a school board desires to contract with the Board of Trustees of the Virginia Retirement System to borrow money for capital projects for school purposes, it shall adopt a resolution setting forth the purpose for which it is desired to borrow the money and the amount of such proposed borrowing. Such resolution shall be entered in the minutes of the school board, and a copy of the same, certified by the clerk of the school board, shall be submitted by the school board to the governing body of the county, city or town for its approval or rejection. If the governing body approves the resolution, it shall enter its approval in its minutes, and the school board may then endeavor to negotiate an agreement with the Board of Trustees of the Virginia Retirement System for the borrowing of such money. If agreement is reached, the question of borrowing such money on the terms agreed upon by the school board and the Board of Trustees of the Virginia Retirement System shall again be submitted to the governing body of the county, city or town for its approval or rejection. If the governing body approves the terms of the agreement, it shall enter its approval in its minutes, and the school board may then, by resolution entered in its minutes, provide for the issuance of negotiable bonds evidencing the indebtedness for sale to the Virginia Retirement System. Such bonds shall be issued in conformity with the provisions of this chapter.

1995, c. 250.

§ 22.1-161.3. Issuance of bonds; procedure; form and requirements.

Such bonds shall be issued by the school board in the name of the county, city or town. For the payment of the principal of and the interest on such bonds, the full faith and credit of the county, city or town shall be pledged. The bonds shall be signed by the chairman of the school board and countersigned by the clerk thereof, but the bonds may bear or be executed with the facsimile signature of one of such officials, and in the case of coupon bonds, the coupons may bear the facsimile signatures of both of such officials; the bonds shall be under the seal of the school board, but in lieu of impressing such seal physically upon such bonds, a facsimile of such seal may be imprinted on the bonds if so authorized by the school board. The bonds shall be in the denomination or denominations of not less than $1,000 each; they may be in coupon or registered form, or both, as may be agreed upon by the school board and the Board of Trustees of the Virginia Retirement System; they shall bear interest at the agreed rate or rates, and such interest shall be payable semiannually; they shall be serial bonds with maturities and amounts as agreed upon but the first maturity date shall not be longer than two years from the date of such bonds and the maximum maturity date shall not be longer than thirty years from the date of such bonds. The place or places of payment of principal and interest shall be as agreed upon by the school board and the Board of Trustees of the Virginia Retirement System. In case any officer whose signature or a facsimile thereof shall appear on any bond or coupon shall cease to be such officer before the delivery of such bond, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bond may bear the signature of a person who at the actual time of the execution of such bond shall be the proper officer to sign the bond although at the date of the bond, the person may not have been such officer.

1995, c. 250.

§ 22.1-161.4. Disposition of proceeds from sale of bonds; separate fund.

All proceeds received from the sale of the bonds issued under the provisions of this chapter shall be paid to the treasurer or chief financial officer of the county, city or town, who shall promptly deposit such funds in a bank or banks as prescribed by general law. He shall account for such money through a fund, separate from all other funds, in the system of accounting.

1995, c. 250.

§ 22.1-161.5. Investment of proceeds pending application to authorized purpose.

Pending the application of the proceeds of any bonds issued under the provisions of this chapter to the purpose for which such bonds have been issued, all or any part of such proceeds may be invested, upon resolution of the school board, in securities that are legal investments under the laws of this Commonwealth for public sinking funds, which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the date on which the moneys will be required to make the payments for which such moneys have been designated. Any security so purchased as investment of the proceeds of such bonds shall be deemed at all times to be a part of such proceeds, and the interest accruing thereon and any profit realized from such investment shall be credited to such proceeds. Any security so purchased shall be held by the treasurer or chief financial officer of the county, city or town, and shall be sold by him upon resolution of the school board directing such sale, at the best price obtainable, or presented for redemption, whenever it shall be necessary, as determined by such resolution, in order to provide moneys to meet the purpose for which the bonds shall have been issued.

1995, c. 250.

§ 22.1-161.6. Repealed.

Repealed by Acts 1996, cc. 105 and 819.

§ 22.1-161.7. Tax to pay principal and interest on bonds.

For the payment of the principal of and the interest on any bonds issued under the provisions of this chapter, the governing body of the county, city or town is hereby authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the county, city or town are assessed, levied and collected, a tax upon all locally taxable property within the county, city or town over and above all other taxes authorized or limited by law sufficient to pay such principal and interest as the same respectively become due and payable.

1995, c. 250.

§ 22.1-161.8. Bonds deemed negotiable instruments; sale of bonds by Trustees of Retirement System; bonds made legal investments.

Bonds issued under the provisions of this chapter and purchased by the Board of Trustees of the Virginia Retirement System shall be deemed negotiable instruments under the laws of this Commonwealth. The Board of Trustees may, in its discretion, sell any such bonds so purchased and held by it at such time or times as to it may seem desirable in the management of the funds under its

control; and such bonds are hereby made securities in which all public officers and bodies of this Commonwealth, and all counties, cities and towns and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in this Commonwealth may properly and legally invest funds under their control.

1995, c. 250.

Chapter 11 - VIRGINIA PUBLIC SCHOOL AUTHORITY

§ 22.1-162. Definitions.

As used in this chapter:

1. "Authority" means the Virginia Public School Authority.

2. "Board of Commissioners" means the Board of Commissioners of the Authority.

3. "Bonds of the Authority" includes notes and other obligations issued by the Authority for any of its purposes.

4. "Local school bonds" means bonds or other obligations issued by counties, cities and towns under the provisions of Chapter 26 (§ 15.2-2600 et seq.) of Title 15.2 solely for the purpose of financing capital projects for public schools.

1980, c. 559.

§ 22.1-163. Authority created; public body corporate and agency of Commonwealth.

The Virginia Public School Authority is created as a public body corporate and an agency and instrumentality of the Commonwealth.

Code 1950, § 22-29.3; 1962, c. 194; 1980, c. 559; 1998, cc. 4, 900.

§ 22.1-164. Board of Commissioners; membership; terms; compensation and expenses; chairman and vice-chairman; quorum; employees, agents, etc.

All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Commissioners of the Virginia Public School Authority. The Board of Commissioners shall consist of the State Treasurer, the State Comptroller, the Superintendent of Public Instruction or his designee, and five additional members to be appointed by the Governor, subject to confirmation by the General Assembly, who shall serve at the pleasure of the Governor for terms of six years each. Appointments to fill vacancies other than by expiration of term shall be made for the unexpired terms. The chairman and members of the Board of Commissioners shall receive such compensation as provided for by law.

The Governor shall designate one member of the Board of Commissioners as chairman who shall serve a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. The chairman shall be the chief executive officer of the Authority and shall receive such

compensation as the Governor shall fix. The State Treasurer, the State Comptroller, the Superintendent of Public Instruction and his designee shall be ineligible to serve as chairman. The chairman shall sign and execute all vouchers for the disbursement of funds belonging to the Authority upon authorization by the Board. Five members of the Board of Commissioners shall constitute a quorum for the transaction of all business of the Authority. The Board of Commissioners shall elect one of its members as vice-chairman, who shall exercise the powers of the chairman when so directed by the chairman.

The Board of Commissioners may employ or retain such employees, agents, financial advisers and attorneys as it may deem necessary and fix their compensation.

Code 1950, § 22-29.4; 1962, c. 194; 1972, c. 745; 1976, c. 22; 1980, cc. 559, 728; 2011, cc. 691, 714.

§ 22.1-165. Management and administration of moneys, etc., transferred from Literary Fund.
The Authority shall manage and administer as provided in this chapter all moneys or obligations that may be set aside and transferred to it from the principal of the Literary Fund by the General Assembly for public school purposes pursuant to Article VIII, Section 8 of the Constitution of Virginia and any funds authorized by the General Assembly from the Literary Fund or otherwise appropriated by the General Assembly for public school purposes.

Code 1950, § 22-29.5; 1962, c. 194; 1971, Ex. Sess., c. 1; 1980, c. 559; 1990, c. 909.

§ 22.1-166. Purchase and sale of local school bonds.
The Authority is authorized to purchase local school bonds with any funds of the Authority available for such purpose, at public or private sale and for such price and on such terms as it shall determine. The Authority may pledge to the payment of the interest on and the principal of any bonds of the Authority all or any part of the local school bonds so purchased, including payments of principal and interest thereon as they shall become due. The Authority may also, subject to any such pledge, sell any such local school bonds so purchased and apply the proceeds of such sale in the purchase of other like local school bonds or for such purpose and in such manner as shall be provided by any resolution authorizing the issuance of bonds of the Authority, or the Authority may transfer such proceeds to the Literary Fund. For the purpose of Article VII, Section 10(b) of the Constitution of Virginia, the Authority shall be deemed a state agency authorized to purchase bonds issued with the consent of the school board and the governing body of the county by or on behalf of a county or district thereof for capital projects for school purposes.

Notwithstanding the provisions of any general or special law to the contrary, any city completely surrounded by a county having the urban county executive form of government may finance capital projects for school purposes through the Authority without the requirement of a voter referendum if the financing for the capital project is requested by both the city council and the school board.

The proceeds of all local school bonds issued pursuant to this chapter prior to July 1, 1975, may be used for any capital project for public schools as provided in the resolution by which their issuance was authorized.

Code 1950, § 22-29.6; 1962, c. 194; 1971, Ex. Sess., c. 87; 1972, c. 745; 1975, c. 434; 1976, c. 491; 1980, c. 559; 1989, c. 456.

§ 22.1-166.1. Loans to local school boards.

The Authority is authorized to make loans or loan interest rate subsidy payments, from any of the funds of the Authority available for such purpose, to local school boards for the purpose of acquiring and installing capital projects for school purposes for which loans from the Literary Fund are not immediately available. For the purpose of this section and § 22.1-166.2, capital projects for school purposes shall mean motor vehicles and educational technology equipment.

A. No loan from the Authority shall exceed 100 percent of the cost of the capital project for school purposes for which such loan is made.

B. A loan from the Authority shall be evidenced by notes payable to the Authority, executed or signed by the chairman of the school board, with the approval of the local governing body, attested by the clerk thereof and deposited with the State Treasurer. Payments of interest and principal on such notes shall be made to the State Treasurer. Any loan from the Authority shall be repayable in installments as shall be approved by the local school board, as appropriate, with the final installment being due not more than thirty years after the date of such loan. The time of payment may be extended in the discretion of the Authority.

C. The local governing bodies and the local school boards of the several school divisions are authorized to borrow money from the Authority, at such rate or rates, fixed or variable, as shall be approved by the local school board; any local school board to borrow from the Authority shall first make written application to the Authority for such loan on a form to be prescribed by the Authority.

D. The governing body of any county, city, or town, if the town constitutes the school division, in which the local school board has borrowed money from the Authority shall include in its levies, and appropriate to the local school board, a fund sufficient to meet the liabilities of the local school board on such loan if and to the extent such liabilities are not otherwise provided for by the General Assembly. The governing body of any county in which the local school board has borrowed money from the Authority for capital projects located in a town in such county constituting a separate school division shall have authority to include, in its levies for such town, a levy sufficient to meet the liabilities of the local school board on such loan if and to the extent such liabilities are not otherwise provided for by the General Assembly and shall levy a separate tax in the rest of the county to meet its liabilities on any contract for capital projects outside such town. In the event that such local school board shall fail to pay any installment of interest or principal promptly, upon notice in writing to that effect from the State Treasurer, the county, city, or town treasurer shall pay to the State Treasurer any such past due installment of interest or principal out of the funds in his hands belonging to such county, city, or town. The failure of such governing body to provide for the payment of such loan or the interest thereon when and as due shall be deemed a cause for removal of the members thereof from office on motion before the circuit court having jurisdiction in such county, city, or town, instituted by the attorney for the

Commonwealth of such county or city or by the Attorney General where the attorney for the Commonwealth refuses or neglects to act after demand on him to proceed.

E. The local school board of any school division composed of part or all of a county, with the approval of the governing body of the county, is authorized to borrow from the Authority for the purpose of financing capital projects in such county to serve a portion of such county. Taxes on property in the magisterial districts served by such capital projects shall be levied by the governing body of the county and collected for the purpose of repaying such loan; for the purposes of this section, a magisterial district shall not include a town constituting a separate school division but the governing body of the county may levy a separate tax on property in a town in such county constituting a separate school division to repay money borrowed by such county from the Authority for the purpose of financing capital projects in such town. Except as otherwise provided by this subsection, all other provisions of law relating to loans from the Authority shall apply to a loan authorized by this subsection.

F. Any local school board which is indebted for any money borrowed from the Authority may anticipate the payment of the principal amount of any such loans, or any part thereof, by the payment of such principal amount with interest thereon to the date of such anticipated payment and may borrow money and issue bonds for the purpose of raising funds to pay any notes or other obligations of the local school board now and hereafter held by the Authority.

1990, c. 909.

§ 22.1-166.2. Grants to local school boards.

The Authority is authorized to make grants of money, from any of the funds of the Authority available for such purpose, to local school boards for the purchase of capital projects for school purposes.

1990, c. 909.

§ 22.1-167. Issuance of bonds of Authority.

In order to provide funds for the purchase of local school bonds as authorized by § 22.1-166, to provide funds for the making of loans to local school boards as authorized by § 22.1-166.1, or to provide funds for the making of grants to local school boards as authorized by § 22.1-166.2, the Board of Commissioners is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of the Authority in such amount or amounts as the Board of Commissioners shall determine. Such bonds of the Authority shall be payable solely from funds of the Authority, including, without limitation, all or any combination of the following sources: (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, (v) any moneys transferred to the Authority from the Literary Fund, (vi) payments of principal of and interest on loans made to local school boards, and (vii) any funds authorized by the General Assembly from the Literary Fund or otherwise appropriated by the General Assembly, as shall be provided by the resolution of the Board of Commissioners authorizing any such bonds. Bonds of the Authority issued under the

provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith or credit of the Commonwealth, and all bonds of the Authority shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is or shall be pledged to the payment of the principal of or the interest on such bonds.

The bonds of each issue shall be dated, shall bear interest and shall mature at such time or times, not exceeding thirty years from their date or dates, as may be determined by the Board of Commissioners and may be made redeemable before maturity, at the option of the Board of Commissioners, at such price or prices and under such terms and conditions as may be fixed by the Board of Commissioners prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Board of Commissioners shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form or both, as the Board of Commissioners may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion of any bonds registered as to both principal and interest into coupon bonds. The Board of Commissioners may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be for the best interests of the Authority. The proceeds of such bonds shall be disbursed for the purposes for which such bonds were issued under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture provided for in § 22.1-171 may provide. Prior to the preparation of definitive bonds, the Board of Commissioners may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board of Commissioners may also provide for the replacement of any bond which shall become mutilated or shall be destroyed or lost. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things which are specified and required by this chapter.

Code 1950, § 22-29.7; 1962, c. 194; 1972, c. 745; 1980, c. 559; 1990, c. 909.

§ 22.1-167.1. Refunding issues; pass-through of savings realized.

A. In the event the Authority refunds any bonds previously issued to finance the purchase of local school bonds, the Authority shall pass-through to the issuers of such local school bonds, an allocable

share of any savings realized. Such pass-through shall be accomplished, at the option of the Authority, by means of a debt service reduction over the remaining term of the local school bonds, by a lump sum payment of the present value of such allocable share of the savings, or by such other method as the Authority shall determine to be in the mutual best interests of the issuers of the local school bonds and the Authority.

B. For the purposes of this section, "savings" means the net reduction in debt service, if any, to be realized by the Authority, after subtracting the total costs, expenses, and equity contributions associated with the refunding and with the pass-through of such savings to the issuers of the local school bonds and of any Authority funds transferred, or required to be transferred, by mandate of the General Assembly, other than to the issuers of the local school bonds.

Notwithstanding the provisions of this section, no savings shall be passed-through to the issuers of local school bonds for which an interest rate subsidy has been paid or which were issued at below market interest rates. The savings in connection with the refunding of bonds issued by the Authority and allocable to local school bonds for which an interest rate subsidy has been paid, to the extent such subsidy was paid from the Literary Fund, shall be transferred to the Literary Fund and used exclusively for Literary Fund loans to local school boards pursuant to Chapter 10 (§ 22.1-142 et seq.) of Title 22.1.

C. This section shall have no application if it conflicts with a preexisting trust indenture.

D. Whenever the Authority shall defease its bonds previously issued to finance the purchase of local school bonds, the Authority may, consistent with the provisions of this section respecting the return of savings to the issuers of the related local school bonds, designate to such issuers of local school bonds which issues, series and maturities with which interest rates shall be deemed by the Authority to have been paid. Immediately upon such designation, the local school bonds so designated shall likewise be deemed defeased and no longer outstanding, the same as if the defeasance had occurred in accordance with the provisions of § 15.2-2623. Such defeasance shall not require any action by the issuer of the affected local school bonds, shall be effective immediately, and shall be duly noted on the records of the Authority which shall no longer have any right to payment with respect to the issues, series and maturities so deemed by the Authority to have been paid. The elected officials and financial officers of the affected locality are hereby authorized to execute and deliver such federal tax forms, certificates, and other documents as the Authority may request in connection with the defeasance of its local school bonds and the bonds of the Authority.

1994, c. 272; 2006, c. 223.

§ 22.1-167.2. Security for payment; appropriations.

A. The Authority is authorized to issue bonds to finance and refinance acquisition of bonds, notes and other obligations of counties, cities and towns (local school bonds) issued for the purpose of financing and refinancing capital projects for school purposes and to pledge to the bonds all or any combination of the following sources: (i) payments of principal and interest on the local school bonds purchased by

the Authority; (ii) payments to the localities by the Commonwealth as contemplated under the provisions of § 15.2-2659 (state aid intercept) of the Code of Virginia; (iii) funds in the Literary Fund available and appropriated for such purpose; and (iv) any funds in the general fund of the Commonwealth appropriated for such purpose.

B. The Governor's Budget Bill presented each year to the General Assembly shall include an appropriation to the Authority of a sum sufficient first, from funds in the Literary Fund available for such purpose, and second, from the general fund of the Commonwealth, to cure any shortfall in pledged primary revenues on any debt service payment date on the bonds of the Authority described by this section. A shortfall in pledged primary revenues shall exist when the sum of the payments made on local school bonds due on or before such date and any proceeds derived from the implementation of § 15.2-2659 (state aid intercept) of the Code of Virginia as of such date is less than required to pay the debt service due on the Authority's bonds on such date.

C. The Literary Fund and the general fund of the Commonwealth shall be subrogated to the rights of the Authority to the extent of any such funds paid to the Authority and shall be entitled to enforce the Authority's remedies with respect to the local school bonds and to full recovery of the amount of such shortfall.

D. On or before September 30 of each year, the Authority shall submit to the Governor and the chairmen of the House Appropriations Committee and the Senate Finance Committee a report as of the end of the prior fiscal year detailing the total amount of the Authority's outstanding bonds secured by appropriations as described in subsection B. The report shall also describe any instances where any such appropriation has been used.

1998, cc. 4, 900.

§ 22.1-167.3. Bonds or notes issued for the purpose of making grants; security for payment; appropriations.

A. The Authority is authorized to pledge to the bonds or notes of the Authority (i) authorized under the provisions of a resolution adopted subsequent to June 30, 2000, for the purpose described in § 22.1-166.2, (ii) issued subsequent to June 30, 2000, and (iii) not benefiting from the provisions of either clause (iii) or (iv) of § 22.1-168, or § 22.1-168.1, in addition to other sources available for such purpose, any funds in the general fund of the Commonwealth appropriated for such purpose.

B. The Governor's budget bill presented each year to the General Assembly pursuant to § 2.2-1509 shall include an appropriation to the Authority of a sum sufficient from the general fund of the Commonwealth to cure any shortfall in pledged primary revenues on any debt service payment date on the bonds or notes of the Authority described by this section. A shortfall in pledged primary revenues shall exist when the available moneys in the Literary Fund as of such date are less than the amount required to pay the debt service due on such bonds or notes on such date. For purposes of this subsection "available moneys in the Literary Fund" means moneys remaining after the payment, or pro-

vision for payment, of debt service on bonds or notes like those described in this section and payable from the Literary Fund, but issued prior to July 1, 2000.

C. On or before September 30 of each year, the Authority shall submit to the Governor and the chairmen of the House Appropriations Committee, House Finance Committee and the Senate Finance Committee a report as of the end of the prior fiscal year detailing the total amount of the Authority's outstanding bonds and notes secured by an appropriation of a sum sufficient from the general fund of the Commonwealth as described in subsection B. The report shall also describe any instances where any such appropriation has been used.

2001, cc. 431, 456.

§ 22.1-168. Security for payment and bonds; provisions of trust indenture or resolution of Board. In the discretion of the Board of Commissioners any bonds issued under the provisions of this chapter may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign all or any part of the funds of the Authority available for such purpose including, but without limitation, all or any combination of the following sources: (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, (v) any moneys transferred to the Authority from the Literary Fund, (vi) payments of principal of and interest on loans made to local school boards, and (vii) any funds authorized by the General Assembly for such purpose from the Literary Fund or otherwise appropriated by the General Assembly. Such trust indenture or resolution providing for the issuance of such bonds may provide for the creation and maintenance of such reserves as the Board of Commissioners shall determine to be proper and may include covenants setting forth the duties of the Board of Commissioners in relation to the acquisition of any local school bonds, the substitution of any local school bonds as security for payment of the bonds of the Authority, the collection of payments of principal and interest on (i) any local school bonds, (ii) on any obligations transferred to the Authority from the Literary Fund, and (iii) on any loans made to local school boards. Such trust indenture or resolution may include provisions requiring the Authority or the trustee under such trust indenture or any depository to file a petition with the Governor and to take any and all other action required under § 15.2-2659 to secure payment of all sums necessary to cover any default as to any bonds or the interest thereon held by the Authority or by such trustee or depository to which § 15.2-2659 shall be applicable. Such trust indenture or resolution may contain provisions respecting the custody, safeguarding and application of all moneys and securities including local school bonds purchased by the Authority and obligations transferred to the Authority from the Literary Fund and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds

of bonds or of any other funds or obligations received on behalf of the Authority to furnish such indemnifying bonds or to pledge such securities as may be required by the Board of Commissioners. Any such trust indenture or resolution may contain such other provisions as the Board may deem reasonable and proper for the security of the bondholders. Any reference in this chapter to a resolution of the Board of Commissioners shall include any trust indenture authorized thereby.

Code 1950, § 22-29.8; 1962, c. 194; 1972, c. 745; 1980, c. 559; 1990, c. 909.

§ 22.1-168.1. Reserve fund; limitations.

A. If the Board of Commissioners deems it proper to create a reserve fund or funds from bond proceeds to support an issuance of bonds in accordance with the provisions of this section, all moneys held in such reserve fund, except as hereinafter provided, shall be pledged solely for the payment of the principal and interest on the bonds secured in whole or in part by such a fund. Any income or interest earned on, or increment to, any reserve fund may be transferred by the Board of Commissioners to other funds or accounts of the Authority to the extent it does not reduce the amount of the reserve fund below its minimum requirement.

B. The Board of Commissioners shall not at any time issue bonds secured in whole or in part by any reserve fund referred to in subsection C, if upon the issuance of the bonds, the amount in the reserve fund will be less than its minimum requirement unless the Board of Commissioners, at the time of issuance of the bonds, deposits in the fund an amount which, together with the amount then in the fund, will not be less than the fund's minimum reserve requirement.

C. In order to ensure further the maintenance of reserve funds established in accordance with the provisions of this section, the chairman of the Board of Commissioners shall annually, on or before December 1, make and deliver to the Governor and the Secretary of Administration a certificate stating the sum, if any, required to restore each reserve fund to its minimum requirement. Within five days after the beginning of each session of the General Assembly, the Governor shall submit to the presiding officer of each house of the General Assembly printed copies of a budget including the sum, if any, required to restore each reserve fund to its minimum requirement. All sums, if any, which may be appropriated by the General Assembly for any restoration and paid to the Authority shall be deposited by the Authority in the applicable reserve fund. All amounts paid to the Board of Commissioners by the Commonwealth pursuant to the provisions of this section shall constitute and be accounted for as advances by the Commonwealth to the Authority and, subject to the rights of the holders of any bonds of the Authority, shall be repaid to the Commonwealth without interest from available revenues of the Authority in excess of the amounts required for the payment of bonds or other obligations of the Authority, the maintenance of reserve funds, and operating expenses.

D. Excluding bonds issued prior to July 1, 1991, the total principal amount of bonds outstanding at any one time, issued by the Board of Commissioners in accordance with the provisions of this section, shall not exceed the sum of $800 million without the prior approval of the General Assembly.

E. Nothing in this section shall be construed as limiting the power of the Board of Commissioners to issue bonds (i) not secured by a reserve fund or (ii) secured by a reserve fund not described in this section.

1991, c. 543; 1995, cc. 188, 233.

§ 22.1-169. Investment of funds.

Any funds held by the Authority or by the trustee under any trust indenture under the provisions of this chapter may be invested and reinvested in securities that are legal investments under the laws of the Commonwealth for funds held by fiduciaries.

Code 1950, § 22-29.9; 1962, c. 194; 1980, c. 559.

§ 22.1-170. Repayments to Literary Fund.

All assets heretofore or hereafter transferred to the Authority from the Literary Fund pursuant to § 22.1-175 shall remain assets of the Literary Fund and shall be repaid to the Literary Fund pursuant to this section but, until so repaid, may be used for all purposes by the Authority to the same extent as if such assets were the sole property of the Authority.

On or before January 10 in each year the Authority shall set aside and repay to the Literary Fund an amount equal to the excess of the principal and interest collected by the Authority in the preceding year on account of obligations transferred to the Authority from the Literary Fund over such portion of such principal and interest as shall have been pledged by any trust indenture or resolution authorizing bonds of the Authority.

The principal collected by the Authority on account of obligations transferred to the Authority from the Literary Fund shall remain part of the principal of the Literary Fund subject to the provisions of Article VIII, Section 8 of the Constitution of Virginia and of this chapter, and the interest collected by the Authority on account of such obligations shall be deemed to be interest on the Literary Fund subject to the provisions of Article VIII, Section 8 of the Constitution of Virginia and of this chapter; provided, however, that any such collected principal and interest pledged by any trust indenture or resolution authorizing bonds of the Authority shall continue to be held by the Authority until no longer so required by the terms of such trust indenture or resolution; and further provided that, on the next succeeding tenth day of January, any amount of such collected principal and interest no longer required to be held by the Authority shall be set aside and repaid to the Literary Fund as if it had been collected at the time it became no longer required to be held.

Code 1950, § 22-29.10; 1962, c. 194; 1964, c. 146; 1971, Ex. Sess., cc. 1, 241; 1980, c. 559.

§ 22.1-171. Powers of Authority enumerated.

A. In order to enable the Authority to carry out the purposes for which it is established, the Authority is vested with the powers of a body corporate including the power to sue and be sued, to make contracts, to adopt and use a common seal and to alter the same and is authorized and empowered:

1. To collect, or to authorize the trustee under any trust indenture securing any bonds of the Authority to collect, as the same shall become due, the principal of and the interest on all obligations transferred to the Authority from the Literary Fund;

2. To collect, or to authorize the trustee under any trust indenture securing any bonds of the Authority to collect, as the same shall become due, the principal of and the interest on all local school bonds purchased by the Authority;

3. To pay the compensation of the chief executive officer of the Authority and all such employees, agents, financial advisers and attorneys as may be employed by the Authority either from moneys received by the Authority under the provisions of this chapter or from appropriations made by the General Assembly for such purpose;

4. To issue bonds of the Authority as authorized by this chapter and to refund any of such bonds;

5. To adopt or alter or repeal any bylaws, rules or regulations as the Authority may deem necessary or expedient; and

6. To do any and all other acts and things necessary, appropriate or incidental in carrying out the purposes of this chapter.

B. The Authority is further authorized and empowered to issue notes and other obligations for any of its purposes in such form as may be authorized by resolution of the Authority. The issuance of such notes or other obligations shall be governed by the provisions of this chapter insofar as the same may be applicable.

C. The Board of Commissioners shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.

Code 1950, § 22-29.11; 1962, c. 194; 1972, c. 745; 1980, c. 559; 1984, c. 734; 1985, c. 146; 2004, c. 650.

§ 22.1-172. Bonds exempt from taxation.

The bonds issued by the Authority under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or any other political subdivision thereof.

Code 1950, § 22-29.12; 1962, c. 194; 1980, c. 559.

§ 22.1-173. Bonds legal investments.

All bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and bodies of the Commonwealth, counties, cities, towns, municipal subdivisions, insurance companies and associations, savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

Code 1950, § 22-29.13; 1962, c. 194; 1980, c. 559.

§ 22.1-174. Jurisdiction of suits against Authority; service of process.

The Circuit Court of the City of Richmond shall have exclusive jurisdiction of any suit brought in Virginia against the Authority, and process in such suit shall be served either on the State Comptroller or the Chairman of the Board of Commissioners.

Code 1950, § 22-29.14; 1962, c. 194; 1980, c. 559.

§ 22.1-175. Transfers from Literary Fund to Authority.

On January 1 and July 1 of each year or at such other times as requested by the Authority, there shall be set aside and transferred from the Literary Fund to the Virginia Public School Authority for public school purposes all notes bearing fixed maturity dates and representing amounts loaned by the Literary Fund to local school boards pursuant to Chapter 10 (§ 22.1-142 et seq.) of this title, to be held and administered by the Virginia Public School Authority as provided by law. The Board of Education, the State Treasurer and the State Comptroller are hereby authorized and directed to take all necessary steps to accomplish such transfer.

Code 1950, § 22-29.15; 1962, c. 195; 1971, Ex. Sess., cc. 127, 241; 1980, c. 559; 1988, c. 259.

Chapter 11.1 - VIRGINIA PUBLIC SCHOOL CONSTRUCTION GRANTS PROGRAM AND FUND

§ 22.1-175.1. Virginia Public School Construction Grants Program established.

The Virginia Public School Construction Grants Program is hereby established to provide grants to eligible school divisions for school construction, additions, infrastructure, site acquisition for public school buildings and facilities, and renovations, including the costs of retrofitting or enlarging public school buildings; further, if a school division has completed any such projects during the previous ten years, the grants may be used for debt service payments or a portion thereof. The Program shall be administered by the Board of Education.

Local governing bodies may also establish a separate escrow fund for the deposit of such funds as provided in § 22.1-175.5.

1995, c. 762; 1998, Sp. Sess. I, c. 2; 1999, cc. 354, 391.

§ 22.1-175.2. Virginia Public School Construction Grants Fund created.

A. From such funds as may be appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the Department of the Treasury a special nonreverting fund known as the Virginia Public School Construction Grants Fund. The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be disbursed to any school division that is eligible for financial assistance pursuant to the provisions of this chapter.

B. The State Treasurer shall manage the Virginia Public School Construction Grants Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund shall be disbursed to award grants as provided in § 22.1-175.4. The amount of each grant awarded to a qualifying school division in any fiscal year shall not exceed 100 percent of the school division's aggregate annual expenditures for school construction, additions, infrastructure, site acquisition for public school buildings and facilities, renovations, including the costs of retrofitting or enlarging public school buildings, and debt service payments on such school projects which have been completed during the last ten years.

Local governing bodies may establish a separate escrow fund for the deposit of such funds as provided in § 22.1-175.5.

C. The amount of such public school construction grants shall be matched by funds of the qualifying school division based on the locality's composite index of ability to pay. In awarding such grants, the Board shall take into consideration any Literary Fund loan which may have been applied for or awarded for the same projects.

1995, c. 762; 1998, Sp. Sess. I, c. 2; 1999, cc. 354, 391.

§ 22.1-175.3. Board to issue guidelines.

The Board shall issue guidelines for the administration of the Program as it may deem necessary and appropriate. The guidelines shall include, but shall not be limited to, (i) provisions which address approval by the local governing body of the construction, addition, or site acquisition for which grant moneys are sought, (ii) the application for a grant from the Fund, (iii) the implementation of the procedure for disbursing grants to school divisions as provided in § 22.1-175.4, and (iv) recognition of the authority of local governing bodies to establish a separate escrow fund for the deposit of such funds as provided in § 22.1-175.5.

1995, c. 762; 1998, Sp. Sess. I, c. 2; 1999, cc. 354, 391.

§ 22.1-175.4. Application for grants.

A. All funds appropriated for financial assistance for the purposes of this chapter during fiscal years 1998-1999 and 1999-2000 pursuant to Item 554 of the 1998-2000 Appropriation Act shall be apportioned and distributed among the school divisions of the Commonwealth as follows: (i) there shall be apportioned and distributed equally to every school division grants in the sum of $200,000 each and (ii) the balance of all available funds shall be apportioned and distributed to each school division on a pro rata basis according to the school division's average daily membership adjusted by the locality's composite index of ability to pay as set forth in the general appropriation act.

Local governing bodies may establish a separate escrow fund for the deposit of such funds as provided in § 22.1-175.5.

B. All funds appropriated for financial assistance for the purposes of this chapter for subsequent fiscal years shall be apportioned and distributed among the school divisions of the Commonwealth in accordance with eligibility and needs criteria to be established by the 2000 Session of the General

Assembly. In developing such eligibility and needs criteria, the 2000 Session of the General Assembly shall consider the recommendations of the Commission on State Funding of Public School Construction.

1998, Sp. Sess. I, c. 2; 1999, cc. 354, 391.

§ 22.1-175.5. Capital School Projects Fund.

A. The governing body of any locality which is awarded a grant pursuant to this chapter may authorize the local treasurer or fiscal officer, by ordinance or resolution, to create a separate escrow account upon the books of the locality, as described in this section. Upon the adoption of such ordinance or resolution, the treasurer of the locality shall place such grant awards into this account.

B. The escrow account shall be known as the "County/City/Town of _____ Capital School Projects Fund." All principal deposited to such fund, together with all income from or attributable to the fund, shall be used solely for (i) construction, additions, renovations, including retrofitting and enlarging public school buildings, infrastructure, including technology infrastructure, and site acquisition for public school buildings and facilities or (ii) debt service payments, or a portion thereof, for any such projects completed in the previous ten years if so designated. No disbursement from the fund may be made except upon specific appropriation by the governing body in accordance with applicable law. If a locality establishes such a fund and designates any portion of the funds deposited therein to pay debt service for (i) any general obligation of the locality held by the Virginia Public School Authority or (ii) any Literary Fund loan, the locality shall obtain an opinion of bond counsel that designation of funds to pay debt service on obligations described in clauses (i) and (ii) hereof does not adversely impact the tax-exempt status of such obligations.

C. All grant awards deposited in the fund, including all income from or attributable to such fund, shall be deemed public funds of the locality and shall be subject to all limitations upon deposit and investment provided by general law, including, but not limited to, the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). Income, dividends, distributions, and grants accruing to the fund shall be retained in such fund and shall be expended only in accordance with the terms of this section.

D. Nothing in this section shall be deemed or construed to authorize a school board or school division to receive, hold or invest funds in its own name, nor to expend funds in the absence of a specific appropriation by the governing body of the locality in accordance with applicable law.

1999, cc. 354, 391.

Chapter 11.2 - VIRGINIA PUBLIC SCHOOL EDUCATIONAL TECHNOLOGY GRANTS PROGRAM

§ 22.1-175.6. Virginia Public School Educational Technology Grants Program established.

With such funds as are appropriated for this purpose, the Virginia Public School Educational Technology Grants Program, hereinafter referred to as "the Program," is hereby established to provide grants to eligible school divisions for educational technology, including infrastructure, software, and

hardware acquisitions and replacement, and innovative programs to advance the effectiveness of educational technology. The Program shall be administered by the Board of Education.

1999, c. 870.

§ 22.1-175.7. Virginia Public School Educational Technology Trust Fund created.

A. From such funds as may be appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the Department of the Treasury a special nonreverting fund known as the Virginia Public School Educational Technology Trust Fund, hereinafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be disbursed to any school division that is eligible for financial assistance pursuant to the provisions of this chapter.

B. The State Treasurer shall manage the Virginia Public School Educational Technology Trust Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund shall be disbursed to award grants as provided in § 22.1-175.6.

C. The amount of such educational technology grants shall be matched by funds of the qualifying school division based on the locality's composite index of ability to pay. In awarding such grants, the Board shall take into consideration any other state or federal grants which may have been applied for or awarded for the same projects. In addition, the Board shall assist local school divisions in applying for such grants and shall seek to ensure that all divisions have equitable access, based on superintendent's regions, to such funds as may be available.

1999, c. 870.

§ 22.1-175.8. Board to issue guidelines.

The Board shall issue guidelines for the administration of the Program as it may deem necessary and appropriate. The guidelines shall include, but shall not be limited to, provisions which address compliance with other law or Board requirements for educational technology, the application for a grant from the Fund, the innovations included in the proposal, and other criteria as established by the Board.

1999, c. 870.

§ 22.1-175.9. Funding.

Grants pursuant to this chapter shall be awarded upon a determination of the Governor of the appropriate funding source and amounts for the Fund established in § 22.1-175.7.

Funds appropriated for financial assistance for the purposes of this chapter shall be apportioned and distributed among the school divisions of the Commonwealth in accordance with eligibility and needs criteria to be established by the Board.

1999, c. 870.

Chapter 12 - PUPIL TRANSPORTATION

Article 1 - GENERAL PROVISIONS

§ 22.1-176. Transportation of pupils authorized; when fee may be charged; contributions; regulations of Board of Education.

A. School boards may provide for the transportation of pupils, but nothing herein contained shall be construed as requiring such transportation except as provided in § 22.1-221.

B. When a school board provides transportation to pupils for extracurricular activities, other than those covered by an activity fund, which are sponsored by the pupils' school apart from the regular instructional program and which the pupils are not required to attend or participate in, the school board may accept contributions for such transportation or charge each pupil utilizing such transportation a reasonable fee not to exceed his pro rata share of the cost of providing such transportation. A school board may waive such fees for any pupil whose parent or guardian is financially unable to pay them.

C. When a school board provides transportation to pupils for field trips which are a part of the program of the pupils' school or are sponsored by such school, the school board may accept contributions for such transportation.

D. The Board of Education shall promulgate such regulations as shall be in the public interest to effect the intent of this section.

Code 1950, §§ 22-72.1, 22-97.1; 1954, c. 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1968, c. 501; 1970, c. 156; 1971, Ex. Sess., c. 161; 1972, c. 86; 1975, cc. 308, 328; 1976, c. 99; 1978, cc. 430, 527; 1980, c. 559.

§ 22.1-176.1. Agreements to provide transportation for nonpublic school pupils.

Local school boards may enter into agreements with nonpublic schools within the school division to provide student transportation to and from such schools and school field trips under such terms and conditions as the local school boards deem appropriate and responsible. Such terms may include arrangements relating to cost-sharing, fees, insurance, and liability.

2007, c. 476; 2016, cc. 57, 145.

§ 22.1-176.2. Certain students; waiver to access student transportation in certain cases.

Each school board that provides for the transportation of students pursuant to § 22.1-176 and that has established a rule, regulation, or policy to exclude certain students who reside within a certain distance from the school at which they are enrolled from accessing such transportation shall establish a process for waiving, on a case-by-case and space-available basis, such exclusion and providing transportation to any such student whose parent is unable to provide adequate transportation for his child to attend school because the parent is providing necessary medical care to another family member who resides in the same household, as evidenced by a written explanation submitted by a licensed health care provider who provides care to such family member.

2020, c. 576.

§ 22.1-177. Regulations.

A. The Board may make regulations relating to the construction, design, operation, equipment, and color of public school buses and shall have the authority to issue an order prohibiting the operation on public streets and highways of any public school bus that does not comply with such regulations. Any such order shall be enforced by the Department of State Police.

B. Local school boards may, notwithstanding any regulation to the contrary, display decals depicting the flag of the United States on the sides and rear of school buses as long as any such decal does not obstruct the name of the school division or the number of the school bus and is no larger than 100 square inches. In addition, local school boards may, notwithstanding any regulation to the contrary, display decals relating to school bus safety. Local school divisions shall be responsible for the cost of the decals. Such decal shall not obstruct the name of the school division or the number of the school bus.

C. No regulation of the Board shall unreasonably limit the authority of any local school division to purchase and use school buses using compressed natural gas or other alternative fuels or convert its school buses to use compressed natural gas or other alternative fuels.

D. Any local school board may, notwithstanding any regulation to the contrary, sell or transfer any of its school buses to another school division or purchase a used school bus from another school division or a school bus dealer as long as the school bus (i) conforms to the specifications relating to construction and design effective in the Commonwealth on the date of manufacture; (ii) has a valid Virginia State Police inspection; and (iii) has not reached the end of its useful life according to the school bus replacement schedule utilized by the Department of Education as required by the general appropriation act.

Code 1950, § 22-276; 1958, c. 274; 1980, c. 559; 1991, c. 191; 2003, c. 162; 2007, c. 104; 2013, c. 778; 2015, c. 559.

§ 22.1-178. Requirements for persons employed to drive school buses.

A. No school board shall hire, employ, or enter into any agreement with any person for the purposes of operating a school bus transporting pupils unless the person proposed to so operate such school bus shall:

1. Have a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board of Education showing the results of such examination.

2. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the records of such Department do not disclose that the person, within the preceding five years, has been convicted upon a charge of driving under the influence of alcohol or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 or, within the preceding 12 months, has been convicted of two or more moving traffic viol-

ations or required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-498.

3. Furnish a statement signed by two reputable persons who reside in the school division or in the applicant's community that the person is of good moral character.

4. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.2-339.

5. Have reached the age of 18 on the first day of the school year.

B. Any school board may require proof of current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator as a condition to employment to operate a school bus transporting pupils.

C. School boards may require persons accepting employment after July 1, 1994, as a driver of a school bus transporting pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing. Any such tests shall be conducted in compliance with Board of Education regulations.

D. The documents required pursuant to subdivisions A 1 and A 2 shall be furnished annually prior to the anniversary date of the employment agreement as a condition to continuing employment to operate a school bus.

E. The documents required pursuant to this section shall be filed with, and made a part of, the records of the school board employing such person as a school bus operator.

F. The State Department of Education shall furnish to the several division superintendents the necessary forms to be used by applicants in furnishing the information required by this section. Insofar as practicable, such forms shall be designed to limit paperwork, avoid the possibility of mistake, and furnish all parties involved with a complete and accurate record of the information required.

G. The physical examination required by subsection A may be performed and the report of the results signed by a licensed nurse practitioner or physician assistant.

Code 1950, § 22-276.1; 1962, c. 544; 1966, c. 604; 1970, c. 696; 1972, c. 359; 1973, c. 170; 1976, cc. 116, 123; 1977, c. 393; 1978, c. 322; 1979, c. 126; 1980, c. 559; 1992, c. 130; 1993, c. 285; 1994, c. 104; 1998, c. 287; 2001, c. 445; 2006, c. 396; 2013, cc. 498, 530.

§ 22.1-179. Repealed.

Repealed by Acts 1992, c. 130, effective March 3, 1992.

§ 22.1-180. Requirements for persons employed to transport pupils attending religious or private schools.

No person, partnership, association or corporation operating any religious or private school shall hire, employ or enter into any agreement with any person for the purpose of transporting pupils by motor vehicle unless such person shall present the documents and meet the qualifications required of

operators of public school buses by subsection A of § 22.1-178. The State Department of Education shall furnish the forms prescribed for the purposes of § 22.1-178 to any person, partnership, association or corporation who shall request such forms for the purpose of compliance with this section.

Code 1950, § 22-276.2; 1968, c. 432; 1980, c. 559; 2005, c. 928.

§ 22.1-181. Training program for school bus operators.

A. The Board shall promulgate regulations requiring persons applying for employment, and employed, to operate school buses to complete a training program developed by the Board.

B. For applicants not currently possessing a commercial driver's license, such regulations shall require (i) a minimum of 24 hours of classroom training administered pursuant to this section and (ii) six hours of behind-the-wheel training on a school bus that contains no pupil passengers. For applicants currently possessing a commercial driver's license, such regulations shall require (a) a minimum of four hours of classroom training administered pursuant to this section and (b) three hours of behind-the-wheel training on a school bus that contains no pupil passengers. Behind-the-wheel training shall be administered under the direct on-board supervision of a designated school bus driver trainer.

C. The training program developed by the Board shall include safety protocols for responding to adverse weather conditions, unsafe conditions during loading and unloading of students, students on the wrong bus, and other circumstances, as determined by the Board, where student safety is at risk.

Code 1950, § 22-276.3; 1977, c. 393; 1980, c. 559; 2018, cc. 203, 389; 2019, c. 769.

§ 22.1-182. Use of school buses for public purposes.

The school board of any school division may enter into agreements with the governing body of any county, city or town in the school division, any state agency or any agency established or identified pursuant to United States Public Law 89-73 or any law amendatory or supplemental thereto providing for the use of the school buses of such school division by such agency or by departments, boards, commissions or officers of such county, city or town for public purposes, including transportation for the elderly. Each such agreement shall provide for reimbursing the school board in full for the proportionate share of any and all costs, both fixed and variable, of such buses incurred by such school board attributable to the use of such buses pursuant to such agreement. The governing body, state agency or agency established or identified pursuant to United States Public Law 89-73 or any law amendatory or supplemental thereto shall indemnify and hold harmless the school board from any and all liability of the school board by virtue of use of such buses pursuant to an agreement authorized herein.

Code 1950, § 22-151.2; 1973, c. 368; 1975, c. 633; 1980, c. 559.

§ 22.1-183. When warning lights and identification to be covered.

It shall be unlawful for a school bus licensed in this Commonwealth to be operated on the public highways of this Commonwealth for the purpose of transporting persons or commodities other than school personnel, school children or elderly or mentally or physically handicapped persons unless the lettered identification and school bus traffic warning lights on the front and rear of such bus are

covered with some opaque detachable material. This section shall not apply to any such bus when operated by a salesman or demonstrator in connection with a prospective sale or delivery of a bus.

Code 1950, §§ 22-151.2, 22-280.1; 1973, c. 368; 1975, c. 633; 1980, c. 559.

§ 22.1-184. School bus emergency drills.

At every public school having public school buses there shall be held, at least once during the first ninety calendar days of each school session and oftener if necessary, a drill in leaving school buses under emergency circumstances.

Code 1950, § 22-280.2; 1964, c. 174; 1980, c. 559.

§ 22.1-185. Shelters on bus routes.

The governing body of any county, city or town may expend funds for the construction and maintenance at points on school bus routes of such shelters, platforms or other structures as it may deem necessary or convenient for the protection and comfort of children of school age who go to such points to meet school buses.

Code 1950, § 22-282; 1980, c. 559.

§ 22.1-186. Payments for transportation of pupils.

The regulations of the Board of Education governing state payments for pupil transportation shall provide for payments to school divisions for pupil transportation provided by the school divisions both through systems operated by the school divisions and through contracts with public transportation facilities.

Code 1950, § 22-283.1; 1972, c. 699; 1980, c. 559.

§ 22.1-187. Exemption from payment of tolls by certain students, etc.

It shall be unlawful to collect any toll for the use of any road, highway, bridge, or ferry in the Commonwealth, except those financed under the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq.) or other act authorizing the construction by the State or a political subdivision thereof of projects financed by the issuance of bonds payable solely from tolls and other revenues of the project, (i) by any student or other person using the road, highway, bridge, or ferry daily for going to or from immediate attendance upon any school, institution of higher education, or other educational institution in the Commonwealth, or classes in water safety training conducted under the auspices of the American Red Cross, or (ii) by the vehicle carrying the student or other person.

Any such student or other person or the parent or guardian of any such student may apply for and receive from the principal of any school, institution of higher education, or other educational institution in the Commonwealth a card certifying that the student or other person uses such road, highway, bridge, or ferry daily for regularly attending such school, institution of higher education, or educational institution or classes at any such school or institution. Such card exhibited to the person in charge of any tollgate on any road, highway, bridge, or ferry in the Commonwealth shall be accepted in lieu of all charges for the passage through such tollgate of any such student, person, or the vehicle carrying

him when using the road, highway, bridge, or ferry daily for going to or from immediate attendance at any such school, institution of higher education, or other educational institution or classes at any such school or institution.

Any person using any such card, except for the purpose herein specified, shall be guilty of a Class 4 misdemeanor.

Code 1950, § 22-277; 1956, c. 237; 1958, c. 465; 1980, c. 559.

Article 2 - INSURANCE PROVISIONS

§ 22.1-188. Definitions.

As used in this article:

1. "Vehicle" means any vehicle owned or operated by, or owned or operated by any person under contract with, a county, city, town or school board in which any school pupils or personnel are transported at public expense to or from any public school.

2. "School pupils and personnel" includes school bus patrolmen when performing duties either in or outside a vehicle as prescribed by the Board of Education.

1980, c. 559.

§ 22.1-189. Compliance with article prerequisite to receiving state school funds.

No school division in which any school pupils or personnel are transported at public expense to or from any public school in any vehicle shall receive any state school funds unless it complies with all applicable requirements of this article and submits satisfactory evidence to the Superintendent of Public Instruction of the effectuation of all requisite insurance.

Code 1950, § 22-284; 1980, c. 559.

§ 22.1-190. When insurance required and amount thereof.

A. Every vehicle shall be covered in a policy of liability and property damage insurance issued by an insurance carrier authorized to transact business in this Commonwealth, in the amounts of at least $50,000 for injury, including death, to one person; $500,000 for injury, including death, to all persons injured in any one accident; and $50,000 for damage, including destruction, to the property of any person, other than the insured. In addition, the policy of insurance shall provide coverage for loss or damage caused by an uninsured motorist in accordance with the provisions of § 38.2-2206 and in the amounts required by this section. The policy shall also provide for medical expense payment coverage in the minimum amount of $5,000 for each person injured. Taxicabs providing transportation of students under contract with a school division shall be covered by policies providing coverage of at least $50,000 for injury, including death, to one person; $200,000 for injury, including death, to all persons injured in any one accident; $10,000 for damage, including destruction, to the property of any person other than the insured; and medical expense payment coverage in the minimum amount of $1,000 for each person injured, or in such higher amounts as the contract with the school division or a local ordinance may prescribe.

B. The insurance so effected shall be subject to all laws of this Commonwealth regulating insurance.

C. This insurance shall not be required in cases when pupils are transported on a common carrier if such carrier is covered by a policy of insurance affording substantially the protection required by this article.

D. This insurance shall not be required in cases where pupils are transported in vehicles which are owned or operated by a county, city, town or school board which has qualified for and received a certificate of self-insurance from the Commissioner of the Department of Motor Vehicles, following a certification of financial responsibility equal to that required under subsection A of this section. The Commissioner of the Department of Motor Vehicles may require posting of a bond by a locality or school board as a condition to issuance of a certificate of financial responsibility pursuant to this subsection.

Code 1950, § 22-285; 1958, c. 301; 1970, c. 681; 1976, c. 224; 1980, c. 559; 2012, c. 593.

§ 22.1-191. When Superintendent of Public Instruction to obtain insurance.

In every case in which a locality or its school board fails to obtain, or to require vehicles operated under contract with it to be covered by, the requisite insurance by the twentieth of July of any year or fails to notify the Superintendent of Public Instruction of the effectuation of requisite insurance on or before the first of August, it shall be the duty of the Superintendent of Public Instruction, on or before the first of September, to obtain insurance complying with the requirements of this article on all vehicles, as far as known to or reasonably ascertainable by him, to be used in the school division for school pupil and personnel transportation in the ensuing session and to expend for this purpose the requisite amount out of any state school funds otherwise distributable, or becoming distributable, to the school division so in default.

Code 1950, § 22-287; 1980, c. 559.

§ 22.1-192. Injury and damage covered by policy.

Every policy of insurance issued in pursuance of the provisions of this article, in addition to compliance with other requirements of this article and with the requirements of other applicable laws, shall cover:

1. Injury, including death, to school pupils and personnel, except the driver when not a pupil, riding as passengers on any of the vehicles so insured when used to transport such persons at public expense;

2. Injury, including death, to any persons not passengers on any such vehicle;

3. Damage, including destruction, to property of any person other than the insured.

Code 1950, § 22-288; 1962, c. 181; 1980, c. 559.

§ 22.1-193. Sufficiency of proof in action on policy; guest doctrine not applicable.

In case any school pupil or personnel, except the driver when not a pupil, whether riding in a vehicle or not, or any other person suffers injury, including death, or property damage, including destruction, through the ownership, maintenance, use or operation of a vehicle, it shall be sufficient, in an action

for recovery upon the policy, to prove such facts and circumstances as are required to be shown in order to recover damages for death or injury to person or property caused by the negligent operation of privately owned motor vehicles in Virginia; provided that such pupils and personnel shall not be considered as guests, and § 8.01-63 shall not apply to them.

Code 1950, § 22-289; 1980, c. 559.

§ 22.1-194. Liability of locality or school board owning or operating vehicle.

In case the locality or the school board is the owner, or operator through medium of a driver, of, or otherwise is the insured under the policy upon, a vehicle involved in an accident, the locality or school board shall be subject to action up to, but not beyond, the limits of valid and collectible insurance in force to cover the injury complained of or, in cases set forth in subsection D of § 22.1-190, up to but not beyond the amounts of insurance required under subsection A of § 22.1-190 and the defense of governmental immunity shall not be a bar to action or recovery. In case of several claims for damages arising out of a single accident involving a vehicle, the claims of pupils and school personnel, excluding driver when not a pupil, shall be first satisfied. In no event, except where approved self-insurance has been provided pursuant to subsection D of § 22.1-190, shall school funds be used to pay any claim or judgment or any person for any injury arising out of the operation of any such vehicle. The locality or school board may be sued alone or jointly with the driver, provided that in no case shall any member of a school board be liable personally in the capacity of school board member solely.

Code 1950, § 22-290; 1976, c. 224; 1980, c. 559.

§ 22.1-195. Recovery where vehicle operated under contract.

In case a vehicle involved in an accident is not owned by the county, city, town or school board but is operated under contract with the locality or school board, recovery may be had as provided for in § 22.1-193.

Code 1950, § 22-291; 1980, c. 559.

§ 22.1-196. Lapsed insurance.

If insurance is obtained but lapses while a vehicle is still being used or is proposed to be used to transport school pupils or personnel, no school funds remaining to be distributed to the school board so in default shall be distributed to it until the terms of this article in this regard have been fully complied with.

Code 1950, § 22-292; 1980, c. 559.

§ 22.1-197. Distribution of funds when Superintendent effects insurance.

When the Superintendent of Public Instruction effects insurance as required by this article, he shall nevertheless not make any distribution of state school aid funds to the school board so in default until he has been furnished with satisfactory assurances that all vehicles required by this article to be covered by insurance have been duly insured.

Code 1950, § 22-293; 1980, c. 559.

§ 22.1-198. Applicability of article not dependent upon approval of vehicles or allocability of state aid.

The provisions of this article apply to all vehicles whether or not the regulations of the Board of Education established pursuant to § 22.1-177 have been complied with and irrespective of whether or not any state aid for transporting school pupils and personnel in the particular vehicle has been, is, or will be allocable.

Code 1950, § 22-294; 1980, c. 559.

Chapter 13 - PROGRAMS, COURSES OF INSTRUCTION AND TEXTBOOKS

Article 1 - PROGRAMS AND COURSES OF INSTRUCTION GENERALLY

§ 22.1-199. Kindergarten programs suitable for certain children.

A. The kindergarten program in each school division shall include a program suitable for children who will reach their fifth birthday on or before September 30 of the school year. The school board's plan for such program shall be furnished to the Board of Education and shall include the following:

1. A statement of purpose and objectives of the kindergarten program that reflects consideration of the different readiness and maturity levels of children in the program;

2. A description of the organization, scheduling and staffing of the program that reflects a responsiveness to the needs of the children of the age span to be served in the program;

3. Evidence that the program plan was developed by a committee that included early childhood specialists, parents, teachers and administrators;

4. Scheduling and an agenda of in-service activities for kindergarten teachers to ensure adequate preparation for the program;

5. A plan for the interface of the kindergarten program with the primary program to allow for continuous progress.

B. The Superintendent of Public Instruction shall disseminate to the school divisions information concerning the ages when children are required or eligible to attend school. Each school division shall disseminate such information to parents of such children of such ages upon or prior to enrollment of such children in the public schools of the division.

C. The age requirements set forth in subsection A of this section shall not affect the operation of any two-tiered, junior or other developmentally appropriate pre-kindergarten program or transitional first grade. In those school divisions implementing such programs, children whose fifth birthday occurs between October 1 and December 31 of the school year may be enrolled in kindergarten after an appropriate readiness evaluation has demonstrated that attendance in these programs will educationally benefit such children.

Code 1950, § 22-218.1:1; 1978, c. 518; 1980, cc. 559, 570; 1985, c. 407; 1990, c. 792; 1991, c. 138.

§ 22.1-199.1. (Effective until July 1, 2021) Programs designed to promote educational opportunities.

A. The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil/teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil/teacher ratios and class sizes for grades K through three in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

With such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil/teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil/teacher ratio and class size reductions for grades K through three in schools with high or moderate concentrations of at-risk students, consistent with the provisions provided in the appropriation act.

In order to facilitate these primary grade ratio and class size reductions, the Department of Education shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to pay. School divisions shall notify the Department of Education of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil/teacher ratio.

In developing each proposed biennium budget for public education, the Board of Education shall include funding for these ratios and class sizes. These ratios and class sizes shall be included in the annual budget for public education.

B. The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. Therefore, the Board of Education shall strive to incorporate technological studies within the teaching of all disciplines. Further, the General Assembly notes that educational technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established.

With such funds as are appropriated for this purpose, the Board of Education shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act.

Funds for improving the quality and capacity of educational technology shall also be provided as set forth in the appropriation act, including, but not limited to, (i) funds for providing a technology resource assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998, and (ii)

funds to maintain the currency of career and technical education programs. Any local school board accepting funds to hire technology resource assistants or maintain currency of career and technical education programs shall commit to providing the required matching funds, based on the composite index of local ability to pay.

Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent of Public Instruction, for integrating technology into the classroom and into schoolwide instructional programs, including career and technical education programs. The grants shall be prioritized as follows:

1. In the 1994 biennium, the first priority for these funds shall be to automate the library media centers and provide network capabilities in Virginia's elementary, middle and high schools, or combination thereof, in order to ensure access to the statewide library and other information networks. If any elementary, middle or high school has already met this priority, the 1994 biennium grant shall be used to provide other educational technologies identified in the relevant division's approved technology plan, such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan programs, career and technical education laboratories or other electronic techniques designed to enhance public education and to facilitate teacher training in and implementation of effective instructional technology. The Board shall also distribute, as provided in the appropriation act, funds to support the purchase of electronic reference materials for use in the statewide automated reference system.

2. In the 1996 biennium and thereafter, the first priority for funding shall be consistent with those components of the Board of Education's revised six-year technology plan which focus on (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the Standards of Learning, and (d) training and professional development on available technologies and software to all levels and positions, including professional development for personnel delivering career and technical education at all levels and positions; and (iii) assisting school divisions in developing integrated voice-, video-, and data-connectivity to local, national and international resources.

This funding may be used to implement a local school division's long-range technology plan, at the discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the Board's revised six-year technology plan and has been approved by the Superintendent of Public Instruction.

3. The Departments of Education, Information Technology, and General Services shall coordinate master contracts for the purchase by local school boards of the aforementioned educational technologies and reference materials.

4. Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be appropriated for this purpose, implemented to replace obsolete educational hardware and software.

As provided in subsection D of § 22.1-129, school boards may donate obsolete educational technology hardware and software which are being replaced. Any such donations shall be offered to other school divisions and to preschool programs in the Commonwealth, or to public school students as provided in guidelines to be promulgated by the Board of Education. Such guidelines shall include criteria for determining student eligibility and need; a reporting system for the compilation of information concerning the number and socioeconomic characteristics of recipient students; and notification of parents of the availability of such donations of obsolete educational hardware and software.

5. In fiscal year 2000, the Board of Education shall, with such funds as are appropriated for this purpose, contract for the development or purchase of interactive educational software and other instructional materials designed as tutorials to improve achievement on the Standards of Learning assessments. Such interactive educational software and other instructional materials may be used in media centers, computer laboratories, libraries, after-school or before-school programs or remedial programs by teachers and other instructional personnel or provided to parents and students to be used in the home. This interactive educational software and other instructional materials shall only be used as supplemental tools for instruction, remediation, and acceleration of the learning required by the K through 12 Standards of Learning objectives.

Consistent with school board policies designed to improve school-community communications and guidelines for providing instructional assistance in the home, each school division shall strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by the year 2000.

C. The General Assembly finds that effective prevention programs designed to assist children at risk of school failure and dropout are practical mechanisms for reducing violent and criminal activity and for ensuring that Virginia's children will reach adulthood with the skills necessary to succeed in the twenty-first century; to this end, the following program is hereby established. With such funds as are appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten.

The grants shall be used to provide at least half-day services for the length of the school year for at-risk four-year-old children who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten. The services shall include quality preschool education, health services, social services, parental involvement including activities to promote family literacy, and transportation.

The Department of Education, in cooperation with such other state agencies that may coordinate child day care and early childhood programs, shall establish guidelines for quality preschool education and criteria for the service components, consistent with the findings of the November 1993 study by the

Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs.

The guidelines for quality preschool education and criteria for preschool education services may be differentiated according to the agency providing the services in order to comply with various relevant federal or state requirements. However, the guidelines for quality preschool education and the criteria for preschool education services shall require when such services are being provided by the public schools of the Commonwealth, and may require for other service providers, that (i) one teacher shall be employed for any class of nine students or less, (ii) if the average daily membership in any class exceeds nine students but does not exceed 18, a full-time teacher's aide shall be assigned to the class, and (iii) the maximum class size shall be 18 students.

School divisions may apply for and be granted waivers from these guidelines by the Department of Education.

During the 1995-1996 fiscal year, the Board of Education shall, with such funds as are appropriated for this purpose, distribute grants, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for 30 percent of the unserved at-risk four-year-olds in the Commonwealth pursuant to the funding provided in the appropriation act.

During the 1996-1997 fiscal year and thereafter, grants shall be distributed, with such funds as are appropriated for this purpose, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for at least 60 percent of the unserved at-risk four-year-olds and five-year-olds who are not eligible to attend kindergarten in the Commonwealth, such 60 percent to be calculated by adding services for 30 percent more of the unserved at-risk children to the 30 percent of unserved at-risk children in each locality provided funding in the appropriation act.

Local school boards may elect to serve more than 60 percent of the at-risk four-year-olds and may use federal funds or local funds for this expansion or may seek funding through this grant program for such purposes. Grants may be awarded, if funds are available in excess of the funding for the 60 percent allocation, to expand services to at-risk four-year-olds beyond the 60 percent goal.

In order for a locality to qualify for these grants, the local governing body shall commit to providing the required matching funds, based on the composite index of local ability to pay. Localities may use, for the purposes of meeting the local match, local or other nonstate expenditures for existing qualifying programs and shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program shall be used to supplement, not supplant, any local funds currently provided for preschool programs within the locality.

D. The General Assembly finds that local autonomy in making decisions on local educational needs and priorities results in effective grass-roots efforts to improve education in the Commonwealth's public schools only when coupled with sufficient state funding; to this end, the following block grant program is hereby established. With such funds as are provided in the appropriation act, the Department of Education shall distribute block grants to localities to enable compliance with the Commonwealth's

requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act for the covered programs, including the at-risk add-on program; dropout prevention, specifically Project YES; Project Discovery; English as a second language programs, including programs for overage, nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds shall not be used to pay any expenses of participating students at institutions of higher education; Reading Recovery; and school/community health centers. Each school board may use any funds received through the block grant to implement the covered programs and other programs designed to save the Commonwealth's children from educational failure.

E. In order to reduce pupil/teacher ratios and class sizes in elementary schools, from such funds as may be appropriated for this purpose, each school board may employ additional classroom teachers, remedial teachers, and reading specialists for each of its elementary schools over the requirements of the Standards of Quality. State and local funding for such additional classroom teachers, remedial teachers, and reading specialists shall be apportioned as provided in the appropriation act.

F. Pursuant to a turnaround specialist program administered by the Department of Education, local school boards may enter into agreements with individuals to be employed as turnaround specialists to address those conditions at the school that may impede educational progress and effectiveness and academic success. Local school boards may offer such turnaround specialists or other administrative personnel incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

G. The General Assembly finds that certain schools have particular difficulty hiring teachers for certain subject areas and that the need for such teachers in these schools is particularly strong. Accordingly in an effort to attract and retain high quality teachers, local school boards may offer instructional personnel serving in such schools as a member of a middle school teacher corps administered by the Department of Education incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

For purposes of this subsection, "middle school teacher corps" means licensed instructional personnel who are assigned to a local school division to teach in a subject matter in grades six, seven, or eight where there is a critical need, as determined by the Department of Education. The contract between such persons and the relevant local school board shall specify that the contract is for service in the middle school teacher corps.

1995, c. 852; 1996, c. 974; 1997, cc. 357, 394, 617, 686, 923; 1998, cc. 828, 901, 902; 1999, cc. 456, 680; 2000, cc. 93, 506; 2001, cc. 483, 484; 2004, c. 436; 2011, c. 216.

§ 22.1-199.1. (Effective July 1, 2021) Programs designed to promote educational opportunities.
A. The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil/teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil/teacher ratios and class sizes for grades K through three in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

With such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil/teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil/teacher ratio and class size reductions for grades K through three in schools with high or moderate concentrations of at-risk students, consistent with the provisions provided in the appropriation act.

In order to facilitate these primary grade ratio and class size reductions, the Department of Education shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to pay. School divisions shall notify the Department of Education of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil/teacher ratio.

In developing each proposed biennium budget for public education, the Board of Education shall include funding for these ratios and class sizes. These ratios and class sizes shall be included in the annual budget for public education.

B. The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. Therefore, the Board of Education shall strive to incorporate technological studies within the teaching of all disciplines. Further, the General Assembly notes that educational technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established.

With such funds as are appropriated for this purpose, the Board of Education shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act.

Funds for improving the quality and capacity of educational technology shall also be provided as set forth in the appropriation act, including, but not limited to, (i) funds for providing a technology resource

assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998, and (ii) funds to maintain the currency of career and technical education programs. Any local school board accepting funds to hire technology resource assistants or maintain currency of career and technical education programs shall commit to providing the required matching funds, based on the composite index of local ability to pay.

Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent of Public Instruction, for integrating technology into the classroom and into schoolwide instructional programs, including career and technical education programs. The grants shall be prioritized as follows:

1. In the 1994 biennium, the first priority for these funds shall be to automate the library media centers and provide network capabilities in Virginia's elementary, middle and high schools, or combination thereof, in order to ensure access to the statewide library and other information networks. If any elementary, middle or high school has already met this priority, the 1994 biennium grant shall be used to provide other educational technologies identified in the relevant division's approved technology plan, such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan programs, career and technical education laboratories or other electronic techniques designed to enhance public education and to facilitate teacher training in and implementation of effective instructional technology. The Board shall also distribute, as provided in the appropriation act, funds to support the purchase of electronic reference materials for use in the statewide automated reference system.

2. In the 1996 biennium and thereafter, the first priority for funding shall be consistent with those components of the Board of Education's revised six-year technology plan which focus on (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the Standards of Learning, and (d) training and professional development on available technologies and software to all levels and positions, including professional development for personnel delivering career and technical education at all levels and positions; and (iii) assisting school divisions in developing integrated voice-, video-, and data-connectivity to local, national and international resources.

This funding may be used to implement a local school division's long-range technology plan, at the discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the Board's revised six-year technology plan and has been approved by the Superintendent of Public Instruction.

3. The Departments of Education, Information Technology, and General Services shall coordinate master contracts for the purchase by local school boards of the aforementioned educational technologies and reference materials.

4. Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be appropriated for this purpose, implemented to replace obsolete educational hardware and software. As provided in subsection D of § 22.1-129, school boards may donate obsolete educational technology hardware and software which are being replaced. Any such donations shall be offered to other school divisions and to preschool programs in the Commonwealth, or to public school students as provided in guidelines to be promulgated by the Board of Education. Such guidelines shall include criteria for determining student eligibility and need; a reporting system for the compilation of information concerning the number and socioeconomic characteristics of recipient students; and notification of parents of the availability of such donations of obsolete educational hardware and software.

5. In fiscal year 2000, the Board of Education shall, with such funds as are appropriated for this purpose, contract for the development or purchase of interactive educational software and other instructional materials designed as tutorials to improve achievement on the Standards of Learning assessments. Such interactive educational software and other instructional materials may be used in media centers, computer laboratories, libraries, after-school or before-school programs or remedial programs by teachers and other instructional personnel or provided to parents and students to be used in the home. This interactive educational software and other instructional materials shall only be used as supplemental tools for instruction, remediation, and acceleration of the learning required by the K through 12 Standards of Learning objectives.

Consistent with school board policies designed to improve school-community communications and guidelines for providing instructional assistance in the home, each school division shall strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by the year 2000.

C. The General Assembly finds that local autonomy in making decisions on local educational needs and priorities results in effective grass-roots efforts to improve education in the Commonwealth's public schools only when coupled with sufficient state funding; to this end, the following block grant program is hereby established. With such funds as are provided in the appropriation act, the Department of Education shall distribute block grants to localities to enable compliance with the Commonwealth's requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act for the covered programs, including the at-risk add-on program; dropout prevention, specifically Project YES; Project Discovery; English as a second language programs, including programs for overage, nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds shall not be used to pay any expenses of participating students at institutions of higher education; Reading Recovery; and school/community health centers. Each school board may use any funds received through the block grant to implement the covered programs and other programs designed to save the Commonwealth's children from educational failure.

D. In order to reduce pupil/teacher ratios and class sizes in elementary schools, from such funds as may be appropriated for this purpose, each school board may employ additional classroom teachers, remedial teachers, and reading specialists for each of its elementary schools over the requirements of the Standards of Quality. State and local funding for such additional classroom teachers, remedial teachers, and reading specialists shall be apportioned as provided in the appropriation act.

E. Pursuant to a turnaround specialist program administered by the Department of Education, local school boards may enter into agreements with individuals to be employed as turnaround specialists to address those conditions at the school that may impede educational progress and effectiveness and academic success. Local school boards may offer such turnaround specialists or other administrative personnel incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

F. The General Assembly finds that certain schools have particular difficulty hiring teachers for certain subject areas and that the need for such teachers in these schools is particularly strong. Accordingly in an effort to attract and retain high quality teachers, local school boards may offer instructional personnel serving in such schools as a member of a middle school teacher corps administered by the Department of Education incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

For purposes of this subsection, "middle school teacher corps" means licensed instructional personnel who are assigned to a local school division to teach in a subject matter in grades six, seven, or eight where there is a critical need, as determined by the Department of Education. The contract between such persons and the relevant local school board shall specify that the contract is for service in the middle school teacher corps.

1995, c. 852; 1996, c. 974; 1997, cc. 357, 394, 617, 686, 923; 1998, cc. 828, 901, 902; 1999, cc. 456, 680; 2000, cc. 93, 506; 2001, cc. 483, 484; 2004, c. 436; 2011, c. 216; 2020, cc. 860, 861.

§ 22.1-199.2. Standards for remediation programs established.

The Board of Education shall promulgate regulations for establishing standards for remediation programs that receive state funding, without regard to state funding designations, which shall be designed to strengthen and improve the effectiveness of such programs in increasing the scholastic achievement of students with academic deficiencies. Such standards shall require school divisions to evaluate remediation programs, annually, in terms of the pass rate on the Standards of Learning tests and the demographic and educational characteristics of students who have been identified for remediation pursuant to subsection C of § 22.1-253.13:1, or clause (ii) of subsection A of § 22.1-254, and § 22.1-254.01.

The Board shall also establish in regulations, a formula for determining the level of funding necessary to assist school divisions in providing transportation services to students required to attend remediation programs.

1997, c. 466; 1998, cc. 602, 627, 902; 1999, cc. 488, 537, 552; 2000, c. 716; 2003, c. 697; 2006, cc. 41, 834; 2010, c. 61.

§ 22.1-199.3. Repealed.

Repealed by Acts 2004, c. 872, cl. 3, effective May 4, 2005.

§ 22.1-199.4. At-Risk Student Academic Achievement Program and Fund.

A. From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the At-Risk Student Academic Achievement Program, to be administered by the Board of Education, and a special nonreverting fund within the Department of the Treasury known as the At-Risk Student Academic Achievement Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

The Department of the Treasury shall administer and manage the Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund shall be disbursed to award noncompetitive grants to public school divisions to implement research-based programs or programs identified as best practices that are designed to improve the academic achievement of at-risk public school students on the Standards of Learning assessments and decrease the rate of dropout among at-risk public school students.

B. The amount of grants and required local matching funds shall be determined as provided in the appropriation act.

Funds received through this Program shall be used to supplement, not supplant, any local funds currently provided for at-risk programs within the school division.

C. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

2004, c. 456; 2016, cc. 720, 750.

§ 22.1-199.5. After school programs for at-risk students.

A local school board may establish after school programs designed to prevent at-risk youth from engaging in illegal or gang-related activities for school aged children.

Local funds appropriated for K through 12 education may be used to support such after-school programs.

2008, c. 455.

§ 22.1-199.6. Expired.

Expired.

§ 22.1-199.7. Community schools.

A. In order to remove nonacademic barriers to learning as a means to enhance student academic success in public elementary and secondary schools throughout the Commonwealth, the Department of Education shall establish an interagency task force composed of state and local agencies and entities in the areas of early childhood development, health, social services, community engagement, family engagement, higher education, communities in schools, and workforce development for the purpose of (i) developing a program for the establishment of community schools whereby public elementary and secondary schools serve as centers for the provision of such community programs and services to students and their families as may be necessary on the basis of unique needs of the student population to be served and (ii) developing and providing to the Governor, the Secretary of Education, local school boards, and other interested state, local, and private entities policy recommendations relating to the coordinated delivery of community services to students and their families and the operation of community schools throughout the Commonwealth in accordance with the Virginia Community School Framework.

B. The community schools program established pursuant to subsection A shall include a process by which school boards and community partnerships consisting of school boards and other community and service providers may apply to the Department of Education to designate an elementary or secondary school in the local school division as a community school. The application process shall include requirements for applicants to provide a plan for the sustainability of the community school and for the measurement of the success and effectiveness of the community school. The Department of Education shall consult with the interagency task force established pursuant to subsection A in the selection of applications and the designation of community schools.

2020, c. 872.

§ 22.1-200. Subjects taught in elementary grades.

A. In the elementary grades of every public school the following subjects shall be taught: Spelling, reading, writing, arithmetic, grammar, geography, health and physical education, drawing, civil government, history of the United States and history of Virginia.

B. Physical education shall include activities such as, but not limited to, cardiovascular, muscle building, or stretching exercises, as appropriate.

Code 1950, § 22-233; 1980, c. 559; 2005, c. 350.

§ 22.1-200.01. Alternatives to animal dissection.

Local school divisions shall provide students with alternatives to animal dissection techniques within the relevant public school curriculum or course. The Board of Education shall establish guidelines to be implemented by local school divisions regarding such alternative dissection techniques. Such guidelines shall address, but shall not be limited to, (i) the use of detailed models of animal anatomy and computer simulations as alternatives to dissection; (ii) notification of students and parents of the

option to decline to participate in animal dissection; and (iii) such other issues as the Board deems appropriate.

2004, c. 918.

§ 22.1-200.02. Repealed.

Repealed by Acts 2005, c. 741, cl. 2.

§ 22.1-200.03. Economics education and financial literacy required in middle and high school grades; Board of Education to establish objectives for economic education and financial literacy; banking-at-school programs.

A. Instruction in the principles of the American economic system shall be required in the public middle and high schools of the Commonwealth to promote economics education and financial literacy of students and to further the development of knowledge, skills, and attitudes needed for responsible citizenship in a constitutional democracy.

B. The Board of Education shall develop and approve objectives for economics education and financial literacy at the middle and high school levels, that shall be required of all students, and shall provide for the systematic infusion of economic principles in the relevant Standards of Learning, and in career and technical education programs. The objectives shall include personal living and finances; personal and business money management skills; opening an account in a financial institution and judging the quality of a financial institution's services; balancing a checkbook; completing a loan application; the implications of an inheritance; the basics of personal insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt management; managing retail and credit card debt; evaluating the economic value of postsecondary studies, including the net cost of attendance, potential student loan debt, and potential earnings; state and federal tax computation; local tax assessments; computation of interest rates by various mechanisms; understanding simple contracts; and learning how to contest an incorrect bill.

C. To facilitate the objectives of economics education and financial literacy through practical experiences, the Department shall confer with the State Corporation Commission's Bureau of Financial Institutions, and financial and relevant professional organizations in the development of guidelines for such literacy objectives. The guidelines shall include (i) rules and policies governing the establishment, operation, and dissolution of school banks and school credit unions; (ii) written agreements between partnering public schools and financial institutions, including the disposition of funds donated or other financial contributions provided by the partnering financial institution; and (iii) such other matters as the Department may deem appropriate.

D. The Board shall not be required to evaluate student achievement concerning economics education and financial literacy objectives in the Standards of Learning assessments required by § 22.1-253.13:3.

E. For the purposes of this section, "at-risk and disadvantaged students" means students having socioeconomic or cultural risk factors that research indicates may negatively influence academic achievement or may hinder an individual in reaching his life goals.

For the purposes of this section, "financial institution" means a bank, savings and loan association, savings bank, or credit union authorized to conduct business in the Commonwealth.

For the purposes of this section, "high school" includes grades nine through 12.

For the purposes of this section, "middle school" includes grades six through eight.

2005, c. 741; 2017, c. 522.

§ 22.1-200.1. Optional education programs for kindergarten through grade five.

In lieu of §§ 22.1-277, 22.1-277.07, and 22.1-277.08, a school board may establish optional age-appropriate education programs for young students in grades kindergarten through five who require guidance, supervision, and discipline in a structured learning environment and who need to be redirected toward appropriate classroom decorum and acceptable personal behavior. The programs shall provide instructional and support services that will enable students to maintain academic achievement, attain basic skills and academic proficiencies, and otherwise benefit from a public education during the time that they may be removed from the regular classroom. The programs shall also be designed to accommodate students within the school building to which they have been assigned, facilitate the efficient transition of students between the optional education program and their regular classroom, and provide for the continuity of instruction, a nurturing environment, necessary guidance and supervision, and the participation of the student's parents in correcting his behavior. Such programs shall be adequately staffed by licensed teachers or other persons with demonstrated qualifications to instruct and manage students with a range of academic gifts and deficiencies, disciplinary problems, and the need to develop and use appropriate social skills.

2001, c. 846.

§ 22.1-200.2. Minimum instructional time; optional unstructured recreational time.

A. Local school boards shall provide (i) a minimum of 680 hours of instructional time to students in elementary school, except for students in half-day kindergarten, in the four academic disciplines of English, mathematics, science, and history and social science and (ii) a minimum of 375 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science.

B. Local school boards may include and the Board of Education shall accept, for elementary school, unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time or teaching hours, provided that such unstructured recreational time does not exceed 15 percent of total instructional time or teaching hours.

2018, cc. 784, 785.

§ 22.1-201. Study of documents of Virginia history and United States Constitution.

To increase knowledge of citizens' rights and responsibilities thereunder and to enhance the understanding of Virginia's unique role in the history of the United States, the Declaration of American Independence, the general principles of the Constitution of the United States, including the Bill of Rights, the Virginia Statute of Religious Freedom, the charters of the Virginia Company of April 10, 1606, May 23, 1609, and March 12, 1612, and the Virginia Declaration of Rights shall be thoroughly explained and taught by teachers to pupils in public elementary, middle, and high schools. Emphasis shall be given to the relationship between these documents and Virginia history and to citizenship responsibilities inherent in the rights included in these documents. Each teacher shall ensure that all supplementary written materials that he uses to teach these documents contain accurate restatements of the principles contained in such documents. Written examinations as to each of such documents shall be given.

The Department of Education shall develop guidelines for supplementary written materials that teachers use to teach the Declaration of American Independence, the general principles of the Constitution of the United States, including the Bill of Rights, the Virginia Statute of Religious Freedom, the charters of the Virginia Company of April 10, 1606, May 23, 1609, and March 12, 1612, and the Virginia Declaration of Rights.

Code 1950, § 22-234; 1971, Ex. Sess., c. 69; 1980, c. 559; 1982, c. 354; 1991, c. 178; 1994, c. 693; 1999, c. 559; 2000, c. 504; 2014, c. 647.

§ 22.1-202. Instruction in history and principles of flags of United States and Virginia; pledge of allegiance to American flag; guidelines developed by the Board.

A. Instruction in the history and principles of the flag of the United States and the flag of the Commonwealth shall be given in one or more grades in every school division. The instruction shall include the pledge of allegiance and the appropriate etiquette and conventions for respecting the dignity and appropriate display of such flags.

In recognition of the civic heritage of the United States of America, all students shall be required to learn the Pledge of Allegiance and to demonstrate such knowledge.

B. To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools.

The Board's guidelines shall include, but shall not be limited to, provisions which address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the propriety and constitutionality of any recitation or participation requirements; appropriate etiquette and conventions for respecting the dignity and appropriate display of the flag of the United States and the flag of the Commonwealth; and relevant state and federal constitutional concerns, such as freedom of speech and religion.

These guidelines shall not be subject to the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). However, to provide appropriate opportunity for involvement by the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing such guidelines. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to hold such hearings in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to the adoption of such guidelines.

C. Each school board shall require the daily recitation of the Pledge of Allegiance in each classroom of the school division and shall ensure that the flag of the United States is in place in each such classroom. Each school board shall determine the appropriate time during the school day for the recitation of the Pledge. During such Pledge of Allegiance, students shall stand and recite the Pledge while facing the flag with their right hands over their hearts or in an appropriate salute if in uniform; however, no student shall be compelled to recite the Pledge if he, his parent or legal guardian objects on religious, philosophical or other grounds to his participating in this exercise. Students who are thus exempt from reciting the Pledge shall remain quietly standing or sitting at their desks while others recite the Pledge and shall make no display that disrupts or distracts others who are reciting the Pledge. School boards shall provide appropriate accommodations for students who are unable to comply with the procedures described herein due to disability.

The school board's code of conduct shall apply to disruptive behavior during the recitation of the Pledge in the same manner as provided for other circumstances of such behavior.

D. The Office of the Attorney General shall intervene on behalf of local school boards and shall provide legal defense of the provisions of this section.

Code 1950, § 22-165; 1980, c. 559; 1996, cc. 122, 124; 1998, c. 128; 2001, c. 666.

§ 22.1-202.1. Comparative religion as elective course.

The Board of Education shall authorize local school boards to offer, as an elective in grades nine through 12 with appropriate credits toward graduation, a comparative religion class that focuses on the basic tenets, history, and religious observances and rites of world religions.

2004, cc. 939, 955; 2006, cc. 90, 161.

§ 22.1-203. Daily observance of one minute of silence.

In order that the right of every pupil to the free exercise of religion be guaranteed within the schools and that the freedom of each individual pupil be subject to the least possible pressure from the Commonwealth either to engage in, or to refrain from, religious observation on school grounds, the school board of each school division shall establish the daily observance of one minute of silence in each classroom of the division.

During such one-minute period of silence, the teacher responsible for each classroom shall take care that all pupils remain seated and silent and make no distracting display to the end that each pupil

may, in the exercise of his or her individual choice, meditate, pray, or engage in any other silent activity which does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

The Office of the Attorney General shall intervene and shall provide legal defense of this law.

Code 1950, § 22-234.1; 1976, c. 103; 1980, c. 559; 2000, c. 1022.

§ 22.1-203.1. Student-initiated prayer.

In order that the right of every pupil to the free exercise of religion be guaranteed within the schools and that the freedom of each individual pupil not be subject to pressure from the Commonwealth either to engage in, or to refrain from, religious observation on school grounds, consistent with constitutional principles of freedom of religion and separation of church and state, students in the public schools may voluntarily engage in student-initiated prayer.

1994, c. 799.

§ 22.1-203.2. Guidelines for constitutional compliance for student prayer.

To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to prayer and other religious expression in the public schools. The Board's guidelines shall include, but shall not be limited to, provisions that address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the use of school facilities and equipment, including audio systems, and class time for prayer or other religious expression; and relevant state and federal constitutional concerns, such as freedom of religion and speech and separation of church and state. These guidelines shall not be subject to the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). However, in order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing such guidelines. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to hold such hearings in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to the adoption of such guidelines.

1994, c. 801, § 22.1-280.3; 2001, cc. 688, 820.

§ 22.1-203.3. Religious viewpoint expression; student expression.

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Home and classroom work shall be judged by ordinary academic standards of substance and relevance and other legitimate pedagogical concerns identified by the school.

2008, c. 859.

§ 22.1-203.4. Public high schools; Virginia voter registration.

Each public high school shall provide to any enrolled student who is of voting age or is eligible to register to vote pursuant to § 24.2-403 (i) mail voter registration applications and voter registration information provided by the Department of Elections or (ii) access to the Virginia online voter registration system on a school-owned computing device that is accessible to such student. Each student who is eligible to register to vote shall be provided the opportunity to complete an application form during the normal course of the school day.

2020, c. 612.

§ 22.1-204. Study of accident prevention.

In one or more of the elementary or secondary grades of every school division there shall be provided a course of study including elementary training in accident prevention, in proper conduct on streets and highways, in the operation of motor vehicles as required by the traffic laws of this Commonwealth, and in ways and means of preventing loss of lives and damage to property through preventable fires. Such course shall be required of every pupil completing the course of study in any such grade.

Code 1950, § 22-235; 1962, c. 482; 1966, c. 208; 1968, c. 433; 1980, c. 559; 1991, c. 178.

§ 22.1-204.1. Firearm safety education program.

Local school boards may provide firearm safety education programs for students in the elementary school grades. To assist local school boards electing to provide firearm safety education programs, the Board of Education shall establish curriculum guidelines for a standardized program of firearm safety education for the elementary school grades to promote the protection and safety of children enrolled in the public schools. The curriculum guidelines shall incorporate, among other principles of firearm safety, accident prevention and the rules upon which the Eddie Eagle Gunsafe Program offered by the National Rifle Association is based. Local school boards electing to provide firearm safety education shall offer instruction pursuant to the Board's curriculum guidelines and shall integrate firearm safety education into appropriate subject areas, if feasible, to ensure that every elementary grade student completes the course of study in firearm safety education.

2010, c. 859.

§ 22.1-204.2. Hunter safety education programs for students in grades seven through 12.

A. Local school boards may provide after-school hunter safety education programs for students in the school division in grades seven through 12. Each student shall bear the cost of participating in such programs. Local school boards shall display information on its after-school hunter safety education programs in each school and distribute information to the parents of each student in the school division in grades seven through 12.

B. The Department of Wildlife Resources shall establish a uniform curriculum for such hunter safety education programs. Each such program shall be taught by a hunter safety instructor certified pursuant to § 29.1-300.2.

2014, c. 560; 2020, c. 958.

§ 22.1-205. (Effective until January 1, 2021) Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles.

1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b) aggressive driving; (c) distracted driving; (d) motorcycle awareness; (e) organ and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) in Planning District 8, an additional minimum 90-minute parent/student driver education component. The additional parent/student driver education component may be provided to students outside Planning District 8, at the discretion of each local school board.

2. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. For students in Planning District 8 and those students in school divisions that offer the parent/student component, the participation of the student's parent or guardian shall be required, and the program shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to the Code of Virginia, and (iii) the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any school division outside Planning District 8 from including a program of parental involvement as part of a driver education program in addition to or as an alternative to the minimum 90-minute parent/student driver education component.

3. Any driver education program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows

local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

Code 1950, § 22-235.1; 1962, c. 482; 1966, c. 208; 1968, c. 433; 1974, c. 154; 1980, c. 559; 1988, c. 105; 1989, c. 392; 1998, c. 96; 1999, c. 928; 2000, cc. 82, 651; 2001, cc. 659, 665; 2002, cc. 177, 386; 2003, c. 951; 2007, c. 278; 2009, cc. 785, 813, 840; 2010, c. 663; 2011, c. 346; 2013, cc. 585, 646; 2017, c. 300; 2018, c. 521.

§ 22.1-205. (Effective January 1, 2021) Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or other document issued by the Department of Motor Vehicles under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

1. The driver education program shall include (i) instruction concerning (a) alcohol and drug abuse; (b) aggressive driving; (c) distracted driving; (d) motorcycle awareness; (e) organ and tissue donor awareness; (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and (ii) in Planning District 8, an additional minimum 90-minute parent/student driver education component. The additional parent/student driver education component may be provided to students outside Planning District 8, at the discretion of each local school board.

2. The parent/student driver education component shall be administered as part of the classroom portion of the driver education curriculum. In Planning District 8, the parent/student driver education component shall be administered in-person. Outside Planning District 8, the parent/student driver education component may be administered either in-person or online by a public school or driver training schools that are licensed as computer-based driver education providers. For students in Planning District 8 and those students in school divisions that offer the parent/student component, the participation of the student's parent or guardian shall be required, and the program shall emphasize (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to the Code of Virginia, and (iii) the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Nothing in this subdivision precludes any school division outside Planning District 8 from including a program of parental involvement as part of a driver education program in addition to or as an alternative to the minimum 90-minute parent/student driver education component.

3. Any driver education program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course.

In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

Code 1950, § 22-235.1; 1962, c. 482; 1966, c. 208; 1968, c. 433; 1974, c. 154; 1980, c. 559; 1988, c. 105; 1989, c. 392; 1998, c. 96; 1999, c. 928; 2000, cc. 82, 651; 2001, cc. 659, 665; 2002, cc. 177, 386; 2003, c. 951; 2007, c. 278; 2009, cc. 785, 813, 840; 2010, c. 663; 2011, c. 346; 2013, cc. 585, 646; 2017, c. 300; 2018, c. 521; 2020, cc. 1227, 1246.

§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine products.

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, and drunk driving shall be provided in the public schools. The Virginia Alcoholic Beverage Control Authority shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

Code 1950, § 22-235.1; 1972, c. 248; 1980, c. 559; 2001, c. 452; 2015, cc. 38, 730; 2019, c. 577.

§ 22.1-207. Physical and health education.

Physical and health education shall be emphasized throughout the public school curriculum by lessons, drills, and physical exercises, and all pupils in the public elementary, middle, and high schools shall receive as part of the educational program such health instruction and physical training as shall be prescribed by the Board of Education and approved by the State Board of Health. Such health instruction shall incorporate standards that recognize the multiple dimensions of health by including mental health and the relationship of physical and mental health so as to enhance student understanding, attitudes, and behavior that promote health, well-being, and human dignity. Such health instruction may include an age-appropriate program of instruction on the safe use of and risks of abuse of prescription drugs that is consistent with curriculum guidelines developed by the Board and approved by the State Board of Health.

Code 1950, §§ 22-237, 22-243; 1980, c. 559; 1991, c. 178; 2018, cc. 392, 393, 490.

§ 22.1-207.1. Family life education.

A. As used in this section, "abstinence education" means an educational or motivational component that has as its exclusive purpose teaching the social, psychological, and health gains to be realized by teenagers' abstaining from sexual activity before marriage.

B. The Board of Education shall develop Standards of Learning and curriculum guidelines for a comprehensive, sequential family life education curriculum in grades kindergarten through 12. Such curriculum guidelines shall include instruction as appropriate for the age of the student in family living and community relationships; the benefits, challenges, responsibilities, and value of marriage for men, women, children, and communities; the value of family relationships; abstinence education; the value

of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; the prevention of human trafficking; dating violence, the characteristics of abusive relationships, steps to take to deter sexual assault, the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted diseases; and mental health education and awareness.

C. All such instruction shall be designed to promote parental involvement, foster positive self-concepts, and provide mechanisms for coping with peer pressure and the stresses of modern living according to the students' developmental stages and abilities. The Board shall also establish requirements for appropriate training for teachers of family life education, which shall include training in instructional elements to support the various curriculum components.

D. Each school board shall conduct a review of its family life education curricula at least once every seven years, shall evaluate whether such curricula reflect contemporary community standards, and shall revise such curricula if necessary.

1987, c. 371; 1999, c. 422; 2002, c. 554; 2004, c. 1030; 2007, c. 32; 2008, c. 417; 2009, cc. 437, 583; 2017, c. 692; 2019, c. 595; 2020, c. 687.

§ 22.1-207.1:1. Family life education; certain curricula and Standards of Learning.

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on (i) the prevention of dating violence, domestic abuse, sexual harassment, including sexual harassment using electronic means, sexual violence, and human trafficking and (ii) the law and meaning of consent. Such age-appropriate elements of effective and evidence-based programs on the prevention of sexual violence may include instruction that increases student awareness of the fact that consent is required before sexual activity.

C. Any family life education curriculum offered in any elementary school, middle school, or high school shall incorporate age-appropriate elements of effective and evidence-based programs on the importance of the personal privacy and personal boundaries of other individuals and tools for a student to use to ensure that he respects the personal privacy and personal boundaries of other individuals.

D. Any family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the harmful physical and emotional effects of female genital mutilation; associated criminal penalties; and the rights of the victim, including any civil action pursuant to § 8.01-42.5.

E. Any family life education curriculum offered by a local school division may incorporate age-appropriate elements of effective and evidence-based programs on the prevention, recognition, and awareness of child abduction, child abuse, child sexual exploitation, and child sexual abuse.

2011, c. 634; 2016, c. 434; 2017, cc. 299, 692; 2018, cc. 383, 519; 2019, cc. 372, 595, 596.

§ 22.1-207.2. Right of parents to review certain materials; summaries distributed.

Every parent, guardian or other person in the Commonwealth having control or charge of any child who is required by subsection A of § 22.1-254 to send such child to a public school shall have the right to review the complete family life curricula, including all supplemental materials used in any family life education program. A complete copy of all printed materials not subject to copyright protection and a description of all audio-visual materials shall be made available through any available parental portal and kept in the school library or office and made available for review to any parent or guardian during school office hours before and during the school year. The audio-visual materials shall be made available to parents for in-person review, upon request, on the same basis as printed materials are made available.

Each school board shall develop and distribute to the parents or guardians of a student participating in the family life education program and post for public viewing on the local school division's official website a summary designed to assist parents in understanding the program implemented in its school division as such program progresses and to encourage parental guidance and involvement in the instruction of the students. Such information shall reflect the curricula of the program as taught in the classroom. The school division shall include the following information on the summary:

"Parents and guardians have the right to review the family life education program offered by their school division, including written and audio-visual educational materials used in the program. Parents and guardians also have the right to excuse their child from all or part of family life education instruction."

1989, c. 515; 1991, cc. 139, 526; 2009, c. 451; 2020, c. 689.

§ 22.1-207.2:1. Anti-bullying or suicide prevention materials; parental right to review.

Each school board shall develop and implement policies that ensure that parents have the right to review any audio-visual materials that contain graphic sexual or violent content used in any anti-bullying or suicide prevention program. Such policies shall require that prior to using any such material, the parent of the child participating in such a program shall be provided written notice of his right to review the material and his right to excuse his child from participating in the part of such program utilizing such material.

2019, c. 581.

§ 22.1-207.2:2. School Breakfast Program and National School Lunch Program; web-based application.

Each local school board that collects information to determine eligibility for participation in the School Breakfast Program or the National School Lunch Program administered by the U.S. Department of

Agriculture shall establish and post prominently on its website a web-based application for student participation in such program and shall continue to provide a paper-based application.

2019, c. 228.

§ 22.1-207.3. School breakfast programs.

A. By July 1, 1994, upon the appropriation and authorization of federal funds for the reimbursement of school breakfast programs, each school board shall establish a school breakfast program in any public school in which twenty-five percent or more of enrolled school-age children were approved eligible to receive free or reduced price meals in the federally funded lunch program during the previous school year.

B. The Board of Education shall promulgate regulations for the implementation of the program. Such regulations shall include, but not be limited to, criteria for eligibility and exemptions; a reporting system for the compilation and analysis of information concerning the number and socioeconomic characteristics of participating school-age children; standards for food services; program evaluation; the investigation of complaints; an appeals process; notification of parents and guardians of the availability of the school breakfast program; and provision to teachers, children, and their parents or guardians of nutrition information describing the relationship between good nutrition, learning, and health.

C. Each school board subject to the provisions of this section shall develop and implement a plan to ensure compliance with the provisions of subsection A and submit the plan to the Department of Education no later than thirty days prior to the commencement of the program. Beginning by June 30, 1995, and thereafter annually, each school board shall report such information as required in subsection B to the Department of Education on such forms and in the manner to be prescribed by the Board. In the event that federal funding for school breakfast programs is reduced or eliminated, a school board may support the program with such state or local funds as may be appropriated for such purposes.

1993, c. 698.

§ 22.1-207.3:1. Distribution of excess food.

A. As used in this section, "excess food" means any remaining unexpired, unopened, and unconsumed food intended to be served as part of a reimbursable meal that was unable to be utilized for a current or future meal provision after a school has served breakfast and lunch to students during a school day.

B. Each school board may distribute excess food to enrolled students eligible for the School Breakfast Program or National School Lunch Program administered by the U.S. Department of Agriculture who the school board determines are eligible to receive excess food.

C. The method by which a school board distributes excess food shall be established by the school board in accordance with the U.S. Department of Agriculture and the U.S. Food and Drug Administration requirements and guidelines for the distribution of excess food.

D. A school board may develop a policy describing the process for distributing excess food under this section, saving excess food for later consumption, or donating excess food.

2020, c. 574.

§ 22.1-207.4. Nutritional guidelines for competitive foods.

A. For purposes of this section, "competitive food" means any food, excluding beverages, sold to students on school grounds during regular school hours that is not part of the school breakfast or school lunch program.

B. The Board, in cooperation with the Department of Health, shall promulgate regulations setting nutritional guidelines for all competitive foods.

C. The Board, with assistance from the Department of Health, shall periodically review the nutritional guidelines for competitive foods to ensure that they remain current and science-based and shall also review the nutritional guidelines upon changes to federal law or regulations for competitive foods.

D. The regulations promulgated pursuant to this section shall include but not be limited to: calorie, fat, sugar, and sodium content.

E. The regulations promulgated pursuant to this section shall permit each public school to conduct on school grounds during regular school hours no more than 30 school-sponsored fundraisers per school year, during which food that does not meet the nutrition guidelines for competitive foods may be sold to students.

2010, c. 718; 2015, c. 568.

§ 22.1-207.5. Instruction in American Sign Language.

A. As used in this section, "American Sign Language" means the natural language recognized globally that is used by members of the deaf community and that is linguistically complete with unique rules for language structure and use that include phonology, morphology, syntax, semantics, and discourse.

B. If a local school board offers one or more elective courses in American Sign Language, such school board shall (i) grant academic credit for successful completion of an American Sign Language course on the same basis as the successful completion of a foreign language course and (ii) count completion of an American Sign Language course toward the fulfillment of any foreign language requirement for graduation.

C. If a local school board does not offer any elective course in American Sign Language, such school board shall (i) grant academic credit for successful completion of an American Sign Language course offered by a comprehensive community college or a multidivision online provider approved by the Board on the same basis as the successful completion of a foreign language course and (ii) count completion of any such American Sign Language course toward the fulfillment of any foreign language requirement for graduation.

2011, c. 762; 2018, c. 481.

§ 22.1-207.6. Military-connected students; National Math and Science Initiative.

The Department of Education shall encourage school boards of school divisions that have a significant number of enrolled military-connected students to partner with the National Math and Science Initiative to provide such students with the tools and resources necessary to advance science, technology, engineering, and mathematics learning opportunities and career readiness. The Department shall provide technical assistance to any school board seeking to enter into such a partnership, upon request.

2019, c. 772.

§ 22.1-208. Emphasis on moral education.

The entire scheme of instruction in the public schools shall emphasize moral education through lessons given by teachers and imparted by appropriate reading selections.

Code 1950, § 22-238; 1980, c. 559.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues that are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles

articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs consistent with the provisions of this section. The Department of Education shall assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools. With such funds as are made available for this purpose, the Department of Education shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Department of Education may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Department of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs, including a summer youth development academy.

1998, c. 725; 1999, c. 944; 2003, c. 777; 2005, cc. 461, 484, 839; 2012, c. 703; 2013, c. 575.

§ 22.1-208.02. Culturally Relevant and Inclusive Education Practices Advisory Committee.

A. The Department of Education, in consultation with the Commonwealth's Director of Diversity, Equity, and Inclusion, shall establish and appoint such members as deemed appropriate to the Culturally Relevant and Inclusive Education Practices Advisory Committee (the Advisory Committee) for the purpose of strengthening culturally relevant education practices and supporting anti-bias education and response in the Commonwealth. The Advisory Committee shall include but not be limited to a geographically, ethnically, and religiously diverse representation of teachers, curriculum specialists, principals, superintendents, advocates, higher education institutions, parents, legislators, and community-based organizations. The Advisory Committee shall report its recommendations to the Board of Education, the Governor, and the Chairpersons of the House Committee on Education and the Senate Committee on Education and Health no later than July 1, 2021. The Committee shall issue interim reports as it deems necessary.

B. The Advisory Committee shall provide standards recommendations to the Virginia Department of Education, and they shall be considered by the Board of Education, during the 2021-2022 review of the history and social science Standards of Learning. Such recommendations shall include:

1. The historical underpinnings of the Holocaust and other historical genocides in the context of how increased lower levels of hate, ridicule, and dehumanization led to larger acts of violence and state-sponsored discrimination and violence;

2. Slavery, anti-Semitism, Islamophobia, and other forms of historical dehumanizing injustice and discrimination;

3. The ignored and untold history of the indigenous people of Virginia and North America; and

4. The untold histories of other groups historically underrepresented in American and world history.

C. The Advisory Committee shall provide recommendations for the issuance of Board of Education guidelines for local school division staff, including teachers and school counselors, to offer age-appropriate anti-bias education to students. The recommendations for such guidelines shall include:

1. Recognition that anti-bias and anti-discrimination education is the work and responsibility of all staff within the local school division;

2. An emphasis on diversity and building a community of empathy, respect, understanding, and connection;

3. Examination of how lower levels of hate, ridicule, and dehumanization lead to larger acts of violence, discrimination and violence;

4. Acknowledgment of inequity on the individual level, such as biased speech and harassment, and injustice at the institutional or systemic level, such as discrimination, and the harmful impact of inequity and injustice on the community, historically and today;

5. School-based and classroom-based responses, which are student centered and proven effective, to various forms of racism, bigotry, and discrimination through empathy, respect, understanding, and connection; and

6. Updates to the Department of Education's teacher's manual, as required by action taken by the 2009 Session of the General Assembly, that emphasizes the causes and ramifications of the Holocaust and genocide.

D. The Advisory Committee shall provide recommendations on meaningful professional development with school personnel related to culturally relevant and inclusive education practices. In addition to the Board of Education, the Governor, and the Chairpersons of the House Committee on Education and the Senate Committee on Education and Health, these recommendations shall also be provided to the Advisory Board on Teacher Education and Licensure and the State Council for Higher Education in Virginia. This shall include but not be limited to considerations for:

1. The policies and regulations governing teacher preparation programs; and

2. The policies and regulations governing teacher licensure and professional development requirements for licensure renewal.

2020, cc. 572, 573.

§§ 22.1-208.1 through 22.1-208.2:1. Repealed.

Repealed by Acts 2011, c. 216, cl. 2.

§ 22.1-208.2:1.1. Repealed.

Repealed by Acts 2004, c. 872, cl. 4, effective May 4, 2005.

§ 22.1-208.2:2. Repealed.
Repealed by Acts 2011, c. 216, cl. 2.

§ 22.1-208.2:3. Repealed.
Repealed by Acts 2005, c. 741, cl. 2.

§ 22.1-208.2:4. Expired.

§ 22.1-209. Employment counseling and placement services.

A. Each school board shall make available to secondary students employment counseling and placement services to furnish information relating to the employment opportunities available to students graduating from or leaving the public schools in the school division. Such information shall include all types of employment opportunities, including, but not limited to, apprenticeships, the military, career education schools, and the teaching profession.

B. No fee, compensation or other consideration shall be charged to or received from any student utilizing such services.

C. In providing such services, the school board shall consult and cooperate with the Virginia Employment Commission, the Department of Labor and Industry, local business and labor organizations, and such career schools as may be approved by the Board.

D. The Board of Education may recommend methods for providing such services. The State Department of Education may provide assistance to school divisions in establishing and providing such services upon request.

Code 1950, § 22-40.1; 1975, c. 147; 1980, c. 559; 1990, c. 797; 1991, c. 295; 1999, c. 452.

§§ 22.1-209.01 through 22.1-209.1:1. Repealed.
Repealed by Acts 2011, c. 216, cl. 2.

§ 22.1-209.1:2. Regional alternative education programs for certain students.

A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a program consisting of regional alternative education options for elementary, middle, and high school students in compliance with subdivision D 7 of § 22.1-253.13:1 who (i) have committed an offense in violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another person, or against whom a petition or warrant has been filed alleging such acts or school board charges alleging such policy violations are pending; (ii) have been expelled from school attendance or have received one suspension for an entire semester, or have received two or more long-term suspensions within one school year; or (iii) have been released from a juvenile correctional center and have been identified by the Superintendent of the Department of Juvenile Justice's Division of Education and the relevant division superintendent as requiring a regional alternative education program. Based on available space, a student may also be administratively assigned to a regional alternative education program either at the request of the parent and with the consent of the division

superintendent or by the division superintendent after written notice to the student and his parent. Such notice of the opportunity for the student and/or his parent to participate in a hearing conducted by the division superintendent or his designee regarding such placement shall be issued and the assignment shall be final unless altered by the school board, upon timely written petition, in accordance with regulations of the school board, by the student or his parent, for a review of the record by the school board. However, no child shall be assigned to any regional alternative education program described in this section for more than one school year without an annual assessment of the placement to determine the appropriateness of transitioning the child into the school division's regular program.

B. Applications for grants shall include the following components:

1. An agreement executed by two or more school divisions and approval of their respective governing bodies to offer a regional alternative education option as provided in subsection A, and a plan for the apportionment of responsibilities for the administration, management, and support of the program, including, but not limited to, the facilities and location for the program, daily operation and oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and the program of instruction.

2. A procedure for obtaining the participation in or support for the program, as may be determined, of the parents, guardian or other person having charge or control of a child placed in the program.

3. An interagency agreement for cooperation executed by the local departments of health and social services or welfare; the juvenile and domestic relations district court; law-enforcement agencies; institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards located in the applicants' respective jurisdictions; and the Department of Juvenile Justice.

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students.

5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

6. A low pupil/teacher ratio to promote a high level of interaction between the students and the teacher.

7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling; organized, age-appropriate, developmental education for elementary and middle school children; and opportunities that enhance acculturation and permit students to improve their social and interpersonal relationship skills.

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children.

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number

of youth committed to juvenile correctional centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other postsecondary education and training programs, and improving staff retention rates.

10. The number of children who may be assigned to the regional alternative education program during the school year.

11. A plan for transitioning the enrolled students into the relevant school division's regular program.

12. A current program of staff development and training.

C. Beginning with the first year of program implementation, the Department of Education shall be entitled to deduct annually from the locality's share for the education of its students a sum equal to the actual local expenditure per pupil for the support of those students placed by the relevant school division in any such program. The amount of the actual transfers shall be based on data accumulated during the prior school year.

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

E. For the purposes of this section, "regional alternative education program" means a program supported and implemented by two or more school divisions which are either geographically contiguous or have a community of interest.

F. For the purposes of this section, "one school year" means no more than 180 teaching days.

1993, cc. 819, 856; 1994, c. 762; 1995, c. 533; 1996, cc. 755, 914; 2000, c. 739; 2004, cc. 939, 955; 2009, cc. 792, 802; 2010, c. 61; 2012, cc. 803, 835.

§ 22.1-209.1:3. Advancement Via Individual Determination (AVID) Programs.

A. With such funds as may be appropriated by the General Assembly for this purpose, local school boards may establish Advancement Via Individual Determination Programs in their respective school divisions to prepare at-risk students enrolled in the secondary grades in the public schools of the school division for postsecondary education eligibility.

B. Any school board adopting the Advancement Via Individual Determination Program shall establish policies and guidelines to ensure compliance with the provisions of this section. Programs established pursuant to subsection A shall include the following components:

1. A procedure for identifying at-risk students enrolled in the secondary grades in the public schools of the school division who demonstrate academic potential, a desire to attend college, and the willingness to pursue a rigorous academic program of study leading to eligibility for college admission;

2. A procedure for obtaining participation in or support for the program by the parent, guardian or other person having charge or control of a child engaged in the program;

3. An agreement executed with an associate-degree-granting institution of higher education or a baccalaureate institution of higher education located within or in the proximity of the school division to provide relevant support services including, but not limited to, access to advanced course work, student mentorships and tutorials, and cultural and enrichment experiences;

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students;

5. An emphasis on college preparation and college awareness, access to advanced level college preparatory courses at the high school level, building self-esteem and the promotion of personal and social responsibility, the availability of support services for students enrolled in the AVID Program, and the development and fostering of a positive attitude toward learning and the advantages of higher education;

6. A low pupil-teacher ratio to promote a high level of interaction between the students and the teacher;

7. A current program of staff development and training in the organizational structure, instructional methods, strategies, and process used in and unique to the AVID Program for all teachers and administrators assigned to the program;

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children;

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in preparing students participating in the program for college, increasing academic achievement, and lessening the need for remediation of such students who attend college.

C. Upon completion of the initial school year of the Advancement Via Individual Determination Program and at least annually thereafter, each school board implementing such program shall require submission of interim evaluation reports of the program. If funded by an appropriation pursuant to subsection A, each school board having an Advancement Via Individual Determination Program shall report the status, effectiveness, and results of such program no later than November 30 of the year following the completion of the initial school year to the Board of Education, which shall transmit such reports to the Governor and the General Assembly.

1994, c. 864; 2005, c. 633; 2016, cc. 720, 750.

§ 22.1-209.1:4. Repealed.

Repealed by Acts 2000, c. 1059, cl. 2, effective June 30, 2002.

§ 22.1-209.1:5. Expired.
Expired.

§ 22.1-209.1:6. Repealed.
Repealed by Acts 2011, c. 216, cl. 2.

§ 22.1-209.1:7. Repealed.
Repealed by Acts 2004, c. 872, cl. 5, effective May 4, 2005.

§ 22.1-209.1:8. Expired.
Expired.

§ 22.1-209.1:9. Repealed.
Repealed by Acts 2004, c. 872, cl. 6, effective May 4, 2005.

§ 22.1-209.1:10. Repealed.
Repealed by Acts 2004, c. 872, cl. 2.

§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and state agencies and institutions.
The Board of Education shall prepare and supervise the implementation in the regional detention homes and those local detention homes having teachers whose salaries were being funded by the Commonwealth on January 1, 1984, a program designed to educate and train the children detained in the homes. In addition, the Board shall supervise those programs of evaluation, education and training provided to school-age children by the Department of Health, the Department of Behavioral Health and Developmental Services, the children's teaching hospital associated with the Eastern Virginia Medical School, the Virginia Commonwealth University Health System Authority, the children's teaching hospital associated with the Virginia Commonwealth University Health System Authority, and the University of Virginia Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including, but not limited to, teacher/student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board and the Board shall prepare a budget for these educational programs which shall be solely supported by such general funds as are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be based on a ratio of one teacher for every twelve beds based on the capacity of the facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average daily attendance at the facility as calculated by the Department of Education from the previous school year.

The Board of Education shall enter into contracts with the relevant state agency or institution or detention facility or the local school divisions in which the state agencies or institutions or the regional deten-

tion homes and the relevant local detention homes are located for the hiring and supervision of teachers.

In any case in which the Board enters into a contract with the relevant state agency or institution, the Department of Human Resource Management shall establish salary schedules for the teachers which are competitive with those in effect for the school divisions in which the agency or institution is located.

1987, c. 414; 1992, cc. 209, 439; 1994, c. 854; 2000, cc. 66, 657, 865; 2002, cc. 87, 478; 2008, cc. 46, 151; 2009, cc. 813, 840.

§ 22.1-210. Night schools.

Any school board may, in its discretion, establish and conduct night schools to which may be admitted pupils, regardless of age.

Code 1950, § 22-222; 1980, c. 559.

§ 22.1-211. Operation of vacation schools and summer camps by school boards.

Any school board or any two or more school boards acting in conjunction may establish and operate or cause to be established and operated, for the benefit of persons of school age, vacation schools or camps for the advancement of education, physical training, health, nutrition, the prevention of communicable diseases, or for any other purpose deemed by such board or boards to be beneficial to persons of school age requiring special training or attention or which will promote the efficiency of their respective school systems.

Such school board or boards may expend such sum or sums as may be reasonable and requisite for such purposes or may provide such sum or sums and permit the proper use of any school property, under reasonable safeguards, for the establishment and operation of a vacation school or camp conducted under the auspices and supervision of any other governmental agency approved by such school board or boards, for the benefit of persons of school age within the jurisdiction of such board or boards. Such activity shall have been included in the estimate of money deemed to be needed for public schools for the year in which such expenditure is made.

The establishment and operation of such school or camp shall also be approved, as to conditions affecting sanitation and safety, by the health authorities having jurisdiction of the area in which such vacation school or camp is located and conducted. Any vacation school or camp operated by such school board or boards or any other local agency, department or board shall be available to persons of school age within the applicable jurisdiction on a nondiscriminatory basis regardless of whether they attend public or private schools.

Code 1950, § 22-55; 1959, Ex. Sess., c. 79, § 1; 1973, c. 101; 1980, c. 559; 1989, c. 277; 1995, c. 244.

§ 22.1-212. Vacation schools and summer camps operated by Board or Department.

Any vacation school or summer camp operated by the Board of Education or the State Department of Education shall be made available to persons of school age within the Commonwealth on a

nondiscriminatory basis regardless of whether they attend public or private schools during the regular school year.

Code 1950, § 22-21.3; 1973, c. 101; 1980, c. 559; 1989, c. 277; 1995, c. 244.

§ 22.1-212.1. Obligations of school boards.

Pursuant to § 1-511, school boards shall have no obligation to teach the standard curriculum, except courses in foreign languages, in a language other than English. School boards shall endeavor to provide instruction in the English language which shall be designed to promote the education of students for whom English is a second language.

1981, c. 185; 1986, c. 466; 1996, c. 829; 2005, c. 839.

§ 22.1-212.1:1. Single-sex education.

Consistent with constitutional principles, a school board may establish a single-sex school or class in the school division, if the school board makes available to pupils substantially equal coeducational schools or classes. Participation in such single-sex school or class shall not be required by the school division, and the school board shall ensure that participation by pupils in the single-sex school or class is voluntary. For the purposes of this section, participation by a pupil in a single-sex school or class is voluntary only if the school division also makes available to the pupil a substantially equal coeducational school or class.

1995, c. 582; 2009, c. 84.

§ 22.1-212.1:2. Green schools program; education programs to promote waste reduction and resource efficiency.

A. To assist local school boards in the development and implementation of programs of instruction that comply with the provisions of subsection C of § 22.1-253.13:1, specifically relating to citizenship and environmental issues and geography necessary for responsible participation in American society and the international community, the Board of Education may cooperate with environmental groups, other relevant state agencies, such as, but not limited to, the Department of Environmental Quality and the Department of Health, and other stakeholders in the development of a green schools program for Virginia. Any such green schools program shall focus on waste reduction through recycling and other mechanisms and educating students to help schools contain costs and to reduce waste production through resource efficiency.

B. In the development and implementation of any such program, the Board shall examine other states' green schools programs and shall receive input from parents, teachers, school administrators, school boards, business and industry leaders, and local governments. The Board shall also strive to identify businesses and other organizations that may provide support in the form of resources or funding for appropriate awards for any green schools program that may be implemented in the Commonwealth.

C. Nothing herein shall be construed to require the Board or any school board in the Commonwealth to implement a green school program or to imply or otherwise indicate that state or local funding is required to develop or implement any green school program.

2004, c. 882.

§ 22.1-212.2. Virtual Virginia.

From such funds as are appropriated, the Department of Education shall establish a statewide electronic classroom to be known as the Virtual Virginia Program. Virtual Virginia shall be made available to every public high school in Virginia.

The Department may utilize the services of the Commonwealth's educational television stations and other providers, as well as any other appropriate technology for the purposes of implementing Virtual Virginia.

The services of this program shall be limited to educational purposes. Educational purposes shall include, but not be limited to, instruction in subject areas that are not available in all schools and in-service training for instructional, administrative and support personnel.

The Department may contract with one or more local school boards that have created online courses to make one or more such courses available to other school divisions through the Virtual Virginia Program. The Department shall approve all courses offered through Virtual Virginia, including those made available by local school boards to other school divisions. A school board that makes one or more of its online courses available to other school divisions through Virtual Virginia (i) shall not be considered a multidivision online provider pursuant to § 22.1-212.23 and (ii) may charge a per-course or per-student fee to school divisions to defray the costs of developing the course and providing course instruction using teachers employed by the offering school board. The Department shall approve any such fee schedule before a school board offers any such online courses through Virtual Virginia.

The Department shall establish the Virtual Learning Advisory Committee, which shall consist of one superintendent or his designee from each of the eight superintendent's regions, the Superintendent of Public Instruction or his designee, and such other members as the Department deems appropriate, not to exceed three additional members. The contractor that manages Virtual Virginia shall serve as a nonvoting ex officio member. The Committee shall advise the Department on (i) online courses, in-service training, and digital instructional resources that school divisions need to meet the Commonwealth's graduation requirements and (ii) strategic planning to expand blended and online learning opportunities in Virginia's public schools, including cost-effective access to high-need and low-demand courses, training, content, and digital resources.

1988, c. 87; 1998, c. 106; 2011, c. 216; 2014, c. 436.

§ 22.1-212.2:1. Repealed.

Repealed by Acts 2001, c. 660, cl. 2.

§ 22.1-212.2:2. Educational technology foundations and public school foundations.

A. As used in this section:

"Educational technology" means any software, hardware, or other equipment or infrastructure or technical assistance or instruction in the use of such software, hardware or other equipment or infrastructure that may be required to implement a local school board's approved plan for educational technology or the Board of Education's comprehensive technology plan for Virginia described in § 22.1-253.13:6.

"Educational technology foundation" means a nonstock, nonprofit corporation, established for the express purpose of implementing a public/private partnership to expand access to and improve the quality of educational technology in a school division.

"Public school foundation" means a nonstock, nonprofit corporation, established for the express purpose of implementing a public/private partnership to implement public school improvement projects approved by the local school board.

"Public school improvement project" means any project designed to achieve an educational purpose that may be identified in Title 22.1.

B. Any school board may establish educational technology and public school foundations. Such foundations may be established directly by the school board or by the school board and other organizations or persons, on behalf of the school board by a third party, or through a contract with a corporation as defined in this section. Such foundations may be established as a cooperative regional effort by two or more school boards.

C. Upon establishing or contracting with such nonstock, nonprofit corporation, whether or not other organizations, school boards or persons are involved, a school board shall:

1. Review and approve the articles of incorporation and bylaws;

2. Establish a system of accounting to protect public funds;

3. Establish agreement that, upon dissolution of such corporation, any assets remaining after payment of just debts shall be transferred to and become the property of the school board or, if a regional effort, the procedure by which the property may be divided among the school boards;

4. Require, in any instance in which the school board advances, contributes or loans funds to the corporation, that such contract shall provide for the posting of a bond with surety by the officers of such corporation conditioned to protect the rights of the school board;

5. Establish terms for the allocation of any profits or revenues between the school board and the corporation; and

6. Take such other steps as may be necessary to comply with applicable law.

D. A school board may (i) advance, contribute or loan funds to such foundations and (ii) establish an escrow fund for the purpose of funding various educational technology projects, in the case of an educational technology foundation, or public school improvement projects approved by the local school board, in the case of a public school foundation.

E. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to this section shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), as provided in subdivision A 12 of § 2.2-4343, except, relative to such purchases, the school board shall comply with the provisions of § 2.2-4311 and §§ 2.2-4367 through 2.2-4377.

1997, c. 863; 1999, cc. 456, 735; 2005, cc. 331, 450; 2011, c. 216.

§ 22.1-212.2:3. Repealed.

Repealed by Acts 2011, c. 216, cl. 2.

Article 1.1 - VIRGINIA GUARANTEED ASSISTANCE PROGRAM [Repealed]

§§ 22.1-212.3, 22.1-212.4. Repealed.

Repealed by Acts 1994, c. 789.

Article 1.2 - ESTABLISHMENT OF CHARTER SCHOOLS

§ 22.1-212.5. Objectives; definitions.

A. In order to (i) stimulate the development of innovative programs within public education; (ii) provide opportunities for innovative instruction and assessment; (iii) provide parents and students with more options within their school divisions; (iv) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management and structure; (v) encourage the use of performance-based educational programs; (vi) establish high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, public charter schools may be established in Virginia as provided in this article.

B. As used in this article:

"At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which research indicates may negatively influence educational success.

"Public charter school" means a public, nonreligious, or non-home-based alternative school located within a public school division. A public charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no public charter school shall be established through the conversion of a private school or a nonpublic home-based educational program. A charter school for at-risk pupils may be established as a residential school.

"Regional public charter school" means a public charter school operated by two or more school boards and chartered directly by the participating school boards.

1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2004, c. 530; 2005, c. 928.

§ 22.1-212.5:1. Public Charter School Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Public Charter School Fund, hereafter referred to as "the Fund." The Fund shall be established on the books

of the Comptroller. Any gifts, grants, bequests, or donations from public or private sources shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of establishing or supporting public charter schools in the Commonwealth that stimulate the development of alternative public education programs. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of Public Instruction. The Board of Education shall establish criteria for making distributions from the Fund to a public charter school requesting moneys from the Fund and may issue guidelines governing the Fund as it deems necessary and appropriate.

2007, c. 118.

§ 22.1-212.6. Establishment and operation of public charter schools; requirements.

A. Enrollment in a public charter school shall be open to any child who is deemed to reside within the relevant school division or, in the case of a regional public charter school, within any of the relevant school divisions, as set forth in § 22.1-3, through a lottery process on a space-available basis, except that in the case of the conversion of an existing public school, students who attend the school and the siblings of such students shall be given the opportunity to enroll in advance of the lottery process. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.

B. A public charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the public charter school applicant and the local school board. Pursuant to a charter contract, a public charter school may operate free from specified school division policies and state regulations, and, as public schools, shall be subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation.

C. Pursuant to a charter agreement, a public charter school shall be responsible for its own operations, including, but not limited to, such budget preparation, contracts for services, and personnel matters as are specified in the charter agreement. A public charter school may negotiate and contract with a school division, the governing body of a public institution of higher education, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school division shall not exceed the division's costs to provide such services.

D. As negotiated by contract, the local school board or the relevant school boards, in the case of regional public charter schools, may allow a public charter school to use vacant or unused properties or real estate owned by the school board. In no event shall a public charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the public charter school shall be subject to negotiation between the public charter school and the school division or, in the case of a regional public charter school, between the regional public charter school and the relevant school divisions.

E. A public charter school shall not charge tuition.

1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, c. 851; 2004, c. 530; 2012, cc. 702, 720; 2014, cc. 645, 693; 2016, c. 770.

§ 22.1-212.6:1. Applicability of other laws, regulations, policies, and procedures.

A. Public charter schools are subject to all federal laws and authorities as set forth in this article and the charter contract with the local school board.

B. Public charter schools are subject to the same civil rights, health, and safety requirements applicable to other public schools in the Commonwealth, except as otherwise provided in this article.

C. Public charter schools are subject to the student assessment and accountability requirements applicable to other public schools in the Commonwealth, but nothing in this article precludes a public charter school from establishing additional student assessment measures that go beyond state requirements if the school's authorizer approves such measures.

D. Management committees of public charter schools are subject to and shall comply with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. No public charter school shall discriminate against any individual on the basis of disability, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or need for special education services or any other unlawful basis, and each public charter school shall be subject to any court-ordered desegregation plan in effect for the school division.

F. No public charter school shall discriminate against any student on the basis of limited proficiency in English, and each public charter school shall provide students who have limited proficiency in English with appropriate services designed to teach such students English and the general curriculum, consistent with federal civil rights laws.

G. No public charter school shall engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

2016, c. 770; 2020, c. 1137.

§ 22.1-212.7. Contracts for public charter schools.

A. Within 90 days of approval of a charter application, the local school board and the management committee of the approved public charter school shall execute a charter contract that clearly sets forth

(i) the academic and operational performance expectations and measures by which the public charter school will be judged and (ii) the administrative relationship between the local school board and public charter school, including each party's rights and duties. Such 90-day period may be extended by a period not to exceed 30 days by mutual agreement of the parties. Such performance expectations and measures shall include applicable federal and state accountability requirements and may be refined or amended by mutual agreement after the public charter school has collected baseline achievement data for its enrolled students.

B. The academic and operational performance expectations and measures in the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the local school board's evaluations of each public charter school. The performance framework shall include indicators, measures, and metrics for:

1. Student academic proficiency;

2. Student academic growth;

3. Achievement gaps in both proficiency and growth between the major student subgroups based on gender, race, poverty status, special education status, English language learner status, and gifted status;

4. Attendance;

5. Recurrent annual enrollment;

6. Postsecondary education readiness of high school students;

7. Financial performance and sustainability; and

8. The performance and stewardship of the management committee, including compliance with all applicable laws, regulations, and terms of the charter contract.

C. The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance, provided that the local school board approves the quality and rigor of such indicators and such indicators are consistent with the purposes of this article.

D. The performance framework shall require the disaggregation of all student performance data by major student subgroups based on gender, race, poverty status, special education status, English language learner status, and gifted status.

E. Annual performance targets shall be set by each public charter school and the local school board and shall be designed to help each school meet applicable federal, state, and local school board expectations.

F. The charter contract shall be signed by the chairman of the local school board and the president or chairman of the public charter school's management committee. Within 10 days of executing a charter

contract, the local school board shall submit to the Board written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

G. No public charter school shall commence operations without a charter contract executed in accordance with this section and approved in an open meeting of the local school board.

H. If the charter application proposes a program to increase the educational opportunities for at-risk students, including those proposals for residential charter schools for at-risk students, the local school board or relevant school boards, as the case may be, on behalf of the public charter school, shall also request that the Board approve an Individual School Accreditation Plan for the evaluation of the performance of the school as authorized by the Standards of Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code.

I. Any material revision of the terms of the contract may be made only with the approval of the local school board or relevant school boards and the management committee of the public charter school.

1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2002, c. 851; 2012, cc. 702, 720; 2016, c. 770.

§ 22.1-212.8. Charter application.

A. Any person, group, or organization, including any institution of higher education, may submit an application for the formation of a public charter school.

B. The public charter school application shall be a proposed agreement and shall include:

1. An executive summary.

2. A mission statement of the public charter school that is consistent with the principles of the Standards of Quality, including identification of the targeted academic program of study.

3. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the public charter school, in instances of the conversion of an existing public school to a public charter school, and for the placement of public charter school pupils, teachers, and employees upon termination or revocation of the charter.

4. The location or geographic area proposed for the public charter school.

5. The grades to be served each year for the full term of the charter contract.

6. Minimum, planned, and maximum enrollment per grade level per year for the term of the charter contract.

7. Evidence of need and community support for the proposed public charter school.

8. Background information on the proposed founding management committee members and, if identified, the proposed public charter school leadership and management team.

9. The public charter school's proposed calendar and a sample daily schedule.

10. A description of the academic program that is aligned with the Standards of Learning.

11. A description of the public charter school's instructional design, including the type of learning environment, such as classroom-based or independent study; class size and structure; curriculum overview; and teaching methods.

12. The public charter school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who lag behind academically, and gifted students, including compliance with applicable laws and regulations.

13. A description of cocurricular or extracurricular programs and how such programs will be funded and delivered.

14. Plans and timelines for student recruitment and enrollment, including lottery procedures.

15. The public charter school's student discipline policies, including discipline policies for special education students.

16. An organization chart that clearly presents the public charter school's organizational structure, including lines of authority and reporting between the management committee; staff; any related bodies, such as advisory bodies or parent and teacher councils; and any external organizations that will play a role in managing the public charter school.

17. A clear description of the roles and responsibilities for the management committee, the public charter school's leadership and management team, and any other entities shown in the organization chart.

18. A staffing chart for the public charter school's first year and a staffing plan for the term of the charter contract.

19. Plans for recruiting and developing the public charter school's leadership and staff.

20. The public charter school's leadership and teacher employment policies.

21. Proposed governing bylaws.

22. Explanations of any partnerships or contractual relationships central to the public charter school's operations or mission.

23. The public charter school's plans for providing transportation, food service, and all other significant operational and ancillary services.

24. A statement of opportunities and expectations for parent involvement.

25. A detailed public charter school start-up plan that identifies tasks, timelines, and responsible individuals.

26. A description of the public charter school's financial plan and policies, including financial controls and audit requirements.

27. A description of the insurance coverage that the public charter school will obtain.

28. Start-up and five-year budgets with clearly stated assumptions.

29. Start-up and first-year cash-flow projections with clearly stated assumptions.

30. Evidence of anticipated fundraising contributions, if claimed in the application.

31. A sound facilities plan, including backup or contingency plans, if appropriate.

32. Assurances that the public charter school (i) is nonreligious in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

33. Disclosure of any ownership or financial interest in the public charter school, by the charter applicant and the governing body, administrators, and other personnel of the proposed public charter school, and a requirement that the successful applicant and the governing body, administrators, and other personnel of the public charter school shall have a continuing duty to disclose such interests during the term of any charter.

C. The charter applicant shall include in the proposed agreement the results of any Board review of the public charter school application that may have been conducted as provided in subsection C of § 22.1-212.9.

1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2002, cc. 851, 874; 2004, c. 530; 2005, c. 928; 2009, c. 441; 2014, cc. 645, 693; 2016, c. 770.

§ 22.1-212.8:1. Innovation Technical Advisory Group.

The Department of Education may establish an Innovation Technical Advisory Group, comprised of individuals with experience in the establishment and operation of charter schools, college partnership laboratory schools, and virtual school programs, or it may retain the services of individuals with such experience to provide technical assistance and advice to the Board in carrying out its duties relating to charter schools, college partnership laboratory schools, and virtual school programs.

2012, c. 381.

§ 22.1-212.9. Review of public charter school applications.

A. Public charter school applications shall be received and reviewed by the Board of Education and local school boards or, in the case of a regional public charter school, by all of the relevant school boards, as provided in subsection C. However, no charter school application that is initiated by one or more local school boards shall be subject to the provisions of subsection C.

The Board of Education and each local school board shall establish procedures for receiving, reviewing, and, in the case of local school boards, ruling upon applications. The Board of Education and local school boards shall post their procedures on their websites and make a copy of the procedures available to all interested parties upon request. If any such board finds the public charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, citizens, and other interested parties and to obtain information to assist local school boards in their decisions to grant or deny a public charter school application, local school boards shall establish a procedure for public notice and to

receive comment on public charter school applications. A local school board shall give at least 14 days' notice of its intent to receive public comment on an application.

C. Prior to submission of an application to a local school board for review, the public charter school applicant shall submit its proposed charter application to the Board of Education for its review, comment, and a determination as to whether the application meets the approval criteria developed by the Board. The Board's review shall examine such applications for feasibility, curriculum, financial soundness, and other objective criteria as the Board may establish, consistent with existing state law. The Board's review and comment shall be for the purpose of ensuring that the application conforms with such criteria, and the Board shall make a determination as to whether the application meets the approval criteria developed by the Board. Nothing in this section shall prevent a local school division from working with a charter school applicant before the application is submitted to the Board of Education for review and recommendation.

1998, cc. 748, 890; 2000, cc. 631, 1028; 2001, cc. 438, 469; 2002, c. 851; 2004, c. 530; 2010, cc. 393, 650; 2013, cc. 52, 225.

§ 22.1-212.10. Reconsideration and technical assistance; review by Board.

A. If a local school board denies a public charter school application, or revokes or fails to renew a charter agreement, it shall provide to the applicant or grantee its reasons, in writing, for such decision, and it shall post such reasons on its website. A public charter school applicant whose application was denied, or a grantee whose charter was revoked or not renewed, shall be entitled to petition the local school board for reconsideration. The petition for reconsideration shall be filed no later than 60 days from the date the public charter school application is denied or the charter agreement is revoked or fails to be renewed. Such reconsideration shall be decided within 60 days of the filing of the petition.

B. Each local school board shall establish a process for reviewing petitions of reconsideration, which shall include an opportunity for public comment. The petition of reconsideration may include an amended application based on the reasons given by the local school board for such decision.

C. Prior to seeking reconsideration, an applicant or grantee may seek technical assistance from the Superintendent of Public Instruction to address the reasons for denial, revocation, or non-renewal.

D. Upon reconsideration, the decision of a local school board to grant or deny a public charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal. Following a local school board decision to deny a public charter school application or to revoke or fail to renew a charter agreement, the local school board shall submit documentation to the Board as to the rationale for the local school board's denial of the public charter school application or revocation of or failure to renew the charter agreement.

E. The Board has no authority to grant or deny a public charter school application or to revoke or fail to renew a charter agreement but may communicate any Board finding relating to the rationale for the local school board's denial of the public charter school application or revocation of or failure to renew the charter agreement based on the documentation submitted pursuant to subsection D in any school

division in which at least half of the schools receive funding pursuant to Title I, Part A of the Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended.

F. Nothing in this section shall prohibit an applicant whose application has been denied or a grantee whose charter has been revoked or not renewed from submitting a new application, pursuant to § 22.1-212.9.

1998, cc. 748, 890; 2000, cc. 631, 1028; 2010, cc. 393, 650; 2012, cc. 702, 720; 2017, c. 513.

§ 22.1-212.11. Public charter school restrictions.

A. Local school boards may establish public charter schools within the school division. Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be designed for at-risk students; however, the one-half requirement shall not apply in cases in which an existing public school is converted into a public charter school that serves the same community as the existing public school, nor shall such public charter school conversions be counted in the determination of school division compliance with the one-half requirement.

B. Local school boards shall report the grant or denial of public charter school applications to the Board and shall specify the maximum number of charters that may be authorized, if any; the number of charters granted or denied; and whether a public charter school is designed to increase the educational opportunities of at-risk students.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a public charter school.

1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, cc. 851, 874; 2004, c. 530; 2009, c. 441; 2014, cc. 645, 693.

§ 22.1-212.12. Public charter school term; renewals and revocations.

A. A charter may be approved or renewed for a period not to exceed five school years. A public charter school renewal application submitted to the local school board or, in the case of a regional public charter school, to the relevant school boards shall contain:

1. A report on the progress of the public charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board or boards may require upon granting initial approval of the charter application.

2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the public charter school and that has been concisely and clearly written to enable the school board or boards and the public to compare such costs to those of other schools or comparable organizations.

B. Local school boards may revoke a charter if the public charter school:

1. Violates the conditions, standards, or procedures established in the public charter school application;

2. Fails to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application;

3. Fails to meet generally accepted standards of fiscal management; or

4. Violates any provision of law from which the public charter school was not specifically exempted.

C. Nothing in this section shall be construed to restrict the authority of local school boards to decline to renew a charter agreement.

1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, c. 851; 2004, c. 530; 2012, cc. 702, 720.

§ 22.1-212.13. Employment of professional, licensed personnel.

A. At the discretion of the local school board, charter school personnel may be employees of the local school board, or boards, granting the charter. Any personnel not employed by the local school board shall remain subject to the provisions of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4.

B. Professional, licensed education personnel may volunteer for assignment to a public charter school. Assignment in a public charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the public charter school, reassignment to the public charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed education personnel who request assignment to a public noncharter school in the relevant school division or who are not recommended for reassignment in the public charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a public noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a public charter school shall be granted the same employment benefits given to professional, licensed personnel in public noncharter schools in accordance with the policies of the relevant school board or boards.

E. School boards may employ such health, mental health, social services, and other related personnel to serve in residential charter schools for at-risk pupils as set forth in the charter agreement between such school board and the charter school; however, nothing herein shall require a school board to fund the residential or other services provided by a residential charter school.

1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2012, cc. 702, 720; 2016, c. 770.

§ 22.1-212.14. Funding of public charter schools; services provided.

A. For the purposes of this article, students enrolled in a public charter school shall be included in the average daily membership of the relevant school division and shall be reported in fall membership for purposes of calculating the state and local shares required to fund the Standards of Quality.

B. Insofar as constitutionally valid, a local school board or, in the case of a regional public charter school, the relevant school boards may establish by contract an agreement stating the conditions for funding the public charter school, including funding for the educational program to be provided by a

residential charter school for at-risk students. In accordance with subsection D, the per pupil funding provided to the charter school by the local school board or, in the case of a regional public charter school, the relevant school boards, shall be negotiated in the charter agreement and shall be commensurate with the average school-based costs of educating the students in the existing schools in the division or divisions unless the cost of operating the charter school is less than that average school-based cost.

C. Services provided the public charter school by the local school board or the relevant school boards, in the case of regional public charter schools, may include food services; custodial and maintenance services; curriculum, media, and library services; warehousing and merchandising; and such other services not prohibited by the provisions of this article or state and federal laws.

D. Funding and service agreements between local school boards and public charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a public charter school, including any regional public charter school.

E. Any educational and related fees collected from students enrolled at a public charter school shall be credited to the account of such public charter school established by the relevant local school board.

F. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to public charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to public charter schools serving students eligible for such aid.

G. The management committee of a public charter school is authorized to accept gifts, donations, or grants of any kind made to the public charter school and to spend such funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the management committee of a public charter school if the conditions for such funds are contrary to law or the terms of the agreement between the local school board and the public charter school or, in the case of a regional public charter school, the relevant school boards and the regional public charter school.

H. The Department of Education shall provide technical assistance to local school boards relating to receipt, review, and ruling upon applications for public charter schools.

1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2002, c. 851; 2012, cc. 702, 720.

§ 22.1-212.15. Report of public charter schools.

The Board shall report the number of public charter schools established in the Commonwealth, as well as the number of charters denied, in its annual report to the Governor and the General Assembly pursuant to § 22.1-18.

1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, cc. 851, 874; 2010, c. 61.

§ 22.1-212.16. Immunity.

Public charter schools shall be immune from liability to the same extent as all other public schools in the Commonwealth, and the employees and volunteers in a public charter school are immune from liability to the same extent as the employees and volunteers in a public school.

2002, c. 874.

Article 1.3 - COMMISSION ON CIVICS EDUCATION [Repealed]

§§ 22.1-212.17 through 22.1-212.22. Repealed.

Repealed by Acts 2009, c. 859, cl. 3, effective July 1, 2009.

Article 1.4 - ESTABLISHMENT OF VIRTUAL SCHOOL PROGRAMS

§ 22.1-212.23. Definitions.

As used in this article:

"Multidivision online provider" means (i) a private or nonprofit organization that enters into a contract with a local school board to provide online courses or programs through that school board to students who reside in Virginia both within and outside the geographical boundaries of that school division; (ii) a private or nonprofit organization that enters into contracts with multiple local school boards to provide online courses or programs to students in grades K through 12 through those school boards; or (iii) a local school board that provides online courses or programs to students who reside in Virginia but outside the geographical boundaries of that school division. However, "multidivision online provider" shall not include (a) a local school board's online learning program in which fewer than 10 percent of the students enrolled reside outside the geographical boundaries of that school division; (b) multiple local school boards that establish joint online courses or programs in which fewer than 10 percent of the students enrolled reside outside the geographical boundaries of those school divisions; (c) local school boards that provide online learning courses or programs for their students through an arrangement with a public or private institution of higher education; or (d) local school boards providing online courses or programs through a private or nonprofit organization that has been approved as a multidivision online provider.

"Online course" means a course or grade-level subject instruction that (i) is delivered by a multidivision online provider primarily electronically using the Internet or other computer-based methods and (ii) is taught by a teacher primarily from a remote location, with student access to the teacher given synchronously, asynchronously, or both.

"Virtual school program" means a series of online courses with instructional content that (i) is delivered by a multidivision online provider primarily electronically using the Internet or other computer-based methods; (ii) is taught by a teacher primarily from a remote location, with student access to the teacher given synchronously, asynchronously, or both; (iii) is delivered as a part-time or full-time program; and (iv) has an online component with online lessons and tools for student and data management.

An online course or virtual school program may be delivered to students at school as part of the regularly scheduled school day.

2010, cc. 537, 817.

§ 22.1-212.24. Approval of multidivision online providers; contracts with local school boards.

A. The Superintendent of Public Instruction shall develop, and the Board of Education shall approve, (i) the criteria and application process for approving multidivision online providers; (ii) a process for monitoring approved multidivision online providers; (iii) a process for revocation of the approval of a previously approved multidivision online provider; and (iv) an appeals process for a multidivision online provider whose approval was revoked or whose application was denied. The process developed under this subsection shall require approvals and revocations to be determined by the Superintendent of Public Instruction, and either the denial of an application or revocation of approval may be appealed to the Board of Education for review. The approval of a multidivision online provider under this section shall be effective until the approval is revoked, for cause, pursuant to the terms of this section. Any notice of revocation of approval of a multidivision online provider or rejection of an application by a multidivision online provider shall state the grounds for such action with reasonable specificity and give reasonable notice to the multidivision online provider to appeal. These criteria and processes shall be adopted by January 31, 2011.

B. In developing the criteria for approval pursuant to subsection A, the Superintendent of Public Instruction shall (i) require multidivision online providers to be accredited by a national, regional, or state accreditation program approved by the Board; (ii) require such courses or programs, pupil performance standards, and curriculum to meet or exceed any applicable Standards of Learning and Standards of Accreditation; (iii) require any educational objectives and assessments used to measure pupil progress toward achievement of the school's pupil performance standards to be in accordance with the Board's Standards of Accreditation and all applicable state and federal laws; (iv) require such courses or programs to maintain minimum staffing requirements appropriate for virtual school programs; and (v) publish the criteria for approval of multidivision online providers on its website, including any applicable deadlines, fees, and guidelines.

C. The Department of Education may charge a multidivision online provider applicant or a local school board requesting to offer a course through Virtual Virginia a fee not to exceed the costs required to ensure proper evaluation and approval of such requests. The Department shall establish and publish a fee schedule for purposes of this subsection.

D. Local school boards may enter into contracts, consistent with the criteria approved by the Board pursuant to this section, with approved private or nonprofit organizations to provide multidivision online courses and virtual school programs. Such contracts shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2010, cc. 537, 817; 2014, c. 436.

§ 22.1-212.25. Information regarding online courses and virtual programs; report.

A. The Department of Education shall develop and maintain a website that provides objective information for students, parents, and educators regarding online courses and virtual programs offered through local school boards by multidivision online providers that have been approved in accordance with § 22.1-212.24 and courses offered through the Virtual Virginia Program. The website shall include information regarding the overall instructional programs, the specific content of individual online courses and online programs, a direct link to each multidivision online provider's website, how to register for online learning programs and courses, teacher qualifications, course completion rates, and other evaluative and comparative information. The website shall also provide information regarding the process and criteria for approving multidivision online providers. Multidivision online providers shall provide the Department of Education the required information for the website as a condition of maintaining Board approval.

B. The Superintendent of Public Instruction shall develop model policies and procedures regarding student access to online courses and online learning programs that may be used by local school divisions.

Nothing in this article shall be deemed to require a local school division to adopt model policies or procedures developed pursuant to this section.

C. Beginning November 1, 2011, and annually thereafter, the Board of Education shall include in its annual report to the Governor and the General Assembly information regarding multidivision online learning during the previous school year. The information shall include but not be limited to student demographics, course enrollment data, parental satisfaction, aggregated student course completion and passing rates, and activities and outcomes of course and provider approval reviews. The November 1, 2011, report shall be an interim progress report and include information on the criteria and processes adopted by the Board and outcomes of provider applications.

D. By July 1, 2011, local school boards shall post on their websites information regarding online courses and programs that are available through the school division and Virtual Virginia. Such information shall include but not be limited to the types of online courses and programs available to students through the school division, when the school division will pay course fees and other costs for nonresident students, and the granting of high school credit.

2010, cc. 537, 817; 2014, c. 436.

§ 22.1-212.26. Teachers and administrators of online courses and virtual programs.

A. Teachers who deliver instruction to students through online courses or virtual school programs shall be licensed by the Board of Education and shall be subject to the requirements of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4 applicable to teachers employed by a local school board.

B. The administrator of a virtual school program shall hold an advanced degree from a regionally accredited institution of higher education with educational and work experience in administering educational programs.

2010, cc. 537, 817; 2012, c. 170.

§ 22.1-212.27. Students enrolled in online courses and virtual programs.

A. Any student enrolled in any online course or virtual program offered by a local school division shall be enrolled in a public school in Virginia as provided in § 22.1-3.1.

B. A student's parent or guardian shall give written permission prior to the enrollment of the student in any full-time virtual program offered by a local school division.

C. A student shall not be charged tuition for enrolling in any online course or virtual program offered by the school division in which he resides, pursuant to § 22.1-3. However, tuition may be charged to students who do not reside within the boundaries of the school division offering such course or program, pursuant to § 22.1-5.

2010, cc. 537, 817.

Article 1.5 - SCHOOL DIVISIONS OF INNOVATION

§ 22.1-212.28. Definitions.

As used in this article, unless the context requires a different meaning:

"School Division of Innovation" or "SDI" means a school division in which the local school board has developed and for which the Board has approved pursuant to regulations as set forth in this article a plan of innovation to improve student learning; educational performance; and college, career, and citizenship readiness skills in each school in the local school division.

"Innovation" means a new or creative alternative to existing instructional or administrative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.

2017, c. 760.

§ 22.1-212.29. Purpose.

The Board shall promulgate regulations for the designation of School Divisions of Innovation in which the local school board in the local school division so designated shall, pursuant to a plan of innovation, be exempted from selected regulatory provisions and be permitted to adopt alternative policies for school administrators, teachers, and staff to meet the diverse needs of students.

2017, c. 760.

§ 22.1-212.30. Board regulations; procedure.

Any local school board may apply to the Board for the local school division or any school therein to be designated as an SDI. Such application shall consist of a plan of innovation for the local school division. The Board shall include in regulations promulgated pursuant to § 22.1-212.29:

1. The procedure and timeline for application, review, amendment, approval, renewal, and revocation of SDI designation;

2. The procedure for the ongoing evaluation of an SDI; and

3. Any other process or procedure that the Board deems appropriate.

2017, c. 760.

§ 22.1-212.31. Board regulations; application; expectations.

The Board shall establish in regulations promulgated pursuant to § 22.1-212.29 expectations for the plan of innovation of an SDI applicant, including:

1. Establishing goals and performance targets that may include:

a. Reducing achievement and opportunity gaps among groups of public school students by expanding the range of engaging and relevant learning experiences for students who are identified as academically low-achieving;

b. Increasing student learning through the implementation of high, rigorous standards for student performance and balanced assessments that measure both student growth and achievement;

c. Creating opportunities for students to demonstrate mastery of learning at different points in the learning process based on readiness;

d. Increasing student participation in opportunities that enhance students' preparation for college, career, and citizenship;

e. Increasing the number of students who are college, career, and citizenship ready;

f. Increasing opportunities for students to learn from content experts through integrated course opportunities; and

g. Motivating students at all levels by offering additional curricular choices, personalized learning opportunities, and relevant student learning experiences such as community service projects, internship opportunities, and job shadowing.

2. Identifying divisionwide and school-level policies that will lead students to be better prepared for success in work and life.

3. Describing the ways in which all schools will incorporate innovative practices.

4. Incorporating relevant professional development.

5. Providing evidence of collaboration, support, and shared leadership among teachers in the school division.

6. Providing evidence of the support and engagement of educators, parents, the local community, and the local business community in the development of the plan of innovation and of the capacity of such individuals and entities to support the implementation of innovation.

7. Providing the rationale for requests for waivers from regulatory and statutory provisions.

8. Identifying specific measures of student success that may include alternate assessments or approved substitute tests that will be used to determine if students have met graduation requirements, as applicable.

2017, c. 760.

§ 22.1-212.32. SDI designation; duration; renewal.

A. The initial designation of an SDI shall be for a five-year period.

B. The initial designation of an SDI may be renewed for subsequent periods not to exceed five years each.

2017, c. 760.

Article 2 - Special Education

§ 22.1-213. Definitions.

As used in this article:

"Children with disabilities" means those persons (i) who are age two to 21, inclusive, having reached the age of two by the date specified in § 22.1-254; (ii) who have intellectual disability or serious emotional disturbance, are physically disabled, speech impaired, deaf or hard of hearing, visually impaired, or multiple disabled, are otherwise health impaired, including those who have autism spectrum disorder or a specific learning disability, or are otherwise disabled as defined by the Board of Education; and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a disabled child to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. "Related services" also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent to meet the unique needs of a disabled child, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education, and instruction in career and technical education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. "Specific learning disability" does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, of intellectual disability, or of environmental, cultural, or economic disadvantage.

Code 1950, § 22-10.3; 1974, c. 480; 1978, c. 386; 1980, c. 559; 1983, c. 538; 1990, c. 444; 1994, c. 854; 2001, c. 483; 2012, cc. 476, 507; 2019, c. 288.

§ 22.1-213.1. Definition of "parent.".

A. "Parent," for purposes of this article and regulations promulgated thereto, means:

1. A biological or adoptive parent of a child;

2. A foster parent, even if the biological or adoptive parent's rights have not been terminated, but subject to subsection B;

3. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the Commonwealth if the child is a ward of the Commonwealth);

4. An individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

5. If no party qualified under subdivisions 1 through 4 can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with 8VAC20-81-220.

B. The biological or adoptive parent, when attempting to act as the parent pursuant to this section and when more than one party is qualified under subsection A to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent has had their residual parental rights and responsibilities terminated pursuant to § 16.1-277.01, 16.1-277.02, or 16.1-283 or a comparable law in another state.

C. The local school division shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent pursuant to this section, and the local school division is entitled to rely upon the actions of the foster parent pursuant to this section until such time that the biological or adoptive parent attempts to act as the parent.

D. If a judicial decree or order identifies a specific person or persons among subdivisions A 1 through A 5 to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of the special education identification, evaluation, and placement of a child and the provision of a free appropriate public education to a child.

E. The Board of Education shall revise the regulations governing the provision of special education services in accordance with this section.

2009, c. 119.

§ 22.1-214. Board to prepare special education program for children with disabilities.

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests that will assess inner and middle ear functioning, be performed on each child who is deaf or hard of hearing or who fails the test required in clause (i).

The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Health, and other state and local agencies that can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall encourage the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians. The procedures shall require that all testimony be given under oath or affirmation administered by the hearing officer.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C may, within 180 days of such findings and decision, bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

D1. In any action brought pursuant to subsection D, the court, in its discretion, may award reasonable attorney fees as part of the costs (i) to a prevailing party who is the parent of a child with a disability; (ii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent who files a complaint or a subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cause of litigation.

Attorney fees may not be awarded relating to any meeting of the Individualized Education Plan (IEP) Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection B.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education that comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments that would have been available to such school division to provide spe-

cial education, directly or by contract, to eligible children with disabilities in such manner as the Board considers appropriate.

F. The Board of Education shall supervise educational programs for children with disabilities by other public agencies and shall ensure that the identification, evaluation, and placement of children with disabilities and youth in education programs by other public agencies, as appropriate, are consistent with the provisions of the Board of Education's special education regulations.

G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the evaluation of children with disabilities. These regulations shall include provision for parents to participate, if they so request, in the consideration of the assessment components to be used. However, such regulations shall not require any local school board to exceed the requirements of federal law or regulations for the identification and evaluation of children with disabilities.

Code 1950, § 22-10.4; 1974, c. 480; 1978, c. 386; 1980, cc. 559, 561; 1981, c. 7; 1982, c. 21; 1985, c. 207; 1990, c. 205; 1991, c. 518; 1994, c. 854; 1997, c. 54; 2007, cc. 33, 52; 2009, c. 468; 2010, c. 447; 2019, c. 288.

§ 22.1-214.1. Issuance of subpoenas by hearing officers.

Any hearing officer appointed pursuant to the procedures provided for in subsections B and C of § 22.1-214 shall have the power to issue subpoenas requiring testimony or the production of books, papers, and physical or other evidence. Any person so subpoenaed who objects may, if the hearing officer does not quash or modify the subpoena at a timely request as illegally or improvidently granted, immediately procure by a petition a decision on the validity thereof in the circuit court of the jurisdiction in which the hearing is to be held. In any case of refusal or neglect to comply with the hearing officer's subpoena, the hearing officer may procure an order of enforcement from such court.

Code 1950, § 22-10.4:1; 1980, c. 561.

§ 22.1-214.2. Definition of "supervise" as related to educational programs provided for or by Department of Behavioral Health and Developmental Services.

For the purposes of subsection F of § 22.1-214 as related to the educational programs provided for or by the Department of Behavioral Health and Developmental Services, "supervise" shall mean providing active support in (i) designing mechanisms for maintaining constant direct contact and the sharing of ideas, approaches and innovations between the Department of Behavioral Health and Developmental Services and the facility staff responsible for providing educational services; (ii) providing consistent oversight, with particular attention to the mental health programs, to ensure that the availability of educational resources and the distribution of funds clearly reflect the needs of the different student populations residing in the various facilities; (iii) developing guidelines, in cooperation with the Department of Behavioral Health and Developmental Services for the evaluation of the performance of the education directors or other education supervisors employed by the Department of Behavioral Health and Developmental Services; (iv) developing and implementing, in cooperation with the Department of Behavioral Health and Developmental Services, programs to ensure that the

educational and treatment needs of dually diagnosed children in state facilities are met; and (v) ensuring that the expertise of the Department of Education is utilized by providing technical assistance to the education programs provided for or by the Department of Behavioral Health and Developmental Services in the areas of selection and acquisition of educational materials, curriculum development including career and technical education, when appropriate, and applications for federal grants.

1985, c. 207; 2001, c. 483; 2009, cc. 813, 840; 2012, cc. 476, 507.

§ 22.1-214.3. Department to develop certain curriculum guidelines; Board to approve.

The Department of Education shall develop curricula for the school-age individuals in state training centers and curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services and representatives of the teachers employed to provide instruction to the children. Prior to implementation, the Board of Education shall approve these curricula and curriculum guidelines.

These curricula and curriculum guidelines shall be designed to provide a range of programs and suggested program sequences for different functioning levels and handicaps and shall be reviewed and revised at least every three years. In addition to academic programming, the curriculum guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services shall include affective education and physical education as well as independent living and career and technical education, with particular emphasis on the needs of older adolescents and young adults.

1985, c. 350; 2001, c. 483; 2009, cc. 813, 840; 2012, cc. 476, 507.

§ 22.1-215. School divisions to provide special education; plan to be submitted to Board.

Each school division shall provide free and appropriate education, including special education, for (i) the children with disabilities residing within its jurisdiction and (ii) the children with disabilities who do not reside within its jurisdiction but reside in the Commonwealth and are enrolled in a full-time virtual school program provided by the school division, in accordance with regulations of the Board of Education. A school division that is required to provide a free and appropriate education, including special education, for a nonresident student who is enrolled in its full-time virtual school program pursuant to this section shall be entitled to any federal and state funds applicable to the education of such student. In the case of a student who is a resident of the Commonwealth but does not reside in the school division in which he is enrolled in a full-time virtual school program, the school division in which the student resides shall be released from the obligation to provide a free and appropriate education, including special education, for such student.

For the purposes of this section, "children with disabilities, residing within its jurisdiction" shall include: (a) those individuals of school age identified as appropriate to be placed in public school programs who are residing in a state facility operated by the Department of Behavioral Health and Developmental Services located within the school division, or (b) those individuals of school age who are

Virginia residents and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 as a result of being in the custody of a local department of social services or welfare or being privately placed, not solely for school purposes.

The Board of Education shall promulgate regulations to identify those children placed within facilities operated by the Department of Behavioral Health and Developmental Services who are eligible to be appropriately placed in public school programs.

The cost of the education provided to children residing in state facilities who are appropriate to place within the public schools shall remain the responsibility of the Department of Behavioral Health and Developmental Services. The cost of the education provided to children who are not residents of the Commonwealth and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall be billed to the sending agency or person by the school division as provided in subsection C of § 22.1-5. No school division shall refuse to educate any such child or charge tuition to any such child.

Each school division shall submit to the Board of Education in accordance with the schedule and by the date specified by the Board, a plan acceptable to the Board for such education for the period following and a report indicating the extent to which the plan required by law for the preceding period has been implemented. However, the schedule specified by the Board shall not require plans to be submitted more often than annually unless changes to the plan are required by federal or state law or regulation.

Code 1950, § 22-10.5; 1974, c. 480; 1978, c. 386; 1980, c. 559; 1985, c. 158; 1988, c. 101; 1994, c. 854; 1996, cc. 583, 594; 2009, cc. 813, 840; 2012, cc. 476, 507; 2014, c. 433.

§ 22.1-215.1. Information regarding procedures and rights relating to special education placement and withdrawal.

Effective July 1, 2001, the Board of Education shall publicize and disseminate to parents of students who are enrolled in special education programs or for whom a special education placement has been recommended information regarding current federal law and regulation addressing procedures and rights related to the placement and withdrawal of children in special education.

2001, c. 439.

§ 22.1-215.2. Parental notification; literacy and Response to Intervention screening and services; certain assessment results.

Each local school board shall enact a policy to require that timely written notification is provided to the parents of any student who:

1. Undergoes literacy and Response to Intervention screening and services; or

2. Does not meet the benchmark on any assessment used to determine at-risk learners in preschool through grade 12, which notification shall include all such assessment scores and subscores and any intervention plan that results from such assessment scores or subscores.

2020, c. 336.

§ 22.1-216. Use of public or private facilities and personnel under contract for special education.
A school board may provide special education for children with disabilities either directly with its own facilities and personnel or under contract with another school division or divisions or any other public or private nonsectarian school, agency or institution licensed or certified by the Board of Education or by a licensing authority in the state where the facility is located. Special education for children below the compulsory school attendance age may be provided in nonsectarian child-day programs licensed in accordance with state law.

Code 1950, § 22-10.6; 1974, c. 480; 1980, c. 559; 1994, cc. 376, 854; 1996, c. 133.

§ 22.1-217. Visually impaired children.
A. Special education for visually impaired children provided by a school division shall be established, maintained and operated jointly by the school board and the Virginia Department for the Blind and Vision Impaired subject to the regulations of the Board of Education. Braille instruction shall be included in the student's Individualized Education Plan (IEP), whenever appropriate. When developing the IEP for students with visual impairment, the presumption shall be that proficiency in literacy is essential for such student to achieve satisfactory educational progress. However, use of Braille shall not be required if other special education services are more appropriate to the student's educational needs, and the provision of other appropriate services shall not preclude Braille instruction.

B. The Virginia Department for the Blind and Vision Impaired shall prepare and deliver a program of special education services in addition to the special education provided in the public school system designed to meet the educational needs of visually impaired children between the ages of birth and twenty-one and may prepare and deliver such programs for such individuals of other ages. In the development of such a program, the Virginia Department for the Blind and Vision Impaired shall cooperate with the Board of Education and the school boards of the several school divisions. The Virginia Department for the Blind and Vision Impaired shall assist the Board of Education and the school boards of the several school divisions with in-service training in Braille for currently employed teachers of students who are blind and visually impaired.

C. As used in this section:

"Braille" means the system of reading and writing through touch and is commonly known as standard English Braille Grade 2.

"Program" means a modified program which provides special materials or services and may include the employment of itinerant teachers or resource room teachers for the visually impaired.

"Visually impaired" shall be defined by the Board of Education and the Virginia Department for the Blind and Vision Impaired.

Code 1950, § 22-10.7; 1974, c. 480; 1978, c. 386; 1980, c. 559; 1990, c. 803; 1992, c. 755; 1995, c. 750; 1998, c. 852.

§ 22.1-217.01. Information on educational and other services for students identified as deaf or hard of hearing or visually impaired.

The Department of Education shall annually prepare and distribute to local school boards packets of information describing the educational and other services available through the Virginia School for the Deaf and the Blind, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind and Vision Impaired to students who are identified as deaf or hard of hearing or visually impaired. Local school boards shall annually post this information on the school division's website and inform the parents of those students who are identified as deaf or hard of hearing or visually impaired of its availability. School boards shall ensure that packets of such information are available in an accessible format for review by parents who do not have Internet access.

1998, c. 351; 2000, c. 285; 2011, c. 216; 2015, c. 55; 2019, c. 288.

§ 22.1-217.02. Individualized education programs; children identified as deaf or hard-of-hearing.

A. In developing an individualized education program (IEP) for a child identified as deaf or hard-of-hearing, in addition to any other requirements established by the Board of Education, each local school division may ensure that IEP teams consider the child's specific communication needs and address those needs as appropriate in the child's IEP. In considering the child's needs, the IEP team may expressly consider the following:

1. The child's individual communication mode or language;

2. The availability to the child of a sufficient number of age, cognitive, academic, and language peers of similar abilities if the parents so desire;

3. The availability to the child of deaf or hard-of-hearing adult models of the child's communication mode or language;

4. The provision of direct and ongoing language access to teachers of the deaf and hard-of-hearing, interpreters, psychologists, educational audiologists, speech-language pathologists, administrators, and other special education personnel who are knowledgeable due to specific training and who are proficient in the child's primary communication mode or language;

5. The provision of communication-accessible academic instruction, school services, and direct access to all components of the educational process, including recess, lunch, extracurricular social and athletic activities, and the equal opportunity to participate in advanced coursework, technical vocational coursework, and academic classes as identified by the IEP team;

6. Equipping children identified as deaf or hard-of-hearing with appropriate assistive technology across a full spectrum; and

7. That the Virginia School for the Deaf and the Blind may be the least restrictive environment for the child.

B. No child identified as deaf or hard-of-hearing may be denied the opportunity for instruction in a particular communication mode or language solely because another communication mode or language was originally chosen for the child.

C. A child may receive instruction in more than one communication mode or language.

D. For the purposes of this section, "communication mode or language mode" means one or more of the following systems or methods of communication applicable to children identified as deaf or hard-of-hearing: (i) American Sign Language; (ii) English-based manual or sign systems; (iii) oral, aural, speech-based training; (iv) spoken and written English, including speech reading, lip reading, or cued speech; and (v) communication with assistive technology devices to facilitate language and learning.

2013, cc. 704, 786.

§ 22.1-217.03. Individualized education program teams to consider need for certain age-appropriate and developmentally appropriate instruction.

A. The Department of Education shall establish guidelines for individualized education program (IEP) teams to utilize when developing IEPs for children with disabilities to ensure that IEP teams consider the need for age-appropriate and developmentally appropriate instruction related to sexual health, self-restraint, self-protection, respect for personal privacy, and personal boundaries of others.

B. In developing IEPs for children with disabilities, in addition to any other requirements established by the Board, each local school board shall ensure that IEP teams consider the guidelines established by the Department of Education pursuant to subsection A.

2020, cc. 51, 170.

§ 22.1-217.1. Programs for the research and development of innovative methods of teaching children with mental illness, intellectual disability, or serious emotional disturbance.

For the purpose of improving the quality of the education and training provided to the school-age children in state hospitals and training centers operated by the Department of Behavioral Health and Developmental Services, there is hereby established a program of grants from such funds as are appropriated by the General Assembly to promote the research and development of innovative methods of teaching children with mental illness, intellectual disability, or serious emotional disturbance in residential settings. This program shall be available to the education directors and instructional staffs of the state hospitals and training centers operated by the Department of Behavioral Health and Developmental Services. The Board of Education shall award these grants on the basis of the recommendations of an advisory committee composed of the Director of the Virginia Treatment Center for Children, two representatives of the Department of Education and two representatives of the Department of Behavioral Health and Developmental Services. The advisory committee shall establish objectives for these grants, develop requests for proposals and set criteria for evaluating the applications for funds.

1985, c. 332; 2009, cc. 813, 840; 2012, cc. 476, 507.

§ 22.1-217.2. Special education transition materials.

The Superintendent of Public Instruction shall make available special education transition materials for students and parents to be used during a student's annual Individualized Education Program meeting as required by the State Board of Education Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81-118 and 20 U.S.C. § 1400 et seq.) and direct local school divisions to use the material to the fullest extent possible. Such materials shall be prepared and updated as necessary by the Department of Education and shall include information describing services that can be provided in the least restrictive environment possible and the purpose and use of temporary guardianship, limited guardianship, and guardianship, as those terms are defined in § 64.2-2000.

2020, c. 855.

§ 22.1-218. Reimbursement for placement in private schools; reimbursement of school boards from state funds.

A. If a child's individualized education program calls for placement in a private nonreligious school, agency, or institution, payment for reasonable tuition cost and other reasonable charges shall be made from the state pool of funds pursuant to § 2.2-5211.

B. Where a school board enters into an agreement with the Wilson Workforce and Rehabilitation Center or a special education regional program established pursuant to regulations of the Board of Education, the Board of Education is authorized to reimburse the school board from such funds as are appropriated for this purpose.

C. The Board of Education is further authorized to reimburse each school board operating a preschool special education program for children with disabilities aged two through four, through the Standards of Quality Special Education account.

Code 1950, § 22-10.8; 1974, c. 480; 1978, c. 386; 1980, c. 559; 1988, c. 96; 1989, c. 106; 1990, c. 277; 1993, cc. 110, 191; 1996, c. 133; 2005, c. 928; 2015, c. 542.

§ 22.1-218.1. Duty to process placements through the Interstate Compact on the Placement of Children.

In order to protect the interests of the Commonwealth and local governments and provide for the safety and welfare of children with disabilities, all placements of children with disabilities facilitated by a school division in an out-of-state special education facility shall be processed through the Interstate Compact on the Placement of Children as provided in Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2.

1983, c. 376; 1994, c. 854.

§ 22.1-219. Use of federal, state or local funds not restricted.

Nothing in this article shall be construed to restrict or prohibit the use of any federal, state or local funds made available under any federal, state or local appropriation or grant.

Code 1950, § 22-10.9; 1974, c. 480; 1980, c. 559.

§ 22.1-220. Power of counties, cities, and towns to appropriate and expend funds for education of children with disabilities.

The governing body of any county, city or town is hereby authorized and empowered to appropriate and expend funds of the county, city or town in furtherance of the education of children with disabilities residing in such county, city or town who attend Wilson Workforce and Rehabilitation Center or public or private nonsectarian schools, or public or private nonsectarian child-day programs for children below the compulsory school attendance age, whether within or without the county, city or town and whether within or without the Commonwealth.

Code 1950, § 22-10.10; 1974, c. 480; 1980, c. 559; 1989, c. 106; 1994, cc. 376, 854; 2015, c. 542.

§ 22.1-221. Transportation of children with disabilities attending public or private special education programs.

A. Each disabled child enrolled in and attending a special education program provided by the school division pursuant to any of the provisions of § 22.1-216 or § 22.1-218 shall be entitled to transportation to and from such school or class at no cost if such transportation is necessary to enable such child to obtain the benefit of educational programs and opportunities.

B. A school board may, in lieu of providing transportation on an approved school bus, allot funds to pay the reasonable cost of special arrangement transportation. The Board of Education shall reimburse the school board sixty percent of such cost if funds therefor are available.

C. Costs for operating approved school buses which are equipped or used primarily for transporting children with disabilities shall be reimbursed according to the regulations promulgated by the Board of Education from such state funds as are appropriated for this purpose.

Code 1950, § 22-10.11; 1974, c. 480; 1975, cc. 464, 513; 1978, c. 386; 1980, c. 559; 1983, c. 521; 1994, c. 854; 1996, cc. 123, 247.

§ 22.1-222. Repealed.

Repealed by Acts 1985, c. 421.

Article 3 - ADULT EDUCATION

§ 22.1-223. Definitions.

As used in this article:

"Adult basic education" means education for individuals over the age of compulsory school attendance specified in § 22.1-254 that enables them to express themselves orally and in writing, read, access information and resources, make decisions, act independently and interact with others, and continue lifelong learning to cope with and compete successfully in a global economy.

"Adult education program" means an instructional program below the college credit level provided by public schools for individuals who are not enrolled in the regular public school program, including adult basic education, credit programs, cultural adult education, external diploma programs, general adult education, and high school equivalency programs.

"Credit program" means a program of academic courses that are available to individuals over the age of compulsory school attendance specified in § 22.1-254 to enable them to complete the regular requirements for a high school diploma.

"Cultural adult education" means English for speakers of other languages (ESOL), the preparation of foreign-born adults for participation in American life or for becoming American citizens, and other educational services for foreign-born individuals over the age of compulsory school attendance specified in § 22.1-254.

"External diploma program" means a program in which individuals over the age of compulsory school attendance specified in § 22.1-254 who did not complete high school may earn a high school diploma by demonstrating with 100 percent mastery the 65 competencies established and validated by the American Council on Education.

"General adult education" means academic, cultural, and avocational instruction for individuals over the age of compulsory school attendance specified in § 22.1-254 that may be obtained through programs other than credit programs, high school equivalency programs, or external diploma programs.

"High school equivalency program" means a program of preparation and instruction to take a high school equivalency examination approved by the Board of Education for individuals over the age of compulsory school attendance specified in § 22.1-254 who did not complete high school, individuals who have been granted permission by the superintendent of the school division in which they are or were last enrolled to take a high school equivalency examination approved by the Board of Education, individuals who are at least 16 years of age, and individuals who have been ordered by a court to participate in the program.

Code 1950, § 22-360; 1978, c. 522; 1980, c. 559; 1999, c. 564; 2006, c. 335; 2014, c. 84; 2018, c. 717.

§ 22.1-224. Duties of State Board.

The Board of Education shall:

1. Require the development of adult education programs in every school division;

2. Encourage coordination in the development and provision of adult education programs between school boards and other state, federal, and local public and private agencies;

3. Promulgate appropriate standards and guidelines for adult education programs;

4. Accept and administer grants, gifts, services, and funds from available sources for use in adult education programs; and

5. Assist school divisions with all diligence in meeting the educational needs of individuals participating in adult education programs to master the requirements for and earn a high school diploma or to pass a high school equivalency examination approved by the Board of Education.

Code 1950, § 22-361; 1978, c. 522; 1980, c. 559; 1999, c. 564; 2014, c. 84; 2018, c. 717.

§ 22.1-225. Authority of school boards.

A. Local school boards shall provide adult education programs, in compliance with subdivision D 8 of § 22.1-253.13:1, for residents of the school division and, in their discretion, may charge appropriate fees to persons admitted to such programs.

B. With such funds as may be appropriated for the purposes of this article, school boards shall seek to ensure that every individual participating in such program has an opportunity to earn a high school diploma or pass a high school equivalency examination approved by the Board of Education.

Code 1950, § 22-362; 1978, c. 522; 1980, c. 559; 1999, c. 564; 2004, cc. 939, 955; 2009, c. 802; 2014, c. 84; 2018, c. 717.

§ 22.1-226. Repealed.

Repealed by Acts 2010, c. 61, cl. 2.

Article 3.1 - COALFIELD EDUCATIONAL EMPOWERMENT PROGRAM [Expired]

§§ 22.1-226.1 through 22.1-226.4. Expired.

Expired.

Article 4 - STATE BOARD OF CAREER AND TECHNICAL EDUCATION

§ 22.1-227. Board designated to carry out provisions of federal act.

The Board of Education is designated as the State Board of Career and Technical Education to carry out the provisions of the federal Vocational Education Act of 1963, as amended, and as such shall promote and administer the provision of agriculture, business, marketing, home economics, health, technology education, trade and industrial education in the public middle and high schools, regional schools established pursuant to § 22.1-26, institutions of higher education, and other eligible institutions for youth and adults.

For the purposes of this section, "promote" shall not be construed to mandate the implementation of any additional career and technical education programs that are not currently offered.

Code 1950, § 22-319; 1980, c. 559; 1992, cc. 673, 897; 2001, c. 483.

§ 22.1-227.01. Career and technical education defined.

As used in this article, "career and technical education" means an organized education program offering a sequence of courses that (i) may incorporate field, laboratory, and classroom instruction; (ii) emphasize career and technical occupational experiences; (iii) are designed to prepare individuals for further education and gainful employment; and (iv) are aligned with state or national program cer-

tification and accreditation standards, if such standards exist for the sequence of courses. However, clause (iv) shall not apply to any program offered by industry in cooperation with a local school board.

1996, c. 400; 2001, c. 483; 2015, c. 588.

§ 22.1-227.1. Career and technical education.

A. The Board of Education shall incorporate into career and technical education the Standards of Learning for mathematics, science, English, and social studies, including history, and other subject areas as may be appropriate. The Board may also authorize, in its regulations for accrediting public schools in Virginia, the substitution of industry certification and state licensure examinations for Standards of Learning assessments for the purpose of awarding credit for career and technical education courses, where appropriate.

B. The Board shall also develop a plan for increasing the number of students receiving industry certification and state licensure as part of their career and technical education. The plan shall include an annual goal for school divisions. Where there is an accepted national industry certification for career and technical education instructional personnel and programs for automotive technology, such certification shall be mandatory.

C. With such funds as may be appropriated for such purpose, there shall be established, within the Department of Education, a unit of specialists in career and technical education. The unit shall (i) assist in developing and revising local career and technical curriculum to integrate the Standards of Learning, (ii) provide professional development for career and technical instructional personnel to improve the quality of career and technical education, (iii) conduct site visits to the schools providing career and technical education, and (iv) seek the input of business and industry representatives regarding the content and direction of career and technical education programs in the public schools of the Commonwealth.

D. The Board shall develop guidelines for the establishment of High School to Work Partnerships, hereafter referred to as "Partnerships," between public high schools and local businesses to create opportunities for high school students to (i) participate in an apprenticeship, internship, or job shadow program in a variety of trades and skilled labor positions or (ii) tour local businesses and meet with owners and employees. These guidelines shall include a model waiver form to be used by high schools and local businesses in connection with Partnership programs to protect both the students and the businesses from liability.

Each local school board may establish Partnerships or delegate the authority to establish Partnerships to the local school division's career and technical education administrator or his designee, in collaboration with the school counselor office of each public high school in the school division, and shall educate high school students about opportunities available through such Partnerships.

Students who miss a partial or full day of school while participating in Partnership programs shall not be counted as absent for the purposes of calculating average daily membership, but each local school board shall develop policies and procedures for students to make up missed work and may determine

the maximum number of school days per academic year that a student may spend participating in a Partnership program.

1999, cc. 435, 442; 2001, c. 483; 2002, c. 167; 2008, c. 150; 2011, c. 388; 2013, cc. 56, 500; 2016, cc. 720, 750; 2018, cc. 142, 388; 2019, cc. 139, 796.

Article 5 - CAREER AND TECHNICAL EDUCATION PROJECTS

§ 22.1-228. Definitions.

As used in this article:

1. "Career and technical education project" or "project" means a project that supplements the regular career and technical education program in a school division and that is designed to provide effective practical training to students in the secondary schools of the school division and in which participation is optional and voluntary.

2. "Corporation" means a nonstock, nonprofit corporation or foundation established for the express purpose of promoting career and technical education in a school division within the meaning of § 501(c)(3) of the United States Internal Revenue Code.

Code 1950, § 22-330.37; 1974, c. 336; 1975, c. 139; 1980, c. 559; 2001, c. 483.

§ 22.1-229. Projects may be established directly or by contract with corporation.

Any school board may establish career and technical education projects. A school board may establish any such project either directly with its own facilities and personnel or under contract with a corporation. A project may be conducted on school board property or other public or private property. A school board may acquire sites for projects.

Code 1950, §§ 22-330.36, 22-330.37, 22-330.38; 1974, c. 336; 1975, c. 139; 1980, c. 559; 2001, c. 483.

§ 22.1-230. Approval of corporation's articles and bylaws.

No school board shall contract with a corporation for establishment of a career and technical education project unless its articles of incorporation and bylaws have been approved by the Board of Education.

Code 1950, § 22-330.39; 1974, c. 336; 1980, c. 559; 2001, c. 483.

§ 22.1-231. Review of projects by Board of Education.

No school board shall establish or contract to establish a career and technical education project until such project has been reviewed and approved by the Board of Education. The Board's review shall be for the purpose of ensuring that (i) where a school board undertakes a project by contract with a corporation, such contract meets the requirements of this article, (ii) in undertaking a project, the school board complies with all other requirements of law and (iii) public funds will be protected. If the Board fails to act on a project submitted for approval within sixty days, the project shall be deemed to be approved.

Code 1950, § 22-330.40; 1974, c. 336; 1980, c. 559; 2001, c. 483.

§ 22.1-232. Contracts.

A. Where a school board undertakes a career and technical education project by contract with a corporation, the school board may advance, contribute and loan funds to the corporation. The contract shall contain:

1. a system of accounting;

2. the terms upon which any profits from the sale of the project will be allocated between the school board and the corporation;

3. conditions for the return with interest of any funds advanced by the school board;

4. a provision that upon the dissolution of the corporation, any assets remaining after payment of just debts shall be transferred to and become the property of the school board;

5. a provision that, upon the completion of any project, the school board may determine not to participate in further projects;

6. a provision that the school board may at any time require the return of funds to which it is entitled.

B. Where the school board contributes or loans funds to the corporation, such contract shall provide for the posting of a bond with surety by the officers of the corporation conditioned to protect the rights of the school board.

C. Such contract may provide for the establishment of an escrow fund for the purpose of funding future projects.

Code 1950, §§ 22-330.41, 22-330.42; 1974, c. 336; 1980, c. 559; 2001, c. 483.

§ 22.1-233. Application of zoning laws and building codes; inspection of work; school boards to make no warranties.

Nothing herein shall exempt career and technical education projects from compliance with state and local zoning laws and building codes, if applicable. Work done by students or other nonlicensed personnel shall be inspected by an appropriately licensed person to assure compliance with prescribed standards. No school board shall make any warranty, express or implied, as to the construction or as to the compliance of a project with zoning laws and building codes.

Code 1950, § 22-330.43; 1974, c. 336; 1975, c. 139; 1980, c. 559; 2001, c. 483.

§ 22.1-234. Acquisition of sites for projects; sale of completed projects and other school board property.

A school board may expend funds for the purpose of acquiring the site for the construction of a career and technical education project. At the completion of a project constructed on private property, the project shall be sold within a reasonable time. The power of eminent domain may not be used to acquire land as a site for a project. In addition, the school board may sell a completed project and any associated land owned by the school board, regardless of whether the property was previously purchased

or specifically acquired for the project. The school board shall make reasonable and good faith efforts to ensure that the fair market value is received upon the sale of any building constructed as a project and the associated land, if any.

Code 1950, § 22-330.44; 1974, c. 336; 1980, c. 559; 1991, c. 298; 2001, c. 483.

§ 22.1-235. Transportation of students; insurance.

A school board may provide transportation for students to career and technical education project sites.

A school board or corporation may provide insurance protecting its students and agents from loss as a result of physical injury or liability resulting from their work on the project.

Code 1950, § 22-330.45; 1974, c. 336; 1980, c. 559; 2001, c. 483.

§ 22.1-236. Immunity of board members and officers and directors of corporations.

Neither the members of a school board nor the officers or directors of a corporation shall be personally liable for the negligence of any student or agent in connection with a career and technical education project.

Code 1950, § 22-330.46; 1974, c. 336; 1980, c. 559; 2001, c. 483.

§ 22.1-237. Academic credit.

The Board of Education may regulate the awarding of academic credit for participation in career and technical education projects.

Code 1950, § 22-330.47; 1974, c. 336; 1980, c. 559; 2001, c. 483.

Article 6 - TEXTBOOKS

§ 22.1-238. Approval of textbooks.

A. The Board of Education shall have the authority to approve textbooks suitable for use in the public schools and shall have authority to approve instructional aids and materials for use in the public schools. The Board shall publish a list of all approved textbooks on its website and shall list the publisher and the current lowest wholesale price of such textbooks.

B. Any school board may use textbooks not approved by the Board provided the school board selects such books in accordance with regulations promulgated by the Board.

C. For the purposes of this chapter, the term "textbooks" means print or electronic media for student use that serve as the primary curriculum basis for a grade-level subject or course.

1980, c. 559; 2002, c. 421; 2008, cc. 430, 615, 663.

§ 22.1-239. Basal textbooks.

In approving basal textbooks for reading in kindergarten and first grade, the Board shall report to local school boards those textbooks with a minimum decodability standard based on words that students can correctly read by properly attaching speech sounds to each letter to formulate the word at 70 percent or above for such textbooks.

Code 1950, § 22-297; 1980, c. 559; 1981, c. 190; 2008, cc. 430, 615, 663.

§ 22.1-240. Repealed.

Repealed by Acts 2008, cc. 430, 615 and 663, cl. 2.

§ 22.1-241. Contracts with publishers.

A. Local school boards shall either enter into written term contracts or issue purchase orders on an as-needed basis with publishers of textbooks approved by the Board for use in the public schools. Such written contracts or purchase orders for textbooks approved by the Board shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

The contract price shall not exceed the lowest wholesale price at which the textbook or textbooks involved in the contract are currently bid under contract anywhere in the United States.

If, subsequent to the date of any contract entered into by a local school board, the prices of textbooks named in the contract are reduced or the terms of the contract are made more favorable to purchase anywhere in the United States or a special or other edition of any book named in the contract is sold outside of Virginia at a lower price than contracted in the Commonwealth, the publisher shall grant the same reduction or terms to the local school board and give the local school board the option of using such special or other edition adapted for use in Virginia and at the lowest price at which such special edition is sold elsewhere and the contract shall so state.

B. Contracts and purchase orders with publishers of textbooks approved by the Board shall require the publisher to furnish an electronic file of the textbook in the National Instructional Materials Accessibility Standards (NIMAS) format that will then be deposited in the National Instructional Materials Access Center (NIMAC) from which accessible versions of the particular textbook may be produced for students with print disabilities, as defined in 20 U.S.C. § 1474. Publishers shall deliver the NIMAS file of the textbook on or before the date of delivery of the regular text version.

Contracts and purchase orders with publishers of textbooks approved by the Board for use in grades 6-12 shall allow for the purchase of printed textbooks, printed textbooks with electronic files, or electronic textbooks separate and apart from printed versions of the same textbook. Each school board shall have the authority to purchase an assortment of textbooks in any of the three forms listed above.

C. Every school board shall order directly from the respective publishers the textbooks needed to supply the public schools in the school division. The publishers shall ship the textbooks to the school board. The purchase price of such textbooks shall be paid directly to the publishers by the school board.

D. With the approval of the local school board and the publisher, any private school within the school division that so requests may purchase from the local school board's contract with the publisher. Such private school shall be fully responsible for ordering, purchasing, and receiving shipments of books to be provided from the publisher pursuant to this section. The local school board shall be immune from any civil liability as a result of a private school purchasing from the local school board's contract.

Code 1950, §§ 22-299, 22-300, 22-301, 22-303; 1977, c. 85; 1980, c. 559; 1995, c. 750; 2008, cc. 430, 615, 663; 2010, c. 97.

§ 22.1-242. State Board to adopt regulations.
The Board shall adopt regulations governing (i) the purchase of textbooks approved by it for use in the public schools directly from the publishers by school boards and (ii) the distribution of such textbooks for the use by children attending public schools in Virginia.

Code 1950, § 22-304; 1980, c. 559; 2008, cc. 430, 615, 663.

§ 22.1-243. Distribution of textbooks; charges for loss or damage; consumable materials.
A. Each school board shall provide, free of charge, such textbooks required for courses of instruction for each child attending public schools. However, a local school board may assess a reasonable fee or charge for damages or loss of school property when such property has been provided to students without charge.

B. Consumable materials such as workbooks, writing books, and drawing books may be purchased by school boards and either provided to students at no cost or sold to students at a retail price not to exceed seven percent added to the publisher's price. If sold, the local school board shall develop a policy ensuring that workbooks, writing books, and drawing books are furnished to students who are unable to afford them at a reduced price or free of charge.

C. Nothing in this section shall be construed to authorize a school board to charge fees to students for instructional materials, textbooks, or other materials used by a school board employee that are not directly used by a public school student.

Code 1950, § 22-305; 1980, c. 559; 2008, cc. 430, 615, 663; 2009, c. 81; 2010, c. 85.

§§ 22.1-244 through 22.1-251. Repealed.
Repealed by Acts 2008, cc. 430, 615 and 663, cl. 2.

§ 22.1-252. Repealed.
Repealed by Acts 1993, c. 654, effective July 1, 1994.

§ 22.1-253. Repealed.
Repealed by Acts 2008, cc. 430, 615 and 663, cl. 2.

Chapter 13.1 - THE STANDARDS OF QUALITY [Repealed]

§§ 22.1-253.1 through 22.1-253.13. Repealed.
Repealed by Acts 1988, cc. 645, 682.

Chapter 13.2 - STANDARDS OF QUALITY

§ 22.1-253.13:1. Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of the Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board of Education find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board of Education shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning, including problem solving and decision making; proficiency in the use of computers and related technology; computer science and computational thinking, including computer coding; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade three shall be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, phonics, fluency, vocabulary development, and text comprehension.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the

Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department of Education shall make available and maintain a website, either separately or through an existing website utilized by the Department of Education, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board of Education shall include in the Standards of Learning for history and social science the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" includes consideration of disability, ethnicity, race, and gender.

The Board of Education shall include in the Standards of Learning for health instruction in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Such instruction shall 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. No teacher who is in compliance with subdivision D 3 of § 22.1-298.1 shall be required to be certified as a trainer of cardiopulmonary resuscitation to provide instruction for non-certification.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

The Board shall establish content standards and curriculum guidelines for courses in career investigation in elementary school, middle school, and high school. Each school board shall (i) require each middle school student to take at least one course in career investigation or (ii) select an alternate means of delivering the career investigation course to each middle school student, provided that such alternative is equivalent in content and rigor and provides the foundation for such students to develop their academic and career plans. Any school board may require (a) such courses in career investigation at the high school level as it deems appropriate, subject to Board approval as required in subsection A of § 22.1-253.13:4, and (b) such courses in career investigation at the elementary school

level as it deems appropriate. The Board shall develop and disseminate to each school board career investigation resource materials that are designed to ensure that students have the ability to further explore interest in career and technical education opportunities in middle and high school. In developing such resource materials, the Board shall consult with representatives of career and technical education, industry, skilled trade associations, chambers of commerce or similar organizations, and contractor organizations.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board of Education. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those who fail to achieve a passing score on any Standards of Learning assessment in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include components that are research-based.

Any student who achieves a passing score on one or more, but not all, of the Standards of Learning assessments for the relevant grade level in grades three through eight may be required to attend a remediation program.

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs may also include summer school for all elementary and middle school grades and for all high school academic

courses, as defined by regulations promulgated by the Board of Education, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation that has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program that has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board of Education shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.

3. Career and technical education programs incorporated into the K through 12 curricula that include:

a. Knowledge of careers and all types of employment opportunities, including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;

b. Career exploration opportunities in the middle school grades;

c. Competency-based career and technical education programs that integrate academic outcomes, career guidance, and job-seeking skills for all secondary students. Programs shall be based upon labor market needs and student interest. Career guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local

comprehensive community colleges and shall be submitted to the Superintendent of Public Instruction in accordance with the timelines established by federal law;

d. Annual notice on its website to enrolled high school students and their parents of (i) the availability of the postsecondary education and employment data published by the State Council of Higher Education on its website pursuant to § 23.1-204.1 and (ii) the opportunity for such students to obtain a nationally recognized career readiness certificate at a local public high school, comprehensive community college, or workforce center; and

e. As part of each student's academic and career plan, a list of (i) the top 100 professions in the Commonwealth by median pay and the education, training, and skills required for each such profession and (ii) the top 10 degree programs at institutions of higher education in the Commonwealth by median pay of program graduates. The Department of Education shall annually compile such lists and provide them to each local school board.

4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § 22.1-200.03.

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

6. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

7. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

8. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

9. A plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students.

10. An agreement for postsecondary degree attainment with a comprehensive community college in the Commonwealth specifying the options for students to complete an associate degree or a one-year Uniform Certificate of General Studies from a comprehensive community college concurrent with a high school diploma. Such agreement shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

11. A plan to notify students and their parents of the availability of dual enrollment and advanced placement classes; career and technical education programs, including internships, externships, apprenticeships, credentialing programs, certification programs, licensure programs, and other work-based learning experiences; the International Baccalaureate Program and Academic Year Governor's School Programs; the qualifications for enrolling in such classes, programs, and experiences; and the

availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. This plan shall include notification to students and parents of the agreement with a comprehensive community college in the Commonwealth to enable students to complete an associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs, which programs may include dual language programs whereby such students receive instruction in English and in a second language.

13. Early identification, diagnosis, and assistance for students with reading and mathematics problems and provision of instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

Local school divisions shall provide reading intervention services to students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives early intervention reading services will be assessed again at the end of that school year. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade three to grade four. Reading intervention services may include the use of: special reading teachers; trained aides; volunteer tutors under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the teacher provides direct instruction to the students who need extra assistance; and extended instructional time in the school day or school year for these students. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or early intervention reading may be used to meet the requirements of this subdivision.

Local school divisions shall provide algebra readiness intervention services to students in grades six through nine who are at risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives algebra readiness intervention services will be assessed again at the end of that school year. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or algebra readiness intervention services may be used to meet the requirements of this subdivision.

14. Incorporation of art, music, and physical education as a part of the instructional program at the elementary school level.

15. A program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year.

16. A program of student services for kindergarten through grade 12 that shall be designed to aid students in their educational, social, and career development.

17. The collection and analysis of data and the use of the results to evaluate and make decisions about the instructional program.

18. A program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test.

E. From such funds as may be appropriated or otherwise received for such purpose, there shall be established within the Department of Education a unit to (i) conduct evaluative studies; (ii) provide the resources and technical assistance to increase the capacity for school divisions to deliver quality instruction; and (iii) assist school divisions in implementing those programs and practices that will enhance pupil academic performance and improve family and community involvement in the public schools. Such unit shall identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. Such unit may also provide resources supporting professional development for administrators and teachers. In providing such information, resources, and other services to school divisions, the unit shall give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of Learning assessments.

F. Each local school board may enter into agreements for postsecondary course credit, credential, certification, or license attainment, hereinafter referred to as College and Career Access Pathways Partnerships (Partnerships), with comprehensive community colleges or other public institutions of higher education or educational institutions established pursuant to Title 23.1 that offer a career and technical education curriculum. Such Partnerships shall (i) specify the options for students to take courses as part of the career and technical education curriculum that lead to course credit or an industry-recognized credential, certification, or license concurrent with a high school diploma; (ii) specify the credit, credentials, certifications, or licenses available for such courses; and (iii) specify available options for students to participate in pre-apprenticeship and apprenticeship programs at comprehensive com-

munity colleges concurrent with the pursuit of a high school diploma and receive college credit and high school credit for successful completion of any such program.

1988, cc. 645, 682; 1990, cc. 797, 820, 839; 1991, cc. 295, 304; 1992, cc. 132, 591; 1994, cc. 618, 790; 1996, cc. 163, 522; 1997, cc. 466, 828, 829; 1998, cc. 103, 602, 627, 800, 816, 902; 1999, cc. 377, 444, 445, 452, 461, 488, 552, 595, 994; 2000, cc. 504, 547, 653, 662, 677, 684, 710, 750, 867; 2001, c. 483; 2002, c. 837; 2003, cc. 690, 697, 714, 861; 2004, cc. 404, 848, 939, 955; 2005, cc. 331, 450; 2007, c. 234; 2008, c. 661; 2009, c. 802; 2012, cc. 794, 845; 2013, cc. 123, 157, 498, 530; 2014, c. 472; 2015, cc. 562, 589; 2016, cc. 146, 155, 472, 737; 2017, c. 100; 2018, cc. 138, 484, 485, 748, 749; 2019, c. 582; 2020, c. 637.

§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. (Effective until July 1, 2022) Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-

time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

D. (Effective July 1, 2022) Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors:

a. Effective with the 2020-2021 school year, in elementary schools, one hour per day per 75 students, one full-time at 375 students, one hour per day additional time per 75 students or major fraction thereof; in middle schools, one period per 65 students, one full-time at 325 students, one additional

period per 65 students or major fraction thereof; in high schools, one period per 60 students, one full-time at 300 students, one additional period per 60 students or major fraction thereof.

b. Effective with the 2021-2022 school year, local school boards shall employ one full-time equivalent school counselor position per 325 students in grades kindergarten through 12.

c. Local school divisions that employ a sufficient number of school counselors to meet the school counselor staffing requirements set forth in this subdivision may assign school counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors, and shall be based on the school's total enrollment; school counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource

personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social workers and social work administrative positions; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including licensed behavior analysts, licensed assistant behavior analysts, school nurses, and school psychologists;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

1988, cc. 645, 682; 1991, c. 480; 1997, c. 828; 2004, cc. 939, 955; 2005, cc. 331, 450; 2010, cc. 537, 817; 2011, cc. 55, 74; 2012, cc. 476, 507; 2013, cc. 123, 157, 158, 224; 2016, c. 646; 2017, cc. 321, 626, 629; 2018, c. 484; 2019, cc. 139, 796; 2020, cc. 582, 635, 952, 953, 1034, 1035.

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the

Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (i) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (ii) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General

Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. The Department of Education shall make available to school divisions Standards of Learning assessments typically administered by the middle and high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected credit.

The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall include in the student outcome measures that are required by the Standards for Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (1) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (2) permit and encourage integrated assessments that include multiple subject areas; and (3) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department of Education shall award recovery credit to any student in grades three through eight who fails a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and passes such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board of Education shall (A) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (B) select appropriate industry certification and state licensure examinations; and (C) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring

process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board of Education or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department of Education shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board of Education may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local school boards regarding such special provisions.

The Board of Education shall not include in its calculation of the passage rate of a Standards of Learning assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board of Education may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of Learning Assessments to the public.

The Board of Education shall not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction pursuant to § 22.1-254.1.

The Board shall include requirements for the reporting of the Standards of Learning assessment scores and averages for each year, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department of Education's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this

requirement shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards for Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department of Education shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board of Education may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

1988, cc. 645, 682; 1990, cc. 820, 839; 1992, c. 591; 1998, cc. 456, 567, 602, 627, 843, 902; 1999, cc. 670, 731, 1015; 2000, cc. 504, 735, 742, 750, 752, 867, 1061; 2001, cc. 651, 731; 2002, cc. 101, 167, 656, 732; 2003, cc. 691, 1004; 2004, cc. 472, 939, 955, 965; 2005, cc. 331, 450, 753, 834; 2006, cc. 25, 38, 95, 117, 131; 2007, c. 234; 2009, c. 825; 2010, c. 76; 2011, cc. 248, 666; 2012, c. 183; 2013, cc. 539, 571, 584, 728; 2014, cc. 84, 585, 622; 2015, cc. 145, 149, 322, 323, 558, 566; 2016, cc. 386, 387, 502, 522, 720, 750; 2017, cc. 328, 778; 2019, c. 585.

§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the

transfer and appropriate grade placement of students from other public secondary schools, from non-public schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards.

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.

3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.

4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.

5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.

6. Require that students (i) complete an Advanced Placement, honors, International Baccalaureate, or dual enrollment course; (ii) complete a high-quality work-based learning experience, as defined by the Board; or (iii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment. The Department of Education shall develop, maintain, and make available to each local school board a catalogue of the testing accommodations available to English language learners for each such certification, examination, assessment, and battery. Each local school board shall develop and implement policies to require each high school principal or his designee to notify each English language learner of the availability of such testing accommodations prior to the student's participation in any such certification, examination, assessment, or battery.

7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

8. Make provision in its regulations for students with disabilities to earn a diploma.

9. Require students to complete one virtual course, which may be a noncredit-bearing course.

10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Armed Services Vocational Aptitude Battery assessments passed, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.

17. Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution.

18. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction after the student has completed the course curriculum and relevant Standards of Learning end-of-course assessment, or Board-approved substitute, provided that such student subsequently receives instruction, coursework, or study toward an industry certification approved by the local school board.

19. Permit any English language learner who previously earned a sufficient score on an Advanced Placement or International Baccalaureate foreign language examination or an SAT II Subject Test in a foreign language to substitute computer coding course credit for any foreign language course credit required to graduate, except in cases in which such foreign language course credit is required to earn an advanced diploma offered by a nationally recognized provider of college-level courses.

20. Permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student that elects to substitute a credit in computer science for credit in world language, his or her school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics (STEM) for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) relevant coursework; (ii) technical writing, reading, and oral communication skills; (iii) relevant training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

1988, cc. 645, 682; 1990, cc. 820, 839; 1993, c. 661; 1994, cc. 618, 790; 1997, cc. 828, 835; 1998, cc. 72, 602, 627; 2001, cc. 483, 500; 2003, c. 688; 2004, cc. 509, 939, 955; 2005, c. 345; 2006, c. 584; 2007, cc. 34, 56, 234, 351, 859, 919; 2008, c. 351; 2009, c. 490; 2010, cc. 80, 89, 162, 163, 313; 2011,

c. 209; 2012, cc. 454, 642; 2013, cc. 498, 530; 2014, cc. 84, 590; 2015, cc. 329, 564, 565, 591, 701, 702, 705; 2016, cc. 720, 750; 2017, cc. 330, 685; 2018, cc. 139, 482, 512, 592, 716; 2020, cc. 55, 580, 874.

§ 22.1-253.13:5. Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board of Education shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, principal, and superintendent evaluations shall be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents. Evaluations shall include student academic progress as a significant component and an overall summative rating. Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities.

C. The Board of Education shall provide guidance on high-quality professional development for (i) teachers, principals, supervisors, division superintendents, and other school staff; (ii) principals, supervisors, and division superintendents in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; the evaluation of personnel, curriculum, and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, including the Standards of Quality, Board of Education regulations, and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, principals, and superintendents to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to

assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board of Education; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for principals and supervisors designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and principal performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in (a) instructional content; (b) the preparation of tests and other assessment measures; (c) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (d) instruction and remediation techniques in English, mathematics, science, and history and social science; (e) interpreting test data for instructional purposes; (f) technology applications to implement the Standards of Learning; and (g) effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

1988, cc. 645, 682; 1990, cc. 820, 839; 1992, c. 132; 1997, c. 827; 1998, cc. 826, 852; 1999, cc. 830, 1030, 1037; 2000, c. 867; 2004, cc. 939, 955; 2005, cc. 331, 450; 2007, c. 234; 2013, cc. 588, 650.

§ 22.1-253.13:6. Standard 6. Planning and public involvement.

A. The Board of Education shall adopt a statewide comprehensive, unified, long-range plan based on data collection, analysis, and evaluation. Such plan shall be developed with statewide participation. The Board shall review the plan biennially and adopt any necessary revisions. The Board shall post the plan on the Department of Education's website if practicable, and, in any case, shall make a hard copy of such plan available for public inspection and copying.

This plan shall include the objectives of public education in Virginia, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; an assessment of the extent to which these objectives are being achieved; a forecast of enrollment changes; and an assessment of the needs of public education in the Commonwealth. In the annual report required by § 22.1-18, the Board shall include an analysis of the extent to which these Standards of Quality have been achieved and the objectives of

the statewide comprehensive plan have been met. The Board shall also develop, consistent with, or as a part of, its comprehensive plan, a detailed comprehensive, long-range plan to integrate educational technology into the Standards of Learning and the curricula of the public schools in Virginia, including career and technical education programs. The Board shall review and approve the comprehensive plan for educational technology and may require the revision of such plan as it deems necessary.

B. Each local school board shall adopt a divisionwide comprehensive, unified, long-range plan based on data collection, an analysis of the data, and how the data will be utilized to improve classroom instruction and student achievement. The plan shall be developed with staff and community involvement and shall include, or be consistent with, all other divisionwide plans required by state and federal laws and regulations. Each local school board shall review the plan biennially and adopt any necessary revisions. Prior to the adoption of any divisionwide comprehensive plan or revisions thereto, each local school board shall post such plan or revisions on the division's Internet website if practicable, and, in any case, shall make a hard copy of the plan or revisions available for public inspection and copying and shall conduct at least one public hearing to solicit public comment on the divisionwide plan or revisions.

The divisionwide comprehensive plan shall include, but shall not be limited to, (i) the objectives of the school division, including strategies for first improving student achievement, particularly the achievement of educationally at-risk students, then maintaining high levels of student achievement; (ii) an assessment of the extent to which these objectives are being achieved; (iii) a forecast of enrollment changes; (iv) a plan for projecting and managing enrollment changes including consideration of the consolidation of schools to provide for a more comprehensive and effective delivery of instructional services to students and economies in school operations; (v) an evaluation of the appropriateness of establishing regional programs and services in cooperation with neighboring school divisions; (vi) a plan for implementing such regional programs and services when appropriate; (vii) a technology plan designed to integrate educational technology into the instructional programs of the school division, including the school division's career and technical education programs, consistent with, or as a part of, the comprehensive technology plan for Virginia adopted by the Board of Education; (viii) an assessment of the needs of the school division and evidence of community participation, including parental participation, in the development of the plan; (ix) any corrective action plan required pursuant to § 22.1-253.13:3; and (x) a plan for parent and family involvement to include building successful school and parent partnerships that shall be developed with staff and community involvement, including participation by parents.

A report shall be presented by each school board to the public by November 1 of each odd-numbered year on the extent to which the objectives of the divisionwide comprehensive plan have been met during the previous two school years.

C. Each public school shall also prepare a comprehensive, unified, long-range plan, which the relevant school board shall consider in the development of its divisionwide comprehensive plan.

D. The Board of Education shall, in a timely manner, make available to local school boards information about where current Virginia school laws, Board regulations and revisions, and copies of relevant Opinions of the Attorney General of Virginia may be located online.

1988, cc. 645, 682; 1990, cc. 820, 839; 1992, c. 591; 1998, c. 106; 2000, c. 867; 2001, c. 484; 2004, cc. 939, 955, 965; 2005, cc. 331, 450; 2007, c. 234.

§ 22.1-253.13:7. Standard 7. School board policies.

A. Each local school board shall develop policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee.

B. Each local school board shall maintain and follow up-to-date policies. All school board policies shall be reviewed at least every five years and revised as needed.

C. Each local school board shall ensure that policies are developed giving consideration to the views of teachers, parents, and other concerned citizens and addressing the following:

1. A system of two-way communication between employees and the local school board and its administrative staff whereby matters of concern can be discussed in an orderly and constructive manner;

2. The selection and evaluation of all instructional materials purchased by the school division, with clear procedures for handling challenged controversial materials;

3. The standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights;

4. School-community communications and community involvement;

5. Guidelines to encourage parents to provide instructional assistance to their children in the home, which may include voluntary training for the parents of children in grades K through three;

6. Information about procedures for addressing concerns with the school division and recourse available to parents pursuant to § 22.1-87;

7. A cooperatively developed procedure for personnel evaluation appropriate to tasks performed by those being evaluated; and

8. Grievances, dismissals, etc., of teachers, and the implementation procedure prescribed by the General Assembly and the Board of Education, as provided in Article 3 (§ 22.1-306 et seq.) of Chapter 15, and the maintenance of copies of such procedures.

D. A current copy of all school division policies and regulations approved by the local school board, including the Student Conduct Policy, shall be posted on the division's website and shall be available to employees and to the public. School boards shall ensure that printed copies of such policies and regulations are available as needed to citizens who do not have online access.

E. An annual announcement shall be made in each division at the beginning of the school year and, for parents of students enrolling later in the academic year, at the time of enrollment, advising the public that the policies are available in such places.

1988, cc. 645, 682, 754; 1990, c. 291; 1992, c. 591; 2004, cc. 939, 955; 2007, c. 234; 2008, cc. 474, 827; 2013, c. 301.

§ 22.1-253.13:8. Compliance.

The Standards of Quality prescribed in this chapter shall be the only standards of quality required by Article VIII, Section 2 of the Constitution of Virginia.

Each local school board shall provide, as a minimum, the programs and services, as provided in the Standards of Quality prescribed above, with state and local funds as apportioned by the General Assembly in the appropriation act and to the extent funding is provided by the General Assembly.

Each local school board shall report its compliance with the Standards of Quality to the Board of Education annually. The report of compliance shall be submitted to the Board of Education by the chairman of the local school board and the division superintendent.

Noncompliance with the Standards of Quality shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

As required by § 22.1-18, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed Standards of Quality.

The Board of Education shall have authority to seek school division compliance with the foregoing Standards of Quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such Standard, the Board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.

1988, cc. 645, 682; 1990, cc. 820, 839; 2004, cc. 939, 955, 965; 2005, cc. 331, 450.

§ 22.1-253.13:9. Exemplar School Recognition Program.

Schools and local school divisions shall be recognized by the Board of Education in accordance with guidelines it shall establish for the Exemplar School Recognition Program (the Program). The Program shall be designed to recognize and reward (i) schools that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices that are aligned with the Commonwealth's goals for public education. Such recognition may include:

1. Public announcements recognizing individual schools and divisions;

2. Tangible rewards;

3. Waivers of certain board regulations;

4. Exemptions from certain reporting requirements; or

5. Other commendations deemed appropriate to recognize high achievement.

In addition to Board recognition, local school boards shall adopt policies to recognize individual schools through public announcements or media releases as well as other appropriate recognition.

2010, cc. 38, 103; 2011, cc. 119, 145; 2012, c. 794; 2015, c. 566; 2019, c. 576; 2020, c. 688.

§ 22.1-253.13:10. Repealed.
Repealed by Acts 2019, c. 771, cl. 2.

Chapter 14 - Pupils

Article 1 - Compulsory School Attendance

§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.
A. As used in this subsection, "attend" includes participation in educational programs and courses at a site remote from the school with the permission of the school and in conformity with applicable requirements.

Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, cause such child to attend a public school or a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by causing a child to attend an alternative program of study or work/study offered by a public, private, denominational, or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by causing the child to attend any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

Instruction in the home of a child or children by the parent, guardian, or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing the achievement of a passing score on a high school equivalency examination approved by the Board of Education but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing score on a high school equivalency examination approved by the Board of Education, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief " does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. Each local school board shall develop policies for excusing students who are absent by reason of observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if the absence is verified in a manner acceptable to the school board.

D. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; or

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

E. Local school boards may allow the requirements of subsection A to be met under the following conditions:

For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

1. Career guidance counseling;

2. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency examination approved by the Board of Education or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such preparatory program or approved alternative education program to such principal or his designee;

3. Mandatory enrollment in a program to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment;

4. Successful completion of the course in economics and personal finance required to earn a Board of Education-approved high school diploma;

5. Counseling on the economic impact of failing to complete high school; and

6. Procedures for reenrollment to comply with the requirements of subsection A.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection C of § 22.1-277, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

G. Whenever a court orders any pupil into an alternative education program, including a program preparing students for a high school equivalency examination approved by the Board of Education, offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

H. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

I. The provisions of this article shall not apply to:

1. Children suffering from contagious or infectious diseases while suffering from such diseases;

2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;

3. Children under 10 years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;

4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and

5. Children excused pursuant to subsections B and D.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

J. Subject to guidelines established by the Department of Education, any student who is absent from school due to his mental or behavioral health shall be granted an excused absence.

Code 1950, § 22-275.1; 1952, c. 279; 1959, Ex. Sess., c. 72; 1968, c. 178; 1974, c. 199; 1976, cc. 681, 713; 1978, c. 518; 1980, c. 559; 1984, c. 436; 1989, c. 515; 1990, c. 797; 1991, c. 295; 1993, c. 903; 1996, cc. 163, 916, 964; 1997, c. 828; 1999, cc. 488, 552; 2000, c. 184; 2001, cc. 688, 820; 2003, c. 119; 2004, c. 251; 2006, c. 335; 2010, c. 605; 2012, cc. 454, 642; 2014, c. 84; 2017, c. 330; 2018, cc. 486, 585; 2020, c. 869.

§ 22.1-254.01. Certain students required to attend summer school or after-school sessions.

The division superintendent may seek immediate compliance with the compulsory school attendance law as set forth in § 22.1-254 after a reasonable effort to seek the student's attendance in the summer school program or after-school session has failed, including direct notification of the parents of such student of the attendance requirement and failure of the parents to secure the student's attendance, when:

1. A student is required to take a special program of prevention, intervention, or remediation in a public summer school program or to participate in another form of remediation as provided in subsection C of § 22.1-253.13:1 and in accordance with clause (ii) of subsection A of § 22.1-254; and

2. The division superintendent determines that remediation of the student's poor academic performance, passage of the Standards of Learning Assessment in grades three through eight, or promotion is related directly to the student's attendance in the summer school program or participation in another form of remediation.

1996, c. 163; 1997, cc. 466, 828; 1998, cc. 602, 627, 902; 1999, cc. 488, 552; 2006, cc. 41, 834.

§ 22.1-254.02. Students transferring from a public school.

When a student transfers from a school division, such school division to the extent practicable, shall obtain written or electronic documentation of such transfer, in order to make an informed status classification of such student in an information management system prescribed by the Board of Education.

2008, c. 422.

§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.

A. When the requirements of this section have been satisfied, instruction of children by their parents is an acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday may elect to provide home instruction in lieu of

school attendance if he (i) holds a high school diploma; (ii) is a teacher of qualifications prescribed by the Board of Education; (iii) provides the child with a program of study or curriculum which may be delivered through a correspondence course or distance learning program or in any other manner; or (iv) provides evidence that he is able to provide an adequate education for the child.

B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the division superintendent in August of his intention to so instruct the child and provide a description of the curriculum, limited to a list of subjects to be studied during the coming year, and evidence of having met one of the criteria for providing home instruction as required by subsection A. Effective July 1, 2000, parents electing to provide home instruction shall provide such annual notice no later than August 15. Any parent who moves into a school division or begins home instruction after the school year has begun shall notify the division superintendent of his intention to provide home instruction as soon as practicable and shall thereafter comply with the requirements of this section within 30 days of such notice. The division superintendent shall notify the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

C. The parent who elects to provide home instruction shall provide the division superintendent by August 1 following the school year in which the child has received home instruction with either (i) evidence that the child has attained a composite score in or above the fourth stanine on any nationally normed standardized achievement test, or an equivalent score on the ACT, SAT, or PSAT test or (ii) an evaluation or assessment which the division superintendent determines to indicate that the child is achieving an adequate level of educational growth and progress, including but not limited to (a) an evaluation letter from a person licensed to teach in any state, or a person with a master's degree or higher in an academic discipline, having knowledge of the child's academic progress, stating that the child is achieving an adequate level of educational growth and progress or (b) a report card or transcript from an institution of higher education, college distance learning program, or home-education correspondence school.

In the event that evidence of progress as required in this subsection is not provided by the parent, the home instruction program for that child may be placed on probation for one year. Parents shall file with the division superintendent evidence of their ability to provide an adequate education for their child in compliance with subsection A and a remediation plan for the probationary year which indicates their program is designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division superintendent, the home instruction may continue for one probationary year. If the remediation plan and evidence are not accepted or the required evidence of progress is not provided by August 1 following the probationary year, home instruction shall cease and the parent shall make other arrangements for the education of the child which comply with § 22.1-254. The requirements of subsection C shall not apply to children who are under the age of six as of September 30 of the school year.

D. Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school attendance by reason of bona fide religious training or belief pursuant to subdivision B 1 of § 22.1-254.

E. Any party aggrieved by a decision of the division superintendent may appeal his decision within 30 days to an independent hearing officer. The independent hearing officer shall be chosen from the list maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing officer in a manner consistent with his findings.

F. School boards shall make Advanced Placement (AP), Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), and PreACT examinations available to students receiving home instruction pursuant to this section. School boards shall adopt written policies that specify the date by which such students shall register to participate in such examinations. School boards shall notify such students and their parents of such registration deadline and the availability of financial assistance to low-income and needy students to take such examinations.

G. No division superintendent or local school board shall disclose to the Department of Education or any other person or entity outside of the local school division information that is provided by a parent or student to satisfy the requirements of this section or subdivision B 1 of § 22.1-254. However, a division superintendent or local school board may disclose, with the written consent of a student's parent, such information to the extent provided by the parent's consent. Nothing in this subsection shall prohibit a division superintendent from notifying the Superintendent of Public Instruction of the number of students in the school division receiving home instruction as required by subsection B.

1984, c. 436; 1986, c. 215; 1991, c. 306; 1992, c. 131; 1993, c. 992; 1994, c. 854; 1998, c. 435; 1999, cc. 488, 552; 2005, c. 377; 2006, cc. 562, 567, 911, 932; 2008, cc. 364, 553; 2012, cc. 547, 587; 2015, cc. 567, 590, 592; 2016, c. 640; 2017, cc. 302, 334; 2018, c. 516.

§ 22.1-254.2. Testing for high school equivalency; eligibility; guidelines.

A. The Board of Education shall establish a program of testing for high school equivalency through which a person may pass a high school equivalency examination approved by the Board of Education through which persons may earn a high school equivalency certificate or may earn a diploma as provided in subsection F of § 22.1-253.13:4. The following persons may participate in the testing program:

1. Persons who are at least 18 years of age and not enrolled in public school or not otherwise meeting the school attendance requirements set forth in § 22.1-254;

2. Persons 16 years of age or older who have been instructed by their parents in their home pursuant to § 22.1-254.1 and who have completed such home school instruction;

3. Persons who have been excused from school attendance pursuant to subsections B and D of § 22.1-254;

4. Persons for whom an individual student alternative education plan has been granted pursuant to subsection E of § 22.1-254;

5. Persons 16 through 18 years of age who are housed in adult correctional facilities and who are actively pursuing a passing score on a high school equivalency examination approved by the Board of Education but who are not enrolled in an individual student alternative education plan pursuant to subsection E of § 22.1-254;

6. Persons 16 years of age or older who have been expelled from school pursuant to §§ 22.1-277.06 through 22.1-277.08; and

7. Persons required by court order to participate in the testing program.

Under no circumstances shall persons under the age of 16 be eligible for the testing program.

B. From such funds as may be appropriated for this purpose, local school boards shall implement programs of preparation and testing for high school equivalency consistent with guidelines to be developed by the Board of Education. Such guidelines shall include a provision that allows preparatory and testing programs to be offered jointly by two or more school boards.

1989, c. 225; 1997, c. 458; 1999, cc. 488, 552; 2003, c. 688; 2004, cc. 251, 939, 955; 2006, c. 335; 2010, c. 605; 2014, c. 84.

§ 22.1-255. Nonresident children.

Any person who has residing with him for a period of sixty days or more any child within the ages prescribed in § 22.1-254 whose parents or guardians reside in another state or the District of Columbia shall be subject to the provisions of § 22.1-254 and shall pay or cause to be paid any tuition charges for such child that may be required pursuant to § 22.1-5 or shall return such child to the home of his parents or legal guardians.

Code 1950, § 22-220; 1958, c. 628; 1968, c. 178; 1976, cc. 681, 713; 1978, c. 140; 1980, c. 559.

§§ 22.1-256, 22.1-257. Repealed.

Repealed by Acts 1999, cc. 488 and 552.

§ 22.1-258. Appointment of attendance officers; notification when pupil fails to report to school; plan; conference; court proceedings.

Every school board shall have power to appoint one or more attendance officers, who shall be charged with the enforcement of the provisions of this article. Where no attendance officer is appointed by the school board, the division superintendent or his designee shall act as attendance officer.

Whenever any pupil fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, a reasonable effort to notify by telephone the parent to obtain an explanation for the pupil's absence shall be made by either the school principal or his designee, the attendance officer, other school personnel, or volunteers organized by the school administration for this purpose. Any such volunteers shall not be liable for any civil damages for any acts or omissions resulting from making

such reasonable efforts to notify parents and obtain such explanation when such acts or omissions are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law. School divisions are encouraged to use noninstructional personnel for this notice.

Whenever any pupil fails to report to school for a total of five scheduled school days for the school year and no indication has been received by school personnel that the pupil's parent is aware of and supports the pupil's absence, and a reasonable effort to notify the parent has failed, the school principal or his designee shall make a reasonable effort to ensure that direct contact is made with the parent in person, through telephone conversation, or through the use of other communications devices to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The school principal or his designee, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

If the pupil is absent for more than one additional day after direct contact with the pupil's parent, and school personnel have received no indication that the pupil's parent is aware of and supports the pupil's absence, the school principal or his designee shall schedule a conference with the pupil, his parent, and school personnel. Such conference may include the attendance officer and other community service providers to resolve issues related to the pupil's nonattendance. The conference shall be held no later than 10 school days after the tenth absence of the pupil, regardless of whether his parent approves of the conference. The conference team shall monitor the pupil's attendance and may meet again as necessary to address concerns and plan additional interventions if attendance does not improve. In circumstances in which the parent is intentionally noncompliant with compulsory attendance requirements or the pupil is resisting parental efforts to comply with compulsory attendance requirements, the principal or his designee shall make a referral to the attendance officer. The attendance officer shall schedule a conference with the pupil and his parent within 10 school days and may (i) file a complaint with the juvenile and domestic relations district court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) institute proceedings against the parent pursuant to § 18.2-371 or 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts to comply with the provisions of this section. In the event that both parents have been awarded joint physical custody pursuant to § 20-124.2 and the school has received notice of such order, both parents shall be notified at the last known addresses of the parents.

An attendance officer, or a division superintendent or his designee when acting as an attendance officer pursuant to § 22.1-258, may complete, sign, and file with the intake officer of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, a petition for a violation of a school attendance order entered by the juvenile and domestic relations district court pur-

suant to § 16.1-278.5 in response to the filing of a petition alleging the pupil is a child in need of supervision as defined in § 16.1-228.

Nothing in this section shall be construed to limit in any way the authority of any attendance officer or division superintendent to seek immediate compliance with the compulsory school attendance law as set forth in this article.

Attendance officers, other school personnel or volunteers organized by the school administration for this purpose shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give such notice as required by this section.

Code 1950, § 22-275.16; 1959, Ex. Sess., c. 72; 1980, c. 559; 1985, c. 482; 1990, c. 797; 1991, c. 295; 1996, cc. 891, 916, 964; 1998, c. 620; 1999, c. 526; 2010, c. 597; 2018, cc. 713, 753; 2020, cc. 105, 106.

§ 22.1-259. Teachers to keep daily attendance records.

Every teacher in every school in the Commonwealth shall keep an accurate daily record of attendance of all children in accordance with regulations prescribed by the Board of Education. Such record shall, at all times, be open to any officer authorized to enforce the provisions of this article who may inspect or copy the same and shall be admissible in evidence in any prosecution for a violation of this article as prima facie evidence of the facts stated therein.

Code 1950, §§ 22-209, 22-275.15; 1959, Ex. Sess., c. 72; 1964, c. 119; 1968, c. 178; 1980, c. 559.

§ 22.1-260. Reports of children enrolled and not enrolled; nonattendance.

A. Within 10 days after the opening of the school, each public school principal shall report to the division superintendent:

1. The name, age and grade of each student enrolled in the school, and the name and address of the student's parent or guardian; and

2. To the best of the principal's information, the name of each child subject to the provisions of this article who is not enrolled in school, with the name and address of the child's parent or guardian.

B. At the end of each school year, each public school principal shall report to the division superintendent the number of students by grade level for whom a conference was scheduled as required by § 22.1-258. The division superintendent shall compile such grade level information for the division and provide such information to the Superintendent of Public Instruction annually.

Code 1950, §§ 22-275.8, 22-275.9; 1959, Ex. Sess., c. 72; 1980, c. 559; 1987, c. 374; 1988, c. 163; 1999, c. 526; 2003, c. 637; 2015, cc. 372, 666.

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.

The attendance officer or the division superintendent or his designee shall check the reports submitted pursuant to subsection A of § 22.1-260 with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the attendance officer or the division superintendent or his designee shall, within five days after receiving all reports submitted

pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.

Code 1950, § 22-275.10; 1959, Ex. Sess., c. 72; 1980, c. 559; 1996, cc. 891, 964; 1999, c. 526; 2010, cc. 386, 597, 629.

§ 22.1-262. Complaint to court when parent fails to comply with law.

A list of persons notified pursuant to § 22.1-261 shall be sent by the attendance officer to the appropriate school principal. If the parent (i) fails to comply with the provisions of § 22.1-261 within the time specified in the notice or (ii) fails to comply with the provisions of § 22.1-254, it shall be the duty of the attendance officer, with the knowledge and approval of the division superintendent, to make complaint against the pupil's parent in the name of the Commonwealth before the juvenile and domestic relations district court. If proceedings are instituted against the parent for failure to comply with the provisions of § 22.1-258, the attendance officer is to provide documentation to the court regarding the school division's compliance with § 22.1-258. In addition thereto, such child may be proceeded against as a child in need of services or a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

Code 1950, § 22-275.11; 1959, Ex. Sess., c. 72; 1976, c. 98; 1980, c. 559; 1990, c. 797; 1991, c. 295; 1996, cc. 891, 964; 1999, c. 526; 2018, cc. 713, 753.

§ 22.1-263. Violation constitutes misdemeanor.

Any person violating the provisions of either § 22.1-254, except for clause (ii) of subsection A, §§ 22.1-255, 22.1-258, 22.1-267, or the parental responsibility provisions relating to compulsory school attendance included in § 22.1-279.3, shall be guilty of a Class 3 misdemeanor. Upon a finding that a person knowingly and willfully violated any provision of § 22.1-254, except for clause (ii) of subsection A, or any provision of §§ 22.1-255, 22.1-258, or § 22.1-267 and that such person has been convicted previously of a violation of any provision of § 22.1-254, except for clause (ii) of subsection A, or any provision of §§ 22.1-255, 22.1-258 or § 22.1-267, such person shall be guilty of a Class 2 misdemeanor.

Code 1950, § 22-275.5; 1959, Ex. Sess., c. 72; 1976, c. 283; 1980, c. 559; 1990, c. 797; 1991, c. 295; 1996, cc. 891, 964; 1999, cc. 488, 526, 552; 2004, c. 573.

§ 22.1-264. Misdemeanor to make false statements as to age.

Any person who makes a false statement concerning the age of a child between the ages set forth in § 22.1-254 for the purpose of evading the provisions of this article shall be guilty of a Class 4 misdemeanor.

Code 1950, § 22-275.18; 1959, Ex. Sess., c. 72; 1968, c. 178; 1976, cc. 283, 681, 713; 1980, c. 559.

§ 22.1-264.1. Misdemeanor to make false statements as to school division or attendance zone residency; penalty.

Any person who knowingly makes a false statement concerning the residency of a child, as determined by § 22.1-3, in a particular school division or school attendance zone, for the purposes of (i) avoiding the tuition charges authorized by § 22.1-5 or (ii) enrollment in a school outside the attendance zone in which the student resides, shall be guilty of a Class 4 misdemeanor and shall be liable to the school division in which the child was enrolled as a result of such false statements for tuition charges, pursuant to § 22.1-5, for the time the student was enrolled in such school division.

2005, c. 178; 2006, c. 143.

§ 22.1-265. Inducing children to absent themselves.

Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 3 misdemeanor and may be subject to the penalties provided by subdivision 5 a of subsection B of § 16.1-278.5 or § 18.2-371. Upon a finding that a person knowingly and willfully violated the provisions of this section and that such person has been convicted previously of a violation of this section, such person shall be guilty of a Class 2 misdemeanor.

Code 1950, § 22-275.19; 1959, Ex. Sess., c. 72; 1976, c. 283; 1980, c. 559; 1990, c. 797; 1991, cc. 295, 534; 1996, cc. 891, 916, 964.

§ 22.1-266. Law-enforcement officers and truant children.

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9.1-101 or any attendance officer may pick up any child who (i) is reported to be truant from a public school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program pursuant to § 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section, "truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

Code 1950, § 22-275.11:1; 1976, c. 692; 1978, c. 215; 1980, c. 559; 1999, cc. 395, 1023; 2001, cc. 688, 820.

§ 22.1-267. Proceedings against habitually absent child.

Any child permitted by any parent, guardian, or other person having control thereof to be habitually absent from school contrary to the provisions of this article may be proceeded against as a child in need of supervision as provided in Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

Code 1950, § 22-275.20; 1959, Ex. Sess., c. 72; 1976, c. 98; 1980, c. 559; 1990, c. 797; 1991, c. 295.

§ 22.1-268. Duty of attorneys for the Commonwealth to prosecute cases arising under article; jurisdiction of offenses.

It shall be the duty of the attorneys for the Commonwealth of the several counties and cities to prosecute all cases arising under this article. Juvenile and domestic relations district courts shall have exclusive original jurisdiction for the trial of such cases.

Code 1950, § 22-275.21; 1959, Ex. Sess., c. 72; 1980, c. 559.

§ 22.1-269. Board to enforce.

The Board of Education shall have the authority and it shall be its duty to see that the provisions of this article are properly enforced throughout the Commonwealth.

Code 1950, § 22-275.23; 1959, Ex. Sess., c. 72; 1968, c. 178; 1980, c. 559.

§ 22.1-269.1. Alternative attendance programs.

A. The Board of Education shall promulgate regulations for the voluntary participation of school divisions in programs to allow each school-age child to receive educational services at another public school, either in the division in which the child resides or in another division, as selected by the child's parent or guardian. Each public school in a school division participating in an alternative attendance program shall be eligible to participate in an alternative attendance program unless exceptional circumstances, as defined by the Board of Education, render the participation of the school contrary to public interest.

B. The Board's regulations shall be promulgated under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) and shall include, but shall not be limited to, provisions which address the following: the required acknowledgement by a local school of its decision to participate in an alternative attendance program, including school board resolutions for intradistrict programs and agreements between divisions participating in interdistrict programs; the equitable allocation of places to accommodate students when there are insufficient places to serve such students; transportation and school bus scheduling needs within the local school divisions; school enrollment capacity, class size, pupil-teacher ratios, and staffing levels for related instructional, administrative, and supervisory personnel as required by the Standards of Quality and the Standards for Accrediting Public Schools; the adequacy of school resources to accommodate an increase in student enrollment, grade level designations, and course offerings; the enrollment of students whose education is subject to an individualized education plan (I.E.P.) as required under P.L. 94-142 as amended; the preservation of the

uniqueness of schools established for particular educational purposes; the fiscal impact of accommodating parental preference on local school divisions; in the case of interdistrict attendance programs, the establishment of tuition charges authorized by § 22.1-5; and the need to maintain racial balance in the public schools. The regulations shall also establish the value of educational services, based on consideration of per pupil expenditures and state aid in the affected school. Any local school board which has been ordered by a state or federal court to achieve racial balance in its public schools shall maintain such racial balance when accommodating preference in the assignment of children to a school.

C. From such funds as may be appropriated, the Board shall provide for the independent evaluation of this alternative attendance program and shall submit the evaluation to the Governor, the Senate, and the House of Delegates by January 1 of each year.

1993, c. 947.

Article 2 - Health Provisions

§ 22.1-270. Preschool physical examinations.

A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that reason cannot furnish the report or records required by (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating that, to the best of his knowledge, such pupil is in good health and free from any communicable or contagious disease, the school division shall immediately refer the student to the local school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary physical examination by the county or city health department or other clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

Code 1950, § 22-220.1; 1972, c. 761; 1973, c. 300; 1974, c. 160; 1979, cc. 120, 260; 1980, c. 559; 1982, c. 510; 1983, c. 195; 1985, c. 334; 2000, cc. 209, 617, 646; 2001, c. 261; 2004, cc. 500, 967; 2018, c. 394; 2019, c. 586.

§ 22.1-271. Repealed.

Repealed by Acts 1982, c. 510.

§ 22.1-271.1. Definitions.

For the purpose of § 22.1-271.2:

"Admit" or "admission" means the official enrollment or reenrollment for attendance at any grade level, whether full-time or part-time, of any student by any school.

"Admitting official" means the school principal or his designated representative if a public school; if a nonpublic school or child-care center, the principal, headmaster or director of the school or center.

"Documentary proof" means written certification that a student has been immunized, such certificate to be on a form provided by the State Department of Health and signed by the licensed immunizing physician or an employee of the immunizing local health department.

"Student" means any person who seeks admission to a school, or for whom admission to a school is sought by a parent or guardian, and who will not have attained the age of 20 years by the start of the school term for which admission is sought.

"Immunized" or "immunization" means initial immunization and any boosters or reimmunizations required by § 32.1-46.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth, (ii) any private or religious school that offers instruction at any level or grade from kindergarten through grade twelve, and (iii) any private or religious nursery school or preschool, or any private or religious child-care center required to be licensed by the Commonwealth.

1982, c. 510; 1983, c. 433; 2005, c. 928.

§ 22.1-271.2. Immunization requirements.

A. No student shall be admitted by a school unless at the time of admission the student or his parent submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in subdivision A 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school shall notify the student or his parent (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, nurse practitioner, registered nurse or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has

written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to clauses (i) or (ii) of this subsection, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.)(the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within 30 calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted, including those students who are homeless children or youths as defined in subdivision A 7 of § 22.1-3.

F. The requirement for Haemophilus Influenzae Type b immunization as provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through grade 12.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education.

1982, c. 510; 1983, c. 433; 1988, c. 216; 1989, c. 382; 2000, c. 476; 2004, c. 500; 2011, c. 125; 2012, c. 181; 2019, c. 586.

§ 22.1-271.3. Guidelines for school attendance for children infected with human immunodeficiency virus; school personnel training required; notification of school personnel in certain cases.

A. The Board of Education, in cooperation with the Board of Health, shall develop, and revise as necessary, model guidelines for school attendance for children infected with human immunodeficiency virus. The first such guidelines shall be completed by December 1, 1989. The Board shall distribute copies of these guidelines to each division superintendent and every school board member in the Commonwealth immediately following completion.

B. Each school board shall, by July 1, 1990, adopt guidelines for school attendance for children with human immunodeficiency virus. Such guidelines shall be consistent with the model guidelines for such school attendance developed by the Board of Education.

C. Every school board shall ensure that all school personnel having direct contact with students receive appropriate training in the etiology, prevention, transmission modes, and effects of blood-borne pathogens, specifically, hepatitis B and human immunodeficiency viruses or any other infections that are the subject of regulations promulgated by the Safety and Health Codes Board of the Virginia Occupational Safety and Health Program within the Department of Labor and Industry.

D. Upon notification by a school employee who believes he has been involved in a possible exposure-prone incident which may have exposed the employee to the blood or body fluids of a student, the division superintendent shall contact the local health director who, upon immediate investigation of the incident, shall determine if a potentially harmful exposure has occurred and make recommendations, based upon all information available to him, regarding how the employee can reduce any risks from such exposure. The division superintendent shall share these recommendations with the school employee. Except as permitted by § 32.1-45.1, the division superintendent and the school employee shall not divulge any information provided by the local health director regarding such student. The information provided by the local health director shall be subject to any applicable confidentiality requirements set forth in Chapter 2 (§ 32.1-35 et seq.) of Title 32.1.

1989, c. 613; 1997, c. 685; 2003, c. 1.

§ 22.1-271.4. Health requirements for home-instructed, exempted, and excused children.

In addition to compliance with the requirements of subsection B, D, or I of § 22.1-254 or § 22.1-254.1, any parent, guardian or other person having control or charge of a child being home instructed, exempted or excused from school attendance shall comply with the immunization requirements provided in § 32.1-46 in the same manner and to the same extent as if the child has been enrolled in and is attending school.

Upon request by the division superintendent, the parent shall submit to such division superintendent documentary proof of immunization in compliance with § 32.1-46.

No proof of immunization shall be required of any child upon submission of (i) an affidavit to the division superintendent stating that the administration of immunizing agents conflicts with the parent's or guardian's religious tenets or practices or (ii) a written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be

detrimental to the child's health, indicating the specific nature of the medical condition or circumstance that contraindicates immunization.

1993, c. 659; 1999, cc. 488, 552; 2010, c. 605; 2011, c. 125.

§ 22.1-271.5. Guidelines and policies and procedures on concussions in student-athletes.

A. The Board of Education shall develop, biennially update, and distribute to each local school division guidelines on policies to inform and educate coaches, student-athletes, and student-athletes' parents or guardians of the nature and risk of concussions, criteria for removal from and return to play, risks of not reporting the injury and continuing to play, and the effects of concussions on student-athletes' academic performance.

B. Each local school division shall develop and biennially update policies and procedures regarding the identification and handling of suspected concussions in student-athletes. Such policies shall:

1. Require that in order to participate in any extracurricular physical activity, each student-athlete and the student-athlete's parent or guardian shall review, on an annual basis, information on concussions provided by the local school division. After having reviewed materials describing the short- and long-term health effects of concussions, each student-athlete and the student-athlete's parent or guardian shall sign a statement acknowledging receipt of such information, in a manner approved by the Board of Education;

2. Require a student-athlete suspected by that student-athlete's coach, athletic trainer, or team physician of sustaining a concussion or brain injury in a practice or game to be removed from the activity at that time. A student-athlete who has been removed from play, evaluated, and suspected to have a concussion or brain injury shall not return to play that same day nor until (i) evaluated by an appropriate licensed health care provider as determined by the Board of Education and (ii) in receipt of written clearance to return to play from such licensed health care provider.

The licensed health care provider evaluating student-athletes suspected of having a concussion or brain injury may be a volunteer; and

3. Include a "Return to Learn Protocol" with the following requirements:

a. School personnel shall be alert to cognitive and academic issues that may be experienced by a student who has suffered a concussion or other head injury, including (i) difficulty with concentration, organization, and long-term and short-term memory; (ii) sensitivity to bright lights and sounds; and (iii) short-term problems with speech and language, reasoning, planning, and problem solving; and

b. School personnel shall accommodate the gradual return to full participation in academic activities of a student who has suffered a concussion or other head injury as appropriate, based on the recommendation of the student's licensed health care provider as to the appropriate amount of time that such student needs to be away from the classroom.

C. Each non-interscholastic youth sports program utilizing public school property shall either (i) establish policies and procedures regarding the identification and handling of suspected concussions in

student-athletes, consistent with either the local school division's policies and procedures developed in compliance with this section or the Board's Guidelines for Policies on Concussions in Student-Athletes, or (ii) follow the local school division's policies and procedures as set forth in subsection B. In addition, local school divisions may provide the guidelines to organizations sponsoring athletic activity for student-athletes on school property. Local school divisions shall not be required to enforce compliance with such policies.

D. As used in this section, "non-interscholastic youth sports program" means a program organized for recreational athletic competition or recreational athletic instruction for youth.

2010, c. 483; 2014, cc. 746, 760; 2016, c. 151; 2019, c. 142.

§ 22.1-271.6. School division policies and procedures on concussions in students.

The Board of Education shall amend its guidelines for school division policies and procedures on concussions in student-athletes to include a "Return to Learn Protocol" with the following requirements:

1. School personnel shall be alert to cognitive and academic issues that may be experienced by a student who has suffered a concussion or other head injury, including (i) difficulty with concentration, organization, and long-term and short-term memory; (ii) sensitivity to bright lights and sounds; and (iii) short-term problems with speech and language, reasoning, planning, and problem solving; and

2. School personnel shall accommodate the gradual return to full participation in academic activities of a student who has suffered a concussion or other head injury as appropriate, based on the recommendation of the student's licensed health care provider as to the appropriate amount of time that such student needs to be away from the classroom.

2014, c. 349; 2016, c. 151.

§ 22.1-271.7. Public middle school student-athletes; pre-participation physical examination.

No public middle school student shall be a participant on or try out for any school athletic team or squad with a predetermined roster, regular practices, and scheduled competitions with other middle schools unless such student has submitted to the school principal a signed report from a licensed physician, a licensed nurse practitioner practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician attesting that such student has been examined, within the preceding 12 months, and found to be physically fit for athletic competition.

2016, c. 692; 2018, c. 776.

§ 22.1-271.8. Sudden cardiac arrest prevention in student-athletes.

A. The Board of Education shall develop, biennially update, and distribute to each local school division guidelines on policies to inform and educate coaches, student-athletes, and student-athletes' parents or guardians about the nature and risk of sudden cardiac arrest, procedures for removal from and return to play, and the risks of not reporting symptoms. The guidelines shall also be posted on the Department's website.

B. Each local school division shall develop and biennially update policies and procedures regarding the identification and handling of symptoms that may lead to sudden cardiac arrest in student-athletes. Such policies shall:

1. Require that in order to participate in any extracurricular physical activity, each student-athlete and the student-athlete's parent or guardian shall review, on an annual basis, information provided by the local school division on symptoms that may lead to sudden cardiac arrest. After reviewing the materials, each student-athlete and the student-athlete's parent or guardian shall sign a statement acknowledging receipt of such information, in a manner approved by the Board of Education.

2. Require that a student-athlete who is experiencing symptoms that may lead to sudden cardiac arrest be immediately removed from play. A student-athlete who is removed from play shall not return to play until he is evaluated by and receives written clearance to return to physical activity by an appropriate licensed health care provider as determined by the Board of Education. The licensed health care provider evaluating student-athletes may be a volunteer.

2020, c. 694.

§ 22.1-272. Contagious and infectious diseases.

Persons suffering with contagious or infectious disease shall be excluded from the public schools while in that condition.

Code 1950, § 22-249; 1968, c. 445; 1970, c. 526; 1973, c. 491; 1974, c. 160; 1977, c. 220; 1979, c. 262; 1980, c. 559.

§ 22.1-272.1. Responsibility to contact parent of student at imminent risk of suicide; notice to be given to social services if parental abuse or neglect; Board of Education, in cooperation with the Department of Behavioral Health and Developmental Services and the Department of Health, to develop guidelines for parental contact.

A. Any person licensed as administrative or instructional personnel by the Board of Education and employed by a local school board who, in the scope of his employment, has reason to believe, as a result of direct communication from a student, that such student is at imminent risk of suicide, shall, as soon as practicable, contact at least one of such student's parents to ask whether such parent is aware of the student's mental state and whether the parent wishes to obtain or has already obtained counseling for such student. Such contact shall be made in accordance with the provisions of the guidelines required by subsection C.

B. If the student has indicated that the reason for being at imminent risk of suicide relates to parental abuse or neglect, this contact shall not be made with the parent. Instead, the person shall, as soon as practicable, notify the local department of social services of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or the state Department of Social Services' toll-free child abuse and neglect hotline, as required by § 63.2-1509. When giving this notice to the local or state department, the person shall stress the need to take immediate action to protect the child from harm.

C. The Board of Education, in cooperation with the Department of Behavioral Health and Developmental Services and the Department of Health, shall develop guidelines for making the contact required by subsection A. These guidelines shall include, but need not be limited to, (i) criteria to assess the suicide risks of students, (ii) characteristics to identify potentially suicidal students, (iii) appropriate responses to students expressing suicidal intentions, (iv) available and appropriate community services for students expressing suicidal intentions, (v) suicide prevention strategies which may be implemented by local schools for students expressing suicidal intentions, (vi) criteria for notification of and discussions with parents of students expressing suicidal intentions, (vii) criteria for as-soon-as-practicable contact with the parents, (viii) appropriate sensitivity to religious beliefs, and (ix) legal requirements and criteria for notification of public service agencies, including, but not limited to, the local or state social services and mental health agencies. These guidelines may include case studies and problem-solving exercises and may be designed as materials for in-service training programs for licensed administrative and instructional personnel.

1999, c. 425; 2009, cc. 813, 840.

§ 22.1-273. Vision and hearing of student to be tested; exceptions.

A. As used in this section:

"Comprehensive vision program" means a program that incorporates the following quality-controlled requirements:

1. Program staff who perform vision screenings and administer and maintain student paperwork and data related to such screenings are credentialed pursuant to a credentialing process that includes training and certification on vision screening equipment; documentation of negative tuberculosis risk assessment or screening, as required by local school boards; and documentation from the employing qualified nonprofit vision health organization certifying completion of a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515 and a search of the Central Criminal Records Exchange through the Federal Bureau of Investigation based on fingerprints and personal descriptive information for the purpose of obtaining criminal history record information;

2. The vision screening program is based on best practices as determined by scientific research and program performance and is evaluated by an advisory council consisting of (i) representatives of the ophthalmology and optometry fields and (ii) members from elementary and secondary education and school health to support the implementation of best practices and administrative policies to ensure compliance with Department of Education requirements;

3. Vision screening results are communicated to parents in a relevant and informative format that is designed to increase parental awareness and encourage parental action;

4. Parents receive information on the difference between vision screenings and eye examinations, the importance of taking action on a referral for an eye examination by taking their child to a licensed opto-

metrist or ophthalmologist, the identification of potential vision problems beyond the results or scope of the vision screening, and the importance of vision to a child's education and success;

5. Parents are provided with information regarding follow-up resources related to eye examinations and eyeglasses; and

6. Vision screening results are managed for the purposes of reporting, outcome measurement, and program analysis.

"Qualified nonprofit vision health organization" means a nonprofit organization that is exempt from taxation under § 501(c)(3) or 501(c)(4) of the Internal Revenue Code, has at least 10 years of direct experience in the delivery of vision and vision education services, and does not directly or indirectly derive profit from the sale of vision equipment, insurance, medication, merchandise, or vision-related products.

B. The Superintendent of Public Instruction shall prepare or cause to be prepared, with the advice and approval of the State Health Commissioner, suitable appliances for testing the hearing of the students in the public schools and necessary instructions for the use thereof. The Department of Education shall furnish the same free of expense to all schools in a school division upon request of the school board of such division accompanied by a resolution of the school board directing the use of such appliances in the schools of the school division.

C. Within the time periods and at the grades provided in regulations promulgated by the Board, the principal of each such school shall cause the hearing of the relevant students in the school to be tested, unless:

1. Any such student is admitted for the first time to a public elementary school and has been so tested as part of the comprehensive physical examination required by § 22.1-270;

2. The parents or guardians of any such student object on religious grounds and the student shows no obvious evidence of any defect or disease of the ears; or

3. Any such student has an Individualized Education Program or a Section 504 Plan that documents a defect of hearing or a disease of the ears and the principal determines that such a test would not identify any previously unknown defect of hearing or a disease of the ears.

D. The principal shall keep a record of examinations conducted pursuant to subsection C in accordance with instructions furnished.

E. Whenever a student is found to have any defect of hearing or a disease of the ears, the principal shall forthwith notify the parent or guardian, in writing, of such defect or disease. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.

F. The principal of each public elementary school shall cause the vision of students enrolled in kindergarten and students enrolled in grade two or grade three to be tested, unless:

1. Any such student is admitted for the first time to a public elementary school and produces a written record of a comprehensive eye examination performed within the preceding 24 months;

2. The parents or guardians of such student object on religious grounds and the student shows no obvious evidence of any defect or disease of the eyes; or

3. Any such student has an Individualized Education Program or a Section 504 Plan that documents a defect of vision or a disease of the eyes and the principal determines that such a test would not identify any previously unknown defect of vision or a disease of the eyes.

Any such screening may be conducted by a qualified nonprofit vision health organization that uses a digital photoscreening method pursuant to a comprehensive vision program or other methods that comply with Department of Education requirements. Notwithstanding any other provision of law, such screenings may be conducted at any time during the school year; however, the scheduling of such screenings shall be completed no later than the sixtieth administrative working day of the school year. The principal shall keep a record of such screenings in accordance with instructions furnished. Whenever a student does not receive a passing result on such screening and requires referral to an optometrist or ophthalmologist for a comprehensive eye examination, the principal shall cause the parent or guardian to be notified in writing. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.

G. The principal of each public middle school and high school shall cause the vision of students enrolled in grade seven and grade 10 to be tested, unless:

1. Any such student produces a written record of a comprehensive eye examination performed within the preceding 24 months;

2. The parents or guardians of any such student object on religious grounds and the student shows no obvious evidence of any defect or disease of the eyes; or

3. Any such student has an Individualized Education Program or a Section 504 Plan that documents a defect of vision or a disease of the eyes and the principal determines that such a test would not identify any previously unknown defect of vision or a disease of the eyes.

Any such screening may be conducted by a qualified nonprofit vision health organization that uses a digital photoscreening method pursuant to a comprehensive vision program or other methods that comply with Department of Education requirements. Notwithstanding any other provision of law, such screenings may be conducted at any time during the school year; however, the scheduling of such screenings shall be completed no later than the sixtieth administrative working day of the school year. The principal shall keep a record of such screenings in accordance with instructions furnished. Whenever a student does not receive a passing result on such screening and requires referral to an optometrist or ophthalmologist for a comprehensive eye examination, the principal shall cause the parent or guardian to be notified in writing. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.

H. School boards may enter into contracts with qualified nonprofit vision health organizations for the purpose of conducting screenings pursuant to subsections F and G.

Code 1950, § 22-248; 1980, c. 559; 1981, c. 142; 1995, c. 246; 2017, cc. 312, 765.

§ 22.1-273.1. Annual screening for scoliosis.

Within the time periods specified in regulations promulgated by the Board of Education, each school board shall provide parent educational information or implement a program of regular screening for scoliosis for pupils in grades five through ten, unless such students are pupils admitted for the first time to a public school who have been so tested as part of the comprehensive physical examination required by § 22.1-270 or the parents of such students have indicated their preference that their children not participate in such screening. Local school boards shall develop procedures for parents to indicate such preference.

The Board of Education shall promulgate regulations for the implementation of such screenings, which shall address, but shall not be limited to, requirements and training for school personnel and volunteers who may conduct such screenings; procedures for the notification of parents when evidence of scoliosis is detected; and such other provisions as the Board deems necessary. Local school divisions may seek volunteers from among professional health care providers.

2003, c. 894.

§ 22.1-273.2. Parent educational information regarding eating disorders.

Each school board shall annually provide parent educational information regarding eating disorders for pupils in grades five through 12. Such information shall be consistent with guidelines set forth by the Department of Education.

2013, c. 715.

§ 22.1-273.3. Parent educational information regarding tobacco and nicotine vapor products.

Each school board shall annually provide educational information to parents of pupils in grades kindergarten through 12 regarding the health dangers of tobacco and nicotine vapor products. Such information shall be consistent with guidelines set forth by the Department of Education.

2020, c. 679.

§ 22.1-273.4. Department of Education; guidance and resources; applied behavior analysis services.

The Department of Education shall develop and publish no later than November 16, 2020, guidance and resources relating to the provision of applied behavior analysis (ABA) services in public schools for students who are in need of such services. Such guidance and resources may address (i) determining the need for and appropriateness of providing ABA services for students during the school day; (ii) considerations for school boards regarding management and monitoring of personnel who are not employed by the school board and who provide ABA services in public schools; (iii) the financial responsibilities related to hiring and retaining personnel who are not employed by the school board

and who provide ABA services in public schools; (iv) developing agreements between such providers of ABA services, families, and schools; and (v) utilizing licensed behavior analysts employed by the school board to provide ABA services.

2020, c. 774.

§ 22.1-274. School health services.

A. A school board shall provide pupil personnel and support services in compliance with § 22.1-253.13:2. A school board may employ school nurses, physicians, physical therapists, occupational therapists, and speech therapists. No such personnel shall be employed unless they meet such standards as may be determined by the Board of Education. Subject to the approval of the appropriate local governing body, a local health department may provide personnel for health services for the school division.

B. In implementing subsection O of § 22.1-253.13:2, relating to providing support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools, each school board may strive to employ, or contract with local health departments for, nursing services consistent with a ratio of at least one nurse (i) per 2,500 students by July 1, 1996; (ii) per 2,000 students by July 1, 1997; (iii) per 1,500 students by July 1, 1998; and (iv) per 1,000 students by July 1, 1999. In those school divisions in which there are more than 1,000 students in average daily membership in school buildings, this section shall not be construed to encourage the employment of more than one nurse per school building. Further, this section shall not be construed to mandate the aspired-to ratios.

C. The Board of Education shall monitor the progress in achieving the ratios set forth in subsection B and any subsequent increase in prevailing statewide costs, and the mechanism for funding health services, pursuant to subsection O of § 22.1-253.13:2 and the appropriation act. The Board shall also determine how school health funds are used and school health services are delivered in each locality and shall provide, by December 1, 1994, a detailed analysis of school health expenditures to the House Committee on Education, the House Committee on Appropriations, the Senate Committee on Education and Health, and the Senate Committee on Finance.

D. With the exception of school administrative personnel and persons employed by school boards who have the specific duty to deliver health-related services, no licensed instructional employee, instructional aide, or clerical employee shall be disciplined, placed on probation, or dismissed on the basis of such employee's refusal to (i) perform nonemergency health-related services for students or (ii) obtain training in the administration of insulin and glucagon. However, instructional aides and clerical employees may not refuse to dispense oral medications.

For the purposes of this subsection, "health-related services" means those activities that, when performed in a health care facility, must be delivered by or under the supervision of a licensed or certified professional.

E. Each school board shall ensure that in school buildings with an instructional and administrative staff of 10 or more (i) at least three employees have current certification or training in emergency first

aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (ii) if one or more students diagnosed as having diabetes attend such school, at least two employees have been trained in the administration of insulin and glucagon. In school buildings with an instructional and administrative staff of fewer than 10, school boards shall ensure that (a) at least two employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (b) if one or more students diagnosed as having diabetes attend such school, at least one employee has been trained in the administration of insulin and glucagon. "Employee" includes any person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board. When a registered nurse, nurse practitioner, physician, or physician assistant is present, no employee who is not a registered nurse, nurse practitioner, physician, or physician assistant shall assist with the administration of insulin or administer glucagon. Prescriber authorization and parental consent shall be obtained for any employee who is not a registered nurse, nurse practitioner, physician, or physician assistant to assist with the administration of insulin and administer glucagon.

Code 1950, § 22-241; 1956, c. 656; 1980, c. 559; 1990, c. 797; 1991, c. 295; 1994, c. 712; 1997, c. 597; 1998, c. 871; 1999, cc. 570, 757; 2013, cc. 498, 530.

§ 22.1-274.01. Repealed.

Repealed by Acts 2011, c. 216, cl. 2.

§ 22.1-274.01:1. Students who are diagnosed with diabetes; self-care; insertion and reinsertion of insulin pump.

A. Each local school board shall permit each enrolled student who is diagnosed with diabetes, with parental consent and written approval from the prescriber, as that term is defined in § 54.1-3401, to (i) carry with him and use supplies, including a reasonable and appropriate short-term supply of carbohydrates, an insulin pump, and equipment for immediate treatment of high and low blood glucose levels, and (ii) self-check his own blood glucose levels on a school bus, on school property, and at a school-sponsored activity.

B. A local school board employee who is a registered nurse, licensed practical nurse, or certified nurse aide and who has been trained in the administration of insulin, including the use and insertion of insulin pumps, and the administration of glucagon may assist a student who is diagnosed with diabetes and who carries an insulin pump with the insertion or reinsertion of the pump or any of its parts. For the purposes of this subsection, "employee" has the same meaning as in subsection E of § 22.1-274. Prescriber authorization and parental consent shall be obtained for any such employee to assist with the insertion or reinsertion of the pump or any of its parts. Nothing in this section shall require any employee to assist with the insertion or reinsertion of the pump or any of its parts.

2014, cc. 488, 554; 2017, c. 811.

§ 22.1-274.02. Certain memorandum of agreement required.

A. The Superintendent of Public Instruction or his designee and the Director of the Department of Medical Assistance Services or his designee shall develop and execute a memorandum of agreement relating to special education health services. This memorandum of agreement shall be revised on a periodic basis; however, the agreement shall, at a minimum, be revised and executed within six months of the inauguration of a new governor in order to maintain policy integrity.

B. The agreement shall include, but need not be limited to, (i) requirements for regular and consistent communications and consultations between the two departments and with school division personnel and officials and school board representatives; (ii) a specific and concise description and history of the federal Individuals with Disabilities Education Act (IDEA), a summary of school division responsibilities pursuant to the Individuals with Disabilities Education Act, and a summary of any corresponding state law which influences the scope of these responsibilities; (iii) a specific and concise summary of the then-current Department of Medical Assistance Services regulations regarding the special education health services; (iv) assignment of the specific responsibilities of the two state departments for the operation of special education health services; (v) a schedule of issues to be resolved through the regular and consistent communications process, including, but not limited to, ways to integrate and coordinate care between the Department of Medical Assistance Services' managed care providers and special education health services providers; (vi) a process for the evaluation of the services which may be delivered by school divisions participating as special education health services providers pursuant to Medicaid; (vii) a plan and schedule to reduce the administrative and paperwork burden of Medicaid participation on school divisions in Virginia; and (viii) a mechanism for informing primary care providers and other case management providers of those school divisions that are participating as Medicaid providers and for identifying such school divisions as Medicaid providers that are available to receive referrals to provide special education health services.

C. The Board of Education shall cooperate with the Board of Medical Assistance Services in developing a form to be included with the Individualized Education Plan (IEP) that shall be accepted by the Department of Medical Assistance Services as the plan of care (POC) and in collecting the data necessary to establish separate and specific Medicaid rates for the IEP meetings and other services delivered by school divisions to students.

The POC form shall (i) be consistent with the plan of care required by the Department of Medical Assistance Services of other Medicaid providers, (ii) allow for written updates, (iii) be used by all school divisions participating as Medicaid providers of special education health services, (iv) document the student's progress, and (v) be integrated and coordinated with the Department of Medical Assistance Services' managed care providers.

D. The Department of Education shall prepare, upon consultation with the Department of Medical Assistance Services, a consent form which (i) is separate from the IEP, (ii) includes a statement noting that such form is not part of the student's IEP, (iii) includes a release to authorize billing of school-based health services delivered to the relevant student by the school division, and (iv) shall be used by all school divisions participating in Medicaid reimbursement. This consent form shall be made

available to the parents upon conclusion of the IEP meeting. The release shall allow for billing of school-based health services by Virginia school divisions to the Virginia Medicaid program and other programs operated by the Department of Medical Assistance Services.

E. The Department of Education and the Department of Medical Assistance Services shall also develop a cost-effective, efficient, and appropriate process to allow school divisions access to eligibility data for students for whom consent has been obtained.

1999, cc. 967, 1005.

§ 22.1-274.1. Criteria to identify toxic art materials; labeling; use in certain grades prohibited.
The State Department of Education, in cooperation with the State Department of Health, shall develop criteria to identify toxic art materials.

After these criteria have been developed, the Department of Education shall require school divisions to evaluate all art materials used in schools and identify those which are toxic. All materials used in the public schools which meet the criteria as toxic shall be so labeled and the use of such art materials shall be prohibited in kindergarten through grade five.

1987, c. 225; 1988, c. 103.

§ 22.1-274.2. Possession and self-administration of inhaled asthma medications and epinephrine by certain students or school board employees.
A. Local school boards shall develop and implement policies permitting a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:

1. Written consent of the parent, as defined in § 22.1-1, of a student with a diagnosis of asthma or anaphylaxis, or both, that the student may self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner that (i) identifies the student; (ii) states that the student has a diagnosis of asthma or anaphylaxis, or both, and has approval to self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications or auto-injectable epinephrine, such as before exercising or engaging in physical activity to prevent the onset of asthma symptoms or to alleviate asthma symptoms after the onset of an asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications and auto-injectable epinephrine, and before the permission to possess and self-administer inhaled asthma medications and auto-injectable epinephrine at any point during the school year is revoked.

5. Self-administration of inhaled asthma medications and auto-injectable epinephrine to be consistent with the purposes of the Virginia School Health Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with §§ 22.1-287 and 22.1-289 and the federal Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. § 1232g, which govern the disclosure and dissemination of information contained in student scholastic records.

B. The permission granted a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, shall be effective for one school year. Permission to possess and self-administer such medications shall be renewed annually. For the purposes of this section, "one school year" means 365 calendar days.

C. Local school boards shall adopt and implement policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular school hours any such epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

2000, c. 871; 2005, c. 785; 2012, cc. 787, 833; 2013, cc. 336, 617; 2020, c. 476.

§ 22.1-274.3. Policies regarding medication recommendations by school personnel.

The Board of Education shall develop and implement policies prohibiting school personnel from recommending the use of psychotropic medications for any student. Such policies shall not prohibit school health staff, classroom teachers or other school professionals from recommending that a student be evaluated by an appropriate medical practitioner, or prohibit school personnel from consulting with such practitioner, with the written consent of the student's parent.

For the purposes of this section, "psychotropic medications" means those medications the prescribed intention of which is to alter mental activity or state, including, but not limited to, antipsychotic, antidepressant, and anxiolytic medication and behavior-altering medication.

2002, c. 314.

§ 22.1-274.4. Automated external defibrillators.

Each local school board may develop a plan to allow for the placement, care, and use, and funding of an automated external defibrillator in every school.

2013, cc. 498, 530.

§ 22.1-274.5. Topical sunscreen.

Any public elementary or secondary school student may possess and use unscented topical sunscreen in its original packaging on a school bus, on school property, or at a school-sponsored event without a note or prescription from a licensed health care professional if the topical sunscreen is approved by the U.S. Food and Drug Administration for nonprescription use for the purpose of limiting damage to skin caused by exposure to ultraviolet light.

2020, c. 579.

§ 22.1-275. Protective eye devices.

Every student and teacher in any school or institution of higher education shall be required to wear industrial quality eye protective devices while participating in any of the following courses or laboratories:

1. Career and technical education shops or laboratories involving experience with:

a. Hot molten metals,

b. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials,

c. Heat treatment, tempering, or kiln firing of any metal or other materials,

d. Gas or electric arc welding,

e. Repair of any vehicle, or

f. Caustic or explosive materials;

2. Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

The governing board or authority of any public or private school or the governing board of each institution of higher education shall furnish the eye protective devices prescribed in this section free of charge or at cost to the students and teachers of the school participating in such courses or laboratories; however, such devices may be furnished by parents or guardians of such students. Eye protective devices shall be furnished to all visitors to such courses.

"Industrial quality eye protective devices," as used in this section, means devices providing side protection and meeting the standards of the American Standards Association Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.

Code 1950, § 22-10.2; 1966, c. 69; 1980, c. 559; 2001, c. 483.

§ 22.1-275.1. School health advisory board.

Each school board may establish a school health advisory board of no more than 20 members which shall consist of broad-based community representation including, but not limited to, parents, students, health professionals, educators, and others. If established, the school health advisory board shall assist with the development of health policy in the school division and the evaluation of the status of school health, health education, the school environment, and health services.

Any school health advisory board shall hold meetings at least semi-annually and shall annually report on the status and needs of student health in the school division to any relevant school, the school board, the Virginia Department of Health, and the Virginia Department of Education.

The local school board may request that the school health advisory board recommend to the local school board procedures relating to children with acute or chronic illnesses or conditions, including, but not limited to, appropriate emergency procedures for any life-threatening conditions and designation of school personnel to implement the appropriate emergency procedures. The procedures relating to children with acute or chronic illnesses or conditions shall be developed with due consideration of the size and staffing of the schools within the jurisdiction.

1990, c. 315; 1992, c. 174; 1999, c. 570; 2012, cc. 805, 836.

Article 3 - DISCIPLINE

§ 22.1-276. Repealed.

Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Alternative education program" includes night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

"Bullying" means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. "Bullying" includes cyber bullying. "Bullying" does not include ordinary teasing, horseplay, argument, or peer conflict.

"Disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

"Dress or grooming code" means any practice, policy, or portion of a code of student conduct adopted by a school board that governs or restricts the attire, appearance, or grooming, including hairstyle, of any enrolled student.

"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than 30 calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

"Expulsion" means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for 11 to 45 school days.

"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

B. For the purposes of §§ 22.1-277.04, 22.1-277.05, 22.1-277.2, and 22.1-277.2:1, "superintendent's designee" means a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

2001, cc. 688, 820; 2013, c. 575; 2018, c. 491; 2020, c. 678.

§ 22.1-276.1. Expired.

Expired.

§ 22.1-276.2. Removal of students from classes.

A. Teachers shall have the initial authority to remove a student for disruptive behavior from a class.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-279.6:

1. Criteria for teachers to remove disruptive students from their classes;

2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;

3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;

4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and

5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.

C. The principal shall, unless a student who has been removed from class is suspended or expelled from school attendance, ensure that such student continues to receive an education.

D. Any teacher whose evaluation indicates deficiencies in the management of student conduct may be required by the school board to attend professional development activities designed to improve classroom management and disciplinary skills.

E. Application of this section to students with disabilities shall be in accordance with state and federal law and regulations.

F. This section shall not be construed to limit or restrict other school board policies and regulations for maintaining order in the classroom.

1997, c. 830; 2001, cc. 688, 820.

§ 22.1-276.3. Ineligibility of students to compete in athletic competitions.

Any nonprofit corporation founded in Virginia in 1913 that currently organizes and governs interscholastic activities among the public high schools shall develop, implement, and enforce rules requiring that a student who is a member of a school athletic team be ineligible for two school years to compete in interscholastic athletic competition, if it has been determined by the school principal and division superintendent that the student used anabolic steroids during the training period immediately preceding or during the sport season of the athletic team, unless such steroid was prescribed by a licensed physician for a medical condition.

2005, c. 481.

§ 22.1-277. Suspensions and expulsions of students generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabidiol oil or THC-A oil issued by a practitioner in accordance with subsection B of § 54.1-3408.3 for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

Code 1950, §§ 22-230.1, 22-230.2; 1972, c. 604; 1980, c. 559; 1984, c. 415; 1997, cc. 371, 585, 608, 734, 830; 1998, cc. 355, 379, § 22.1-277.02; 2001, cc. 688, 820; 2003, c. 119; 2009, c. 70; 2018, c. 585; 2019, cc. 573, 574.

§§ 22.1-277.01 through 22.1-277.03. Repealed.

Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-277.04. Short-term suspension; procedures; readmission.

A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational pro-

gram, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

1998, c. 806, § 22.1-277.03; 2001, cc. 688, 820; 2020, c. 337.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended from attendance at school for 11 to 45 school days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within 30 days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

B. A school board shall include in the written notice of a suspension for 11 to 45 school days required by this section notification of the length of the suspension. In the case of a suspension for 11 to 45 school days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

C. Notwithstanding the provisions of subsections A and B, a long-term suspension may extend beyond a 45-school-day period but shall not exceed 364 calendar days if (i) the offense is one described in § 22.1-277.07 or 22.1-277.08 or involves serious bodily injury or (ii) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department. Such definition shall include a consideration of a student's disciplinary history.

1998, c. 806, § 22.1-277.03; 2001, cc. 688, 820; 2018, c. 491; 2020, c. 337.

§ 22.1-277.06. Expulsions; procedures; readmission.

A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days.

The regulations shall also provide for subsequent confirmation or disapproval of the proposed expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of whether the pupil exercised the right to a hearing.

B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08 shall be based on consideration of the following factors:

1. The nature and seriousness of the violation;

2. The degree of danger to the school community;

3. The student's disciplinary history, including the seriousness and number of previous infractions;

4. The appropriateness and availability of an alternative education placement or program;

5. The student's age and grade level;

6. The results of any mental health, substance abuse, or special education assessments;

7. The student's attendance and academic records; and

8. Such other matters as he deems appropriate.

No decision to expel a student shall be reversed on the grounds that such factors were not considered.

Nothing in this subsection shall be deemed to preclude a school board from considering any of these factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.

1998, c. 806, § 22.1-277.03; 2001, cc. 688, 820; 2005, c. 96.

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1 or to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994 and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. No school operating a Junior Reserve Officers Training Corps (JROTC) program shall prohibit the JROTC program from conducting marksmanship training when such training is a normal element of such programs. Such programs may include training in the use of pneumatic guns. The administration of a school operating a JROTC program shall cooperate with the JROTC staff in implementing such marksmanship training.

E. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in § 18.2-308.2:2.

"Firearm" means any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon. "Firearm" does not include any pneumatic gun, as defined in subsection E of § 15.2-915.4.

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

F. The exemptions set out in §§ 18.2-308 and 18.2-308.016 regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

1995, cc. 724, 801; 1999, cc. 707, 1027; 2000, c. 523, § 22.1-277.01; 2001, cc. 688, 820; 2003, cc. 843, 976; 2004, c. 930; 2006, c. 703; 2013, c. 288; 2014, cc. 109, 312, 765; 2016, c. 257; 2020, cc. 1111, 1112.

§ 22.1-277.07:1. Policies prohibiting possession of firearms.

Notwithstanding any other provision of law to the contrary, each school division may develop and implement procedures addressing disciplinary actions against students, and may establish disciplinary policies prohibiting the possession of firearms on school property, school buses, and at school-sponsored activities.

2004, c. 560.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

1998, c. 655; 1999, cc. 706, 732, § 22.1-277.01:1; 2001, cc. 688, 820; 2011, cc. 384, 410; 2014, cc. 109, 312, 577, 674, 719, 765.

§ 22.1-277.1. Repealed.

Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-277.2. Authority to exclude students under certain circumstances; petition for readmission; alternative education program.

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

C. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board, committee thereof, or superintendent or his designee, as the case may be, at the relevant hearing, the student may re-petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

D. The school board may permit students excluded pursuant to this section to attend an alternative education program provided by the school board for the term of such exclusion.

1993, c. 889; 1994, c. 709; 1996, c. 190; 1997, cc. 585, 608, 728; 2001, cc. 669, 688, 820.

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to § 22.1-277.06, 22.1-277.07, or 22.1-277.08, or subsection C of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education

placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

C. A school board may adopt regulations authorizing the principal or his designee to impose a short-term suspension, pursuant to § 22.1-277.04, upon a student who has been charged with an offense involving intentional injury enumerated in subsection G of § 16.1-260, to another student in the same school pending a decision as to whether to require that such student attend an alternative education program.

1990, c. 835; 1995, cc. 724, 755, 801; 1998, c. 355; 1999, c. 457; 2000, c. 577, § 22.1-277.1; 2001, cc. 688, 820; 2003, c. 119; 2009, c. 208; 2018, c. 585.

§ 22.1-277.2:2. Alternative education program data.

The Department of Education shall annually collect from each school board and publish on its website data on alternative education programs for students who have been suspended, expelled, or otherwise precluded from attendance at school. Such data shall (i) be published in a manner that protects the identities of individual students; (ii) be disaggregated by local school division and by student race, ethnicity, gender, and disability; and (iii) include:

1. The number of students enrolled in alternative education programs pursuant to each of the five clauses set forth in subsection A of § 22.1-277.2:1;

2. The number of students enrolled in alternative education programs who have received (i) a short-term suspension, (ii) a long-term suspension, or (iii) an expulsion;

3. The current availability of various categories of alternative education programs available to all students and not solely special education students, including full-day programs with on-site, in-school teacher instruction; full-day programs with off-site, out-of-school teacher instruction; primarily virtual instruction; home-based or home-bound instruction; partial-day instruction; and any other category that the Department of Education may identify;

4. The average length of enrollment in an alternative education program per program during each school year;

5. The number of students who transition within the same school year from an alternative education program back into the school at which they were enrolled immediately preceding enrollment in the alternative education program; and

6. Relevant student achievement data, as determined by the Department of Education.

2019, cc. 123, 232.

§§ 22.1-278 through 22.1-278.3. Repealed.

Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-279. Repealed.

Repealed by Acts 1990, c. 797 and Acts 1991, c. 295.

§ 22.1-279.1. Corporal punishment prohibited.

A. No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his control.

B. In determining whether a person was acting within the exceptions provided in this section, due deference shall be given to reasonable judgments at the time of the event which were made by a teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth.

C. For the purposes of this section, "corporal punishment" means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

This definition shall not include physical pain, injury or discomfort caused by the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control as permitted in subdivision (i) of subsection A of this section or the use of reasonable and necessary force as permitted by subdivisions (ii), (iii), (iv), and (v) of subsection A of this section, or by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

1989, c. 287; 1995, c. 681.

§ 22.1-279.1:1. The use of seclusion and restraint in public schools; Board of Education regulations.

The Board shall adopt regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that (i) are consistent with its Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document; (ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students. The Board shall specifically (1) identify and prohibit the use of any method of restraint or seclusion that it determines poses a significant danger to the student and (2) establish safety standards for seclusion.

2015, cc. 142, 147; 2019, c. 591.

§ 22.1-279.2. Repealed.

Repealed by Acts 1995, c. 533.

§ 22.1-279.3. Parental responsibility and involvement requirements.

A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

B. A school board shall provide opportunities for parental and community involvement in every school in the school division.

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct, the notice of the requirements of this section, and the compulsory school attendance law. Each school shall maintain records of such signed statements.

D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, to ensure the student's compliance with compulsory school attendance law, and to discuss improvement of the child's behavior, school attendance, and educational progress.

E. In accordance with the due process procedures set forth in this article and the guidelines required by § 22.1-279.6, the school principal may notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation could result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compulsory school attendance compliance; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that a petition with the juvenile and domestic relations court may be filed under certain circumstances to declare the student a child in need of supervision.

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance, as follows:

1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of this section, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress, it may order the parent to so meet; or

2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F, or upon the student's receiving a second suspension or being expelled, it may order the student or his parent, or both, to participate in such programs or such treatment, including, but not limited to, extended day programs, summer school, other educational programs and counseling, as the court deems appropriate to improve the student's behavior or school attendance. The order may also require participation in a parenting, counseling or a mentoring program, as appropriate or that the student or his parent, or both, shall be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent. In addition, the court may order the parent to pay a civil penalty not to exceed $500.

H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision G 2. Upon the failure to pay the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

I. All references in this section to the juvenile and domestic relations court shall be also deemed to mean any successor in interest of such court.

1995, c. 852; 1996, c. 771; 2000, c. 538; 2001, cc. 688, 820; 2004, c. 573.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person,

abduction of any person as described in § 18.2-47 or 18.2-48, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV – Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a felony offense and may report to the local law-enforcement agency any incident described in subsection A. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report whether the incident has been reported to local law enforcement pursuant to this subsection and, if the incident is so reported, that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

1981, c. 189; 1990, cc. 517, 797; 1991, c. 295; 1994, cc. 265, 285; 1995, cc. 759, 773; 1996, cc. 916, 964; 1999, c. 970; 2000, cc. 79, 611, § 22.1-280.1; 2001, cc. 688, 820; 2002, c. 388; 2003, cc. 899, 954; 2004, cc. 517, 542, 939, 955; 2005, cc. 461, 484, 528; 2006, c. 146; 2010, c. 525; 2011, cc. 384, 410; 2013, c. 800; 2014, cc. 674, 719; 2018, c. 281; 2020, cc. 173, 335.

§ 22.1-279.3:2. Public elementary and secondary school students; protective orders; notification.
Any school principal who receives notice that a circuit court, general district court, juvenile and domestic relations district court, or magistrate has issued a protective order pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, or 16.1-279.1, subsection D of § 18.2-60.3, or Chapter 9.1 (§ 19.2-152.7:1 et seq.) of Title 19.2 for the protection of any child who is enrolled at a public elementary or secondary school in the Commonwealth where such principal is employed, or any other order prohibiting contact with such a child, including an order issued as a condition of pretrial or posttrial supervision, shall subsequently notify licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the protected child or the child subject to the order, (ii) have a legitimate educational interest in such information, and (iii) are responsible for the direct supervision of the protected child or the child subject to the order that such order has been issued.

2019, c. 579.

§ 22.1-279.3:3. Alternative school discipline process.
A. A school board may establish an alternative school discipline process to provide the parties involved in an incident described in clause (i) of subsection A of § 22.1-279.3:1 the option to enter into a mutually agreed-upon process between the involved parties. Such process shall be designed to hold the student accountable for a noncriminal offense through a mutually agreed-upon standard.

B. If provided for in the process established by the school board, no principal shall report pursuant to subsection D of § 22.1-279.3:1 a party who successfully completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of § 22.1-279.3:1.

2020, c. 876.

§ 22.1-279.4. Information regarding prosecution for certain crimes.
School boards shall provide information developed by the office of the Attorney General to students regarding laws governing the prosecution of juveniles as adults for the commission of certain crimes. Methods of providing such information may include, but shall not be limited to, public announcements in the schools, written notification to parents, publication in the student conduct manual, and inclusion in those materials distributed to parents pursuant to § 22.1-279.3.

1997, c. 465.

§ 22.1-279.5. Repealed.

Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any student involved in an alleged incident of bullying of the status of any investigation within five school days of the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

Code 1950, §§ 22-230.1, 22-230.2; 1972, c. 604; 1980, c. 559; 1993, cc. 819, 856, 889; 1995, cc. 724, 801; 1997, cc. 391, 585, 608, 830; 1998, c. 902; 1999, c. 432; 2000, c. 360, §§ 22.1-277.02:1, 22.1-278, 22.1-278.2; 2001, cc. 688, 820; 2003, c. 899; 2004, cc. 574, 908, 939, 955; 2005, cc. 461, 484, 520; 2009, c. 431; 2013, c. 575; 2014, c. 326; 2017, c. 684; 2019, cc. 172, 246; 2020, c. 678.

§ 22.1-279.7. Guidelines for student searches.

The Board of Education shall develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches, voluntary and mandatory drug testing, and strip searches, consistent with relevant state and federal laws and constitutional principles.

School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student searches that are consistent with the guidelines of the Board.

1998, c. 655; 1999, c. 650; 2000, c. 648, § 22.1-277.01:2; 2001, cc. 688, 820; 2003, c. 899.

§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall include the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees, in the development of such plans. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis,

emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board, the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees, shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

E. Each school board shall ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety in accordance with subdivision A 1 of § 9.1-184. However, such requirement shall not apply if such required training is not available online.

1997, c. 593; 1999, cc. 475, 516, § 22.1-278.1; 2001, cc. 436, 440, 688, 820, 841; 2002, cc. 166, 221, 229, 235; 2003, c. 801; 2004, c. 690; 2005, c. 904; 2006, c. 43; 2007, c. 44; 2009, cc. 222, 269; 2012, c. 418; 2013, c. 609; 2014, cc. 7, 158; 2015, cc. 502, 503; 2017, c. 778; 2019, cc. 141, 410, 487, 488; 2020, c. 338.

§ 22.1-279.9. Development of programs to prevent crime and violence.

All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events, which shall include prevention of hazing. Activities designed to prevent the recurrence of violence and crime, including hazing, may include such interventions as education relating to Virginia's criminal law, school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused

on demonstrating the consequences of violence and crime. School boards are encouraged to develop and use a network of volunteer services in implementing these prevention activities.

2001, cc. 688, 820; 2004, c. 574.

§ 22.1-279.10. School resource officers; data.

The Department of Criminal Justice Services, in coordination with the Department of Education and the Department of Juvenile Justice, shall annually collect, report, and publish on its website data on the use of force against students, including the use of chemical, mechanical, or other restraints and instances of seclusion; detentions of students; arrests of students; student referrals to court or court service units; and other disciplinary actions by school resource officers involving students. Such data shall (i) be published in a manner that protects the identities of students and (ii) be disaggregated by local school division and by student age, grade, race, ethnicity, gender, and disability, if such data is available.

2020, cc. 169, 1039.

§ 22.1-280. Repealed.

Repealed by Acts 1989, c. 287.

§ 22.1-280.1. Repealed.

Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-280.2. School crime line defined; development of school crime lines authorized; local school boards' authority; Board of Education to promulgate regulations.

A. As used in this section:

"School crime line" means a confidential, anonymous system providing inducements for students to report any unlawful act occurring in school buildings or on school grounds or during school-sponsored activities to local law-enforcement authorities which is established as a cooperative alliance between the local school board, news media, the community, and law-enforcement officials or through a separate, nonprofit corporation governed by a board of directors or as part of a local "Crime Stoppers" program.

B. In order to reduce crime and violence within the school divisions in the Commonwealth, any local school board may develop a school crime line program as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities to receive, screen, and reward student reports of unlawful acts committed in school buildings or on school grounds or at school functions, when such reports lead to arrests or recovery of contraband or stolen property. Police or other law-enforcement personnel shall staff every school crime line program, receive reported information from anonymous student callers, screen such information, and direct information for further investigation, as may be appropriate.

C. Such programs may be established (i) by a local school board as a joint, self-sustaining, cooperative alliance with news media, the community, and law-enforcement authorities; (ii) through a

separate nonprofit corporation initiated jointly by the local school board, news media, the community, and law-enforcement authorities and governed by a board of directors; or (iii) as part of a local "Crime Stoppers" program.

The governing board of any separate nonprofit school crime line corporation shall include broad-based community representation and shall, through its bylaws, set the policy, coordinate fund raising, and formulate a system of rewards. Prior to implementation of any school crime line program and annually thereafter, the local school board shall review and approve, as complying with the Board of Education's regulations for implementation of school crime lines, its regulations or the bylaws of any nonprofit school crime line corporation or the bylaws of any nonprofit "Crime Stoppers" corporation operating a school crime line. No school crime line program shall be implemented or revised without first obtaining the local school board's approval. Every local school board developing a school crime line program shall also notify all students and their parents or other custodian of the procedures and policies governing the program prior to implementation and annually thereafter.

D. By July 1, 1994, the Board of Education shall promulgate regulations for the implementation of school crime lines, including, but not limited to, appropriate fund raising, and the appropriateness of and limitations on rewards. In developing the regulations, the Board shall, in consultation with the Office of the Attorney General, address issues relating to civil rights, privacy, and any other question of law, including the civic duty to report crime without compensation.

E. Local school boards may establish, as a separate account, a school crime line fund, consisting of private contributions, local appropriations specifically designated for such purposes, and such funds as may be appropriated for this purpose by the Commonwealth pursuant to the appropriation act. No state or local funds appropriated for educational purposes shall be used to implement a school crime line.

1993, c. 361; 1994, c. 721.

§ 22.1-280.2:1. Employment of school security officers.

Local school boards and private or religious schools may employ school security officers, as defined in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board or private or religious school he (a) was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth or (b) was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer as defined in § 9.1-101; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the

locality in which he is employed; (v) the local school board or private or religious school solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board or private or religious school grants him the authority to carry a firearm in the performance of his duties.

2002, cc. 836, 868; 2017, c. 311; 2019, cc. 120, 493.

§ 22.1-280.2:2. Public School Security Equipment Grant Act of 2013.

A. This section shall be known and may be cited as the "Public School Security Equipment Grant Act of 2013."

B. For purposes of this section:

"Authority" means the Virginia Public School Authority.

"Department" means the Department of Education.

"Eligible school division" means a (i) local school division or (ii) regional vocational center, special education center, alternative education center, or academic year Governor's School serving public school students in grades K through 12. The term shall also include the Virginia School for the Deaf and the Blind.

"Local school division" means a school division with schools subject to state accreditation and whose students are required to be reported in fall membership for grades K through 12.

"Security equipment" includes building modifications and fixtures, including security vestibules, vaping detectors, security-related devices located outside of the school building on school property, and security-related devices located on school buses.

C. The Authority shall issue bonds for the purpose of grant payments to eligible school divisions of the Commonwealth to be used exclusively for purchasing security equipment for schools, including any related installation, which is designed to improve and help ensure the safety of students attending public schools in Virginia. Such grants shall not be used to pay for security equipment that is not included or described in a grant application approved by the Department pursuant to subsection D. The amount of grants provided to each eligible school division pursuant to this section shall not exceed $100,000 for each fiscal year of the Commonwealth. Funds for the payment of such grants shall be provided from the issuance of bonds by the Authority, provided that the Authority shall not issue more than an aggregate of $6 million in bonds, after all costs, for such grants during each fiscal year of the Commonwealth. In addition, the Authority shall ensure that no more than an aggregate principal amount of $30 million in bonds issued under this section shall be outstanding at any time. Eligible school divisions seeking a grant shall apply to the Department, which shall be responsible for administering the grant program.

The Authority shall work with the Department to determine the schedule for the issuance of the bonds, which shall be based in part upon eligible school divisions having sufficient funds to purchase such security equipment. The payment of debt service on such bonds shall be as provided in the general appropriation act.

Such grants shall be in addition to all other grants made to local governments, school boards, or school divisions according to law. In addition, such grants shall not replace or be in lieu of loans to local school boards or interest rate subsidy payments to local school boards pursuant to Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, and the issuance of such bonds and the payment of such grants shall not, except as herein provided, affect or otherwise amend the provisions of such chapter as they relate to the powers and duties of the Authority, local school boards, local governments, or any other entity.

D. Based on the criteria developed by the Department in collaboration with the Department of Criminal Justice Services, eligible school divisions shall apply for a grant by August 1 of each year. As a condition of receiving a grant, a local match of 25 percent of the grant amount shall be required. The Superintendent of Public Instruction is authorized to reduce the local match for local school divisions with a composite index of local ability-to-pay less than 0.2000, including any such school division participating in a regional vocational center, special education center, alternative education center, or academic year Governor's School. The Virginia School for the Deaf and the Blind shall be exempt from the match requirement.

Grants shall be awarded by the Department on a competitive basis. As part of the application for a grant, each eligible school division shall (i) identify with specificity the security equipment for which grants are being sought, as well as the estimated costs to purchase and install the security equipment, and (ii) certify that it is the intent of the eligible school division to purchase the security equipment within six months of approval of any grant by the Department.

If the Department determines that a grant shall be paid to an eligible school division under this section, it shall provide a written certification to the chairman of the Authority directing him to make a grant payment in a specific amount to the eligible school division. The Department, however, shall not make such written certification until it has established that the Authority has sufficient funds to make such grant payment. The Authority shall only make grant payments to an eligible school division for the grants provided under this section upon receipt of such written certification. The Authority shall make such grant payments, and in the amounts as directed by the Department, within 30 days of receipt of the certification.

E. The Department shall develop guidelines concerning the requirements for applying for a grant and the administration of such grants. Such guidelines shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

F. In the event that two or more local school divisions became one local school division, whether by consolidation of only the local school divisions or by consolidation of the local governments, such

resulting local school division shall be eligible for grants on the basis of the same number of local school divisions as existed prior to September 30, 2012.

G. The Authority shall take all necessary and proper steps as it is authorized to take under law to carry out the provisions of this section.

H. Beginning in 2014, the Department shall make an annual report to the General Assembly by September 1 of each year reporting (i) the total grants paid during the immediately prior fiscal year to each eligible school division and (ii) a general description of the security equipment purchased by eligible school divisions.

2013, c. 608; 2019, c. 231; 2020, cc. 686, 778.

§ 22.1-280.2:3. School boards; local law-enforcement agencies; memorandums of understanding.
The school board in each school division in which the local law-enforcement agency employs school resource officers, as defined in § 9.1-101, shall enter into a memorandum of understanding with such local law-enforcement agency that sets forth the powers and duties of such school resource officers. The provisions of such memorandum of understanding shall be based on the model memorandum of understanding developed by the Virginia Center for School and Campus Safety pursuant to subdivision A 12 of § 9.1-184, which may be modified by the parties in accordance with their particular needs. Each such school board and local law-enforcement agency shall review and amend or affirm such memorandum at least once every two years or at any time upon the request of either party. Each school board shall ensure the current division memorandum of understanding is conspicuously published on the division website and provide notice and opportunity for public input during each memorandum of understanding review period.

2019, cc. 455, 502; 2020, cc. 52, 171.

§ 22.1-280.2:4. School boards; firearms on school property.
No school board may authorize or designate any person to possess a firearm on school property other than those persons expressly authorized by statute.

2020, c. 1037.

§ 22.1-280.3. Repealed.
Repealed by Acts 2001, cc. 688 and 820, cl. 2.

§ 22.1-280.4. School board action regarding destruction of property.
A school board may take action against a pupil or the pupil's parent for any actual loss, breakage, or destruction of or failure to return property, owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies. Such action may include seeking reimbursement from a pupil or the pupil's parent for any such loss, breakage, or destruction of or failure to return school property.

2001, cc. 688, 820.

Article 4 - TRIENNIAL CENSUS [Repealed]

§§ 22.1-281 through 22.1-286. Repealed.

Repealed by Acts 2010, cc. 386 and 629, cl. 2.

Article 5 - PUPIL RECORDS

§ 22.1-287. Limitations on access to records.

A. No teacher, principal or employee of any public school nor any school board member shall permit access to any records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

1. Either parent of such pupil or such pupil; provided that a school board may require that such pupil, if he be less than 18 years of age, as a condition precedent to access to such records, furnish written consent of his or her parent for such access;

2. A person designated in writing by such pupil if the pupil is 18 years of age or older or by either parent of such pupil if the pupil is less than 18 years of age;

3. The principal, or someone designated by him, of a school where the pupil attends, has attended, or intends to enroll;

4. The current teachers of such pupil;

5. State or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties;

6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of schools where the pupil attends, has attended, or intends to enroll or a member of his staff;

7. An officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

B. A parent or pupil entitled to see the records pursuant to subdivision A 1 shall have access to all records relating to such pupil maintained by the school except as otherwise provided by law and need only appear in person during regular hours of the school day and request to see such records. No material concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent or pupil shall be entitled to read such material personally.

C. The giving of information by school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information shall be governed by the provisions of § 22.1-287.1.

D. Notwithstanding the restrictions imposed by this section:

1. A division superintendent of schools may, in his discretion, provide information to the staff of an institution of higher education or educational research and development organization or laboratory if such

information is necessary to a research project or study conducted, sponsored, or approved by the institution of higher education or educational research and development organization or laboratory and if no pupil will be identified by name in the information provided for research;

2. The name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States government seeking this information in the course of his duties when the pupil is a veteran of military service with the United States, an orphan or dependent of such veteran, or an alien;

3. The record of a pupil's daily attendance shall be open for inspection and reproduction to an employee of a local department of social services who needs the record to determine the eligibility of the pupil's family for public assistance and social services;

4. The principal or his designee may disclose identifying information from a pupil's scholastic record for the purpose of furthering the ability of the juvenile justice system to effectively serve the pupil prior to adjudication. In addition to those agencies or personnel identified in subdivisions A 5 and 7, the principal or his designee may disclose identifying information from a pupil's scholastic record to attorneys for the Commonwealth, court services units, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the persons to whom the records are to be disclosed shall certify in writing to the principal or his designee that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the pupil or by such pupil if the pupil is 18 years of age or older.

Code 1950, § 22-275.26; 1975, c. 639; 1976, c. 682; 1980, c. 559; 1981, c. 535; 1996, c. 1000; 1997, c. 910; 2002, c. 747; 2007, cc. 48, 555; 2018, c. 806.

§ 22.1-287.01. Student information; release to federal government agencies.

Except as required by federal law or regulation, no member or employee of a local school board or the Department of Education shall transmit personally identifiable information, as that term is defined in the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations, from a student's record to a federal government agency or an authorized representative of such agency.

2014, c. 322.

§ 22.1-287.02. Students' personally identifiable information.

A. The Department of Education shall develop and make publicly available on its website policies to ensure state and local compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and state law applicable to students' personally identifiable information, including policies for (i) access to students' personally identifiable information and (ii) the approval of requests for student data from public and private entities and individuals for the purpose of research.

B. In cases in which electronic records containing personally identifiable information are reasonably believed by the Department of Education or a local school division to have been disclosed in violation of the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) or other federal or state law applicable to such information, the Department or local school division shall notify, as soon as practicable, the parent of any student affected by such disclosure, except as otherwise provided in § 32.1-127.1:05 or 18.2-186.6. Such notification shall include the (i) date, estimated date, or date range of the disclosure; (ii) type of information that was or is reasonably believed to have been disclosed; and (iii) remedial measures taken or planned in response to the disclosure.

2015, c. 139.

§ 22.1-287.03. Unique student identification numbers.

A. Neither the Department of Education nor any local school board shall require any student enrolled in a public elementary or secondary school or receiving home instruction pursuant to § 22.1-254.1, or his parent, to provide the student's federal social security number.

B. The Department of Education shall develop a system of unique student identification numbers. Each local school board shall assign such a number to each student enrolled in a public elementary or secondary school. No student identification number shall include or be derived from the student's federal social security number. Each student shall retain his student identification number for as long as he is enrolled in a public elementary or secondary school in the Commonwealth.

2015, cc. 372, 666.

§ 22.1-287.04. Uniformed services-connected students.

A. For purposes of this section, a "uniformed services-connected student" means a student enrolled in a public school whose parent is serving in either (i) the active component of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, or National Guard, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the U.S. Public Health Services or (ii) the reserve component of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, or National Guard.

B. The Department of Education shall establish a process for the identification of newly enrolled uniformed services-connected students by local school divisions. Local school divisions shall identify newly enrolled uniformed services-connected students in accordance with such process.

C. Nonidentifiable, aggregate data collected from the identification of uniformed services-connected students shall be made available to local, state, and federal entities for the purposes of becoming eligible for nongeneral fund sources and receiving services to meet the needs of uniformed services-connected students residing in the Commonwealth.

D. Data collected from the identification of uniformed services-connected students shall not be a public record as defined in § 2.2-3701. No person shall disclose such data except as permitted under the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations. No such data shall be used for the purposes of student achievement, the Standards of

Accreditation, student-growth indicators, the school performance report card, or any other school rating system.

2015, cc. 582, 583.

§ 22.1-287.1. Directory information.

A. Notwithstanding §§ 22.1-287 and 22.1-288, directory information, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) (FERPA), and which may include a student's name, sex, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height as a member of an athletic team, dates of attendance, degrees and awards received, and other similar information, may be disclosed in accordance with federal and state law and regulations, provided that the school has given notice to the parent or eligible student of (i) the types of information that the school has designated as directory information, (ii) the right of the parent or eligible student to refuse the designation of any or all of the types of information about the student as directory information, and (iii) the period of time within which the parent or eligible student must notify the school in writing that he does not want any or all of the types of information about the student designated as directory information. However, no school shall disclose the address, telephone number, or email address of a student pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) unless the parent or eligible student has affirmatively consented in writing to such disclosure. Additionally, except as required by state or federal law, no school shall disclose the address, telephone number, or email address of a student pursuant to 34 C.F.R. § 99.31(a)(11) unless (a) the disclosure is to students enrolled in the school or to school board employees for educational purposes or school business and the parent or eligible student has not opted out of such disclosure in accordance with this subsection and school board policy or (b) the parent or eligible student has affirmatively consented in writing to such disclosure. This subsection shall not apply to any disclosure, other than a disclosure pursuant to 34 C.F.R. § 99.31(a)(11), permitted under FERPA.

B. For purposes of this section, an "eligible student" is a student 18 years of age or older or a student under the age of 18 who is emancipated.

1983, c. 432; 2018, c. 806; 2019, c. 229.

§ 22.1-288. Furnishing information to public or private school or institution of higher education or private business or professional school or institution of higher education or military force.

Notwithstanding § 22.1-287, the principal of any public school may permit the furnishing of or may furnish the names and addresses of pupils presently enrolled or pupils who have terminated their enrollment to any officer or employee of a public or private school or institution of higher education or any official of a private business or professional school or institution of higher education or any official recruiting representative of the military forces of the Commonwealth and the United States. This information shall be furnished for the purpose of informing pupils and former pupils of the educational and career opportunities available in the institutions or the military. No such public or private school or institution of higher education or private business or professional school or institution of higher education

or official recruiting representative or the military force he represents shall use such information for purposes not directly related to the academic or professional goals of the institution or the military force. If any school or institution or any official representative or military force violates the provisions of this section, the privilege of the school, institution, or military force to receive the lists shall be suspended for a period of two years from the time of discovery of the misuse of such lists.

Code 1950, § 22-275.27; 1975, c. 639; 1980, c. 559; 1982, c. 258.

§ 22.1-288.1. Notation in school records of missing children; local law-enforcement cooperation.

A. Each school board shall receive reports of disappearances of any children living within the school division from local law enforcement pursuant to § 52-31.1.

B. Upon notification by a local law-enforcement agency of a child's disappearance, the principal of any school in which the child was enrolled at the time of the disappearance shall indicate, by mark, in the child's cumulative record that the child has been reported as missing. Upon notification by law enforcement that the child is located, the principal shall remove the mark from the record.

C. Upon receiving a request from any school or person for copies of the cumulative records and birth certificate of any child who has been reported by a local law-enforcement agency to be missing, the school being requested to transfer the records shall immediately notify the law-enforcement agency that provided the report to the school of the child's disappearance of the location of the school or person requesting the cumulative records and birth certificate of the child, without alerting the requestor of such report.

D. For the purposes of this section, a "mark" shall mean an electronic or other indicator that (i) is readily apparent on the student's record and (ii) will immediately alert any school personnel that the record is that of a missing child.

1990, c. 295; 2006, c. 295.

§ 22.1-288.2. Receipt, dissemination and maintenance of records of certain law-enforcement information.

A. A division superintendent shall disseminate the notice or information regarding an adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260, contained in a notice received by him pursuant to § 16.1-305.1 to school personnel responsible for the management of student records and to other relevant school personnel, including, but not limited to, the principal of the school in which the student is enrolled. The principal shall further disseminate such information to licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the student and (ii) have a legitimate educational interest in such information.

B. A parent, guardian or other person having control or charge of a student in a public school and, with consent of a parent or in compliance with a court order, the court in which the disposition was rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon which the adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260 was based and the reasons therefor. The parent or guardian shall also be notified of his or her right to

review, and to request an amendment of, the student's scholastic record, in accordance with regulations of the Board of Education governing the management of scholastic records.

Every notice of adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260 received by a superintendent, and information contained in the notice, which is not a disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260, the notice shall become a part of the student's disciplinary record.

C. When a superintendent receives notice of the filing of a petition from the intake officer in accordance with § 16.1-260, or upon request of a court services unit for information made in conjunction with the preparation of a social history report pursuant to § 16.1-273, the superintendent shall provide information regarding the student's educational and attendance status to the intake officer or court services unit, as the case may be. Whenever a division superintendent receives notice of a student's commitment to the Department of Juvenile Justice, the superintendent or his designee shall participate in the development of a reenrollment plan as provided in § 16.1-293.

1994, cc. 835, 913; 1995, c. 429; 1996, cc. 755, 914; 1998, c. 870; 2003, c. 119.

§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty.

A. As used in this section:

"Scholastic record" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, student disciplinary records, achievement and test data, cumulative health records, reports of assessments for eligibility for special education services, and Individualized Education Programs. Such records may be recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

A notice of adjudication or conviction received by a superintendent relating to an incident which did not occur on school property or during a school-sponsored activity shall not be a part of a student's scholastic record.

The term "scholastic record" also shall not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of the scholastic record shall be transferred to the school division to which the pupil transfers upon

request from such school division. Permission of the parent, guardian, or other person having control or charge of the student shall not be required for transfer of such scholastic record to another school or school division within or outside the Commonwealth.

C. Any notice of disposition received pursuant to § 16.1-305.1 shall not be retained after the student has been awarded a diploma or a certificate as provided in § 22.1-253.13:4.

D. Every student's scholastic record shall be available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent, guardian, or other person having control or charge of the student, or of a student who is 18 years of age or older, shall not be required for transfer of such scholastic record to another school or school division within or without this Commonwealth.

Consistent with federal law and regulation, each school shall annually notify parents of students currently enrolled and in attendance of their rights under the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations.

A school responding to a request for the transfer of the scholastic record from another school division need not provide written notice of the transfer of the record, including the identity of the requester, to the parent, guardian, or other person having control or charge of the student, or to a student who is 18 years of age or older, if the school has previously included in the annual notice required by this subsection a statement that it forwards such records to such requesting school divisions.

E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § 16.1-287, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Juvenile Justice shall transfer the scholastic record of a student who has been discharged from a juvenile correctional center to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending school division and the receiving school division, as such school divisions are defined in subsection D of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

F. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to

obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

G. Superintendents and their designees shall be immune from any civil or criminal liability in connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or failure to give such notice as required by this section.

H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee, or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 shall be guilty of a Class 3 misdemeanor.

Code 1950, § 22-275.28; 1975, c. 639; 1980, c. 559; 1985, c. 593; 1990, c. 797; 1991, c. 295; 1993, cc. 740, 889; 1994, cc. 808, 835, 913; 1996, c. 1000; 2000, c. 86; 2005, c. 343; 2006, c. 47; 2012, cc. 803, 835.

§ 22.1-289.01. School service providers; school-affiliated entities; student personal information.
A. For the purposes of this section:

"Elementary and secondary school purposes" means purposes that (i) customarily take place at the direction of an elementary or secondary school, elementary or secondary school teacher, or school division; (ii) aid in the administration of school activities, including instruction in the classroom or at home; administrative activities; and collaboration between students, school personnel, or parents; or (iii) are otherwise for the use and benefit of an elementary or secondary school.

"Machine-readable format" means a structured format that can automatically be read and processed by a computer such as comma-separated values (CSV), Javascript Object Notation (JSON), or Extensible Markup Language (XML). "Machine-readable format" does not include portable document format (PDF).

"Personal profile" does not include account information that is collected and retained by a school service provider and remains under control of a student, parent, or elementary or secondary school.

"School-affiliated entity" means any private entity that provides support to a local school division or a public elementary or secondary school in the Commonwealth. "School-affiliated entity" includes alumni associations, booster clubs, parent-teacher associations, parent-teacher-student associations, parent-teacher organizations, public education foundations, public education funds, and scholarship organizations.

"School service" means a website, mobile application, or online service that (i) is designed and marketed primarily for use in elementary or secondary schools; (ii) is used (a) at the direction of teachers or other employees at elementary or secondary schools or (b) by any school-affiliated entity; and (iii) collects and maintains, uses, or shares student personal information. "School service" does not include a website, mobile application, or online service that is (a) used for the purposes of college and career readiness assessment or (b) designed and marketed for use by individuals or entities generally, even if it is also marketed for use in elementary or secondary schools.

"School service provider" means an entity that operates a school service pursuant to a contract with a local school division in the Commonwealth.

"Student personal information" means information collected through a school service that identifies a currently or formerly enrolled individual student or is linked to information that identifies a currently or formerly enrolled individual student.

"Targeted advertising" means advertising that is presented to a student and selected on the basis of information obtained or inferred over time from such student's online behavior, use of applications, or sharing of student personal information. "Targeted advertising" does not include advertising (i) that is presented to a student at an online location (a) on the basis of such student's online behavior, use of applications, or sharing of student personal information during his current visit to that online location or (b) in response to that student's request for information or feedback and (ii) for which a student's online activities or requests are not retained over time for the purpose of subsequent advertising.

B. In operating a school service pursuant to a contract with a local school division, each school service provider shall:

1. Provide clear and easy-to-understand information about the types of student personal information it collects through any school service and how it maintains, uses, or shares such student personal information;

2. Maintain a policy for the privacy of student personal information for each school service and provide prominent notice before making material changes to its policy for the privacy of student personal information for the relevant school service;

3. Maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personal information and makes use of appropriate administrative, technological, and physical safeguards;

4. Facilitate access to and correction of student personal information by each student whose student personal information has been collected, maintained, used, or shared by the school service provider, or by such student's parent, either directly or through the student's school or teacher;

5. Collect, maintain, use, and share student personal information only with the consent of the student or, if the student is less than 18 years of age, his parent or for the purposes authorized in the contract between the school division and the school service provider;

6. When it collects student personal information directly from the student, obtain the consent of the student or, if the student is less than 18 years of age, his parent before using student personal information in a manner that is inconsistent with its policy for the privacy of student personal information for the relevant school service, and when it collects student personal information from an individual or entity other than the student, obtain the consent of the school division before using student personal information in a manner that is inconsistent with its policy for the privacy of student personal information for the relevant school service;

7. Require any successor entity or third party with whom it contracts to abide by its policy for the privacy of student personal information and comprehensive information security program before accessing student personal information;

8. Upon the request of the school or school division, delete student personal information within a reasonable period of time after such request unless the student or, if the student is less than 18 years of age, his parent consents to the maintenance of the student personal information by the school service provider; and

9. Provide, either directly to the student or his parent or through the school, access to an electronic copy of such student's personal information in a manner consistent with the functionality of the school service. Contracts between local school boards and school service providers may require that such electronic copy be in a machine-readable format.

C. In operating a school service pursuant to a contract with a local school division, no school service provider shall knowingly:

1. Use or share any student personal information for the purpose of targeted advertising to students;

2. Use or share any student personal information to create a personal profile of a student other than for elementary and secondary school purposes authorized by the school division, with the consent of the student or, if the student is less than 18 years of age, his parent, or as otherwise authorized in the contract between the school division and the school service provider; or

3. Sell student personal information, except to the extent that such student personal information is sold to or acquired by a successor entity that purchases, merges with, or otherwise acquires the school service provider, subject to the provisions of subdivision B 7.

D. Nothing in this section shall be construed to prohibit school service providers from:

1. Using student personal information for purposes of adaptive learning, personalized learning, or customized education;

2. Using student personal information for maintaining, developing, supporting, improving, or diagnosing the school service;

3. Providing recommendations for employment, school, educational, or other learning purposes within a school service when such recommendation is not determined in whole or in part by payment or other consideration from a third party;

4. Disclosing student personal information to (i) ensure legal or regulatory compliance, (ii) protect against liability, or (iii) protect the security or integrity of its school service; or

5. Disclosing student personal information pursuant to a contract with a service provider, provided that the school service provider (i) contractually prohibits the service provider from using any student personal information for any purpose other than providing the contracted service to or on behalf of the school service provider, (ii) contractually prohibits the service provider from disclosing any student

personal information provided by the school service provider to any third party unless such disclosure is permitted by subdivision B 7, and (iii) requires the service provider to comply with the requirements set forth in subsection B and prohibitions set forth in subsection C.

E. Nothing in this section shall be construed to:

1. Impose a duty upon a provider of an electronic store, gateway, marketplace, forum, or means for purchasing or downloading software or applications to review or enforce compliance with this section with regard to any school service provider whose school service is available for purchase or download on such electronic store, gateway, marketplace, forum, or means;

2. Impose liability on an interactive computer service, as that term is defined in 47 U.S.C. § 230(f), for content provided by another individual; or

3. Prohibit any student from downloading, exporting, transferring, saving, or maintaining his personal information, data, or documents.

F. No school service provider in operation on June 30, 2016, shall be subject to the provisions of this section until such time as the contract to operate a school service is renewed.

2015, c. 728; 2016, cc. 438, 439, 468; 2017, c. 518.

Chapter 15 - TEACHERS, OFFICERS AND EMPLOYEES

Article 1 - General Provisions

§ 22.1-289.1. Teacher compensation; biennial review required.

It is a goal of the Commonwealth that its public school teachers be compensated at a rate that is competitive in order to attract and keep highly qualified teachers. As used in this section, "competitive" means, at a minimum, at or above the national average teacher salary. The Department of Education shall conduct a biennial review of the compensation of teachers and shall consider the Commonwealth's compensation for teachers relative to the national average teacher salary. The results of these reviews shall be reported to the Governor, the General Assembly, and the Board of Education by June 1 of each odd-numbered year.

1987, c. 240; 2006, c. 373; 2017, c. 301; 2020, c. 690.

§ 22.1-289.2. Compensation of public school employees called to active duty military service.

Public school employees whose active duty service with the regular armed forces of the United States or the National Guard or other reserve component has required their absence from their full-time employment in a school division shall receive supplemental pay as determined by and from the relevant local school division if the military compensation of such employee is less than the regular salary paid to such employee by the school division.

2004, c. 528.

§ 22.1-290. Board authorized to award teaching scholarship loans.

The Board of Education may, out of such funds as may be appropriated for the purpose, provide for the awarding of teaching scholarship loans to students preparing to teach by attending nonprofit institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education. The Board shall include in the list of specialties eligible for this scholarship loan program, scholarship loans for students preparing to teach in early childhood programs. Such scholarship loans shall be apportioned and administered pursuant to regulations of the Board.

Code 1950, § 22-21.4; 1973, c. 469; 1980, c. 559; 1990, c. 450.

§ 22.1-290.01. Virginia Teaching Scholarship Loan Program established; purpose; Board of Education to administer Program; eligibility requirements for scholarship and awards; collaboration and consultation with State Council of Higher Education; repayment of scholarship required.

A. With such funds as may be appropriated for this purpose and any gifts, donations, grants, bequests, and other funds that may be received on behalf of the Program by the Board of Education, there is hereby established the Virginia Teaching Scholarship Loan Program, hereinafter referred to as the "Program," to: (i) increase the number of teacher candidates pursuing careers in critical teacher shortage areas as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; (ii) expand eligibility to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions who are enrolled full-time or part-time in an approved teacher education program; (iii) increase the diversity of persons pursuing careers in teaching, including male teacher candidates enrolled in an elementary or middle school education program and minority teacher candidates enrolled in any teaching endorsement area; and (iv) increase the number of teacher candidates pursuing careers in career and technical education.

B. The Board of Education shall establish, in regulation, criteria for determining critical teacher shortage areas for awarding scholarships pursuant to this section. The criteria shall include such factors as the needs in teaching endorsement areas among the several school divisions of the Commonwealth, teacher shortages at the elementary and secondary grade levels, and teacher shortages in rural and urban regions of the Commonwealth.

C. The Program shall be administered by the Board of Education. The Board may promulgate such regulations as may be necessary for the implementation of the Program. The Board shall consult with the State Council of Higher Education in the implementation of the Program.

The Program shall consist of scholarships awarded annually to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions at an accredited baccalaureate private institution of higher education in the Commonwealth or baccalaureate public institution of higher education in the Commonwealth, who (i) are enrolled full-time or part-time in an approved teacher education program or are participants in another approved teacher education program; (ii) have maintained a cumulative grade point average of at least 2.7 on a 4.0 scale or its equivalent; and (iii) are nominated for such scholarship by the institution where they are enrolled. In addition, the

candidates must meet one or more of the following criteria: (a) be enrolled in a program leading to an endorsement in a critical shortage area as established by the Board of Education; (b) be a male teacher candidate in an elementary or middle school education program; (c) be a minority teacher candidate enrolled in any teacher endorsement area; or (d) be a student in an approved teacher education program leading to an endorsement in career and technical education.

D. Before any teaching scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note agreeing (i) to pursue an approved teacher education program full-time or part-time at an accredited baccalaureate private institution of higher education in the Commonwealth or baccalaureate public institution of higher education in the Commonwealth or another approved teacher education program and (ii) upon graduation, to begin teaching in the public schools of the Commonwealth in a critical teaching shortage discipline or in a career and technical education discipline or, regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch or in a rural or urban region of the Commonwealth with a teacher shortage.

Upon program completion, the scholarship recipient shall begin teaching in the public schools of the Commonwealth in the first full academic year after becoming eligible for a teaching license, and shall fulfill the teaching obligation in accordance with the promissory note by teaching continuously in Virginia for the same number of years that he was the beneficiary of such scholarship. Such scholarship recipient may fulfill the teaching obligation by accepting a teaching position (i) in one of the critical teacher shortage disciplines as established by the Board of Education; or (ii) in a career and technical education discipline; or (iii) regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch; or (iv) in any discipline or at any grade level within a school division with a shortage of teachers, as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; or (v) in a rural or urban region of the state with a teacher shortage.

E. The Board of Education may recover the total amount of funds awarded as a scholarship, or the appropriate proportion thereof, including any accrued interest, if the scholarship recipient fails to honor the teaching obligation.

F. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Virginia Teaching Scholarship Loan Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of such moneys as may be appropriated for the Virginia Teaching Scholarship Loan Program and such gifts, donations, grants, bequests, and other funds as may be received on its behalf by the Board of Education. The Fund shall be used solely to fund the Virginia Teaching Scholarship Loan Program. Interest earned on such moneys shall remain in the Fund and be credited to it. Moneys in the Fund shall be used solely to award scholarships pursuant to the Virginia Teaching Scholarship Loan Program as provided in this section. Disbursements from the Fund for such scholarships shall be made

by the State Treasurer on warrants issued by the Comptroller upon written request of the President of the Board of Education.

G. The Board of Education and the State Council of Higher Education shall make available to parents, students, teachers, high school counselors, and academic advisors and financial aid administrators at public and private institutions of higher education information concerning the Virginia Teacher Scholarship Loan Program, eligibility for the loans, and the terms and conditions under which such loans are awarded, in order that students interested in pursuing careers in the teaching profession may be advised of the availability of such financial assistance.

2001, c. 660; 2002, c. 889; 2007, c. 31; 2008, cc. 48, 141; 2019, cc. 139, 796.

§ 22.1-290.02. Traineeships for education of special education personnel.

A. There are hereby established traineeships that shall be awarded to persons who are interested in working in programs for the education of handicapped children for either part-time or full-time study in programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized institution of higher education.

B. The award of such traineeships shall be made by the State Board, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be $450 for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session.

C. This program shall be administered by the Department of Education under rules and regulations promulgated by the State Board.

2014, c. 484.

§ 22.1-290.1. Clinical faculty programs.

A. As used in this section, unless the context requires a different meaning:

"Clinical faculty member" means a licensed public or private school teacher who meets the standards of the board of visitors or other governing body for acceptance in an institution's clinical faculty program.

"Student teacher" means an individual enrolled in a program for training teachers in an accredited institution of higher education located in this Commonwealth.

"Training institution" means an accredited public or private institution of higher education which has implemented a training program for public school teachers designed to improve skills in supervising and evaluating student teachers.

B. The governing board of any public institution of higher education in the Commonwealth or accredited private institution of higher education in the Commonwealth may establish a clinical faculty program utilizing specially trained public school teachers as supervisors of student teachers. Any such program shall include the following components:

1. Any teacher accepted as a clinical faculty member shall be designated adjunct faculty;

2. Prior to being assigned student teachers, all clinical faculty members shall be required to attend training programs offered by accredited public or private institutions of higher education which are designed to improve their skills in supervising and evaluating student teachers;

3. Clinical faculty members shall be given the responsibility for the grading and evaluation of the student teachers assigned to them in cooperation with appropriate full-time faculty members at the institution; and

4. Such data on the clinical faculty program as may be required by the Board of Education shall be provided by the institution in a timely manner.

C. Any governing board that chooses to implement a clinical faculty program pursuant to subsection B shall develop standards for acceptance of public or private school teachers as clinical faculty members. Public or private school teachers may apply to the institution of higher education for acceptance as clinical faculty members for the purpose of supervising and evaluating student teachers.

D. There is hereby authorized to be appropriated for the purposes of this section such sums as the General Assembly may from time to time determine to be necessary. The Board of Education shall serve as fiscal agent for the training institutions and the clinical faculty programs.

The Board shall allocate from such funds as are appropriated, moneys to participating training institutions for the purpose of compensating clinical faculty members. The Board, in consultation with the training institutions, shall set such compensation.

The Board shall, in cooperation with the State Council of Higher Education, set criteria for the programs implemented by the training institutions. The Board may also issue such guidelines as may be necessary for the implementation of the provisions of this section. The training program criteria set by the Board and the Council and the guidelines issued by the Board shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq.). However, prior to establishing such criteria or issuing such guidelines, the Board and the Council shall consult with the Office of the Attorney General and provide opportunity for public comment.

1990, c. 800; 1992, c. 132.

§ 22.1-290.2. Teacher, other instructional personnel, and support staff shortages; data.

A. Each school board shall report to the Department of Education annually the number and type of teacher, other instructional personnel, and support staff vacancies in the school division.

B. Each approved education preparation program shall report to the Department of Education annually the number of individuals who completed the program by endorsement area.

C. The Department of Education shall (i) establish deadlines for and the format of the reporting of the data pursuant to subsections A and B and (ii) aggregate and report such data annually on the Department's website.

2020, c. 674.

§ 22.1-291. Repealed.

Repealed by Acts 2011, c. 216, cl. 2.

§ 22.1-291.1. Planning time for school teachers.

Each school board shall ensure that all elementary school teachers in its employment are provided at least an average of 30 minutes per day during the students' school week as planning time.

1995, c. 404; 2000, c. 650; 2009, c. 482.

§ 22.1-291.1:1. School counselors; staff time.

Each school counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students.

2019, c. 139.

§ 22.1-291.2. Repealed.

Repealed by Acts 2004, c. 872, cl. 7, effective May 4, 2005.

§ 22.1-291.3. Notice of duty to report child abuse or neglect.

Each public school board and each administrator of every private or parochial school shall post, in each of their schools, a notice, pursuant to § 63.2-1509, that: (i) any teacher or other person employed in a public or private school who has reason to suspect that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the person in charge of the relevant school or his designee; and (ii) all persons required to report cases of suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person has acted in bad faith or with malicious purpose. The notice shall also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline.

2004, cc. 710, 752.

§ 22.1-291.4. Bullying and abusive work environments prohibited.

A. Each school board shall implement policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

B. Each school board shall adopt policies to:

1. Prohibit abusive work environments in the school division;

2. Provide for the appropriate discipline of any school board employee who contributes to an abusive work environment; and

3. Prohibit retaliation or reprisal against a school board employee who alleges an abusive work environment or assists in the investigation of an allegation of an abusive work environment.

2013, c. 575; 2018, c. 488.

§ 22.1-292. Penalties on officers and teachers.

Any division superintendent, member of a school board or other school officer or any principal or teacher in a public school violating any provision of this title shall be guilty of a Class 4 misdemeanor if no other penalty is prescribed.

Code 1950, § 22-215; 1980, c. 559.

§ 22.1-292.1. Violations related to secure mandatory tests.

A. The Board of Education may (i) issue written reprimand to or (ii) suspend or revoke the administrative or teaching license of any holder of a Board-issued administrative or teaching license who knowingly and willfully commits any of the following acts related to secure mandatory tests administered to students as required by this title or by the Board of Education:

1. Giving unauthorized access to secure test questions;

2. Copying or reproducing all or any portion of any secure test booklet;

3. Divulging the contents of any portion of a secure test;

4. Coaching or assisting examinees during testing or altering test materials or examinees' responses in any way;

5. Making available any answer keys;

6. Failing to follow test security procedures established by the Department of Education;

7. Providing a false certification on any test security form required by the Department of Education;

8. Retaining a copy of secure test questions;

9. Excluding students from testing who are required to be assessed; and

10. Participating in, directing, aiding, assisting in, or encouraging any of the acts prohibited by this section.

For the purposes of this section, "secure test" means an item, question, or test that has not been made publicly available by the Department of Education.

Nothing in this section shall be construed to prohibit educational personnel from providing input to administrators or other authorized personnel, including school board members and members of the General Assembly, except when done in a manner that violates test integrity or security regarding the accuracy, clarity, or propriety of test items or test administration procedures.

B. Nothing in this section shall be construed to prohibit or restrict the reasonable and necessary actions of the Board of Education, the Superintendent of Public Instruction, or the Department of Education in test development or selection, test form construction, standard setting, test scoring and reporting, or any other related activities which, in the judgment of the Superintendent of Public Instruction or the Board of Education, are necessary and appropriate.

C. Any written reprimand, suspension, or revocation imposed for the acts enumerated in this section shall be rendered pursuant to Board regulations promulgated pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and § 22.1-298.1, governing the licensure of teachers.

2000, cc. 634, 659; 2004, cc. 939, 955; 2006, cc. 27, 349; 2011, c. 248; 2019, c. 587.

§ 22.1-292.2. Suspension or revocation of license for procuring, selling, or administering anabolic steroids.

A. The Board of Education shall suspend or revoke the administrative or teaching license it has issued to any person who knowingly and willfully with the intent to compromise the outcome of an athletic competition procures, sells, or administers anabolic steroids or causes such drugs to be procured, sold, or administered to a student who is a member of a school athletic team, or fails to report the use of such drugs by a student to the school principal and division superintendent as required by § 22.1-279.3:1. Any person whose administrative or teaching license is suspended or revoked by the Board pursuant to this section shall be ineligible for three school years for employment in the public schools of the Commonwealth.

B. Any suspension or revocation imposed in accordance with this section shall be rendered pursuant to Board regulations promulgated pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and § 22.1-298.1, governing the licensure of teachers.

2005, c. 481; 2006, cc. 27, 349.

§ 22.1-292.3. License may not be suspended 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.

2018, cc. 170, 381.

Article 2 - TERMS OF EMPLOYMENT GENERALLY

§ 22.1-293. School boards authorized to employ principals and assistant principals; license required; powers and duties.

A. A school board, upon recommendation of the division superintendent, may employ principals and assistant principals. Persons employed in these positions shall hold licenses as prescribed by the Board of Education.

B. A principal shall provide instructional leadership in, shall be responsible for the administration of, and shall supervise the operation and management of the school or schools and property to which he has been assigned, in accordance with the rules and regulations of the school board and under the supervision of the division superintendent.

C. A principal may submit recommendations to the division superintendent for the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to his supervision. Principals must have received training, provided pursuant to § 22.1-253.13:5, in the evaluation and documentation of employee performance, which evaluation and documentation shall include, but shall not be limited to, employee skills and knowledge and student academic progress, prior to submitting such recommendations. Assistant principals and other supervisory personnel participating in the evaluation and documentation of employee performance must also have received such training in the evaluation and documentation of employee performance.

D. A principal shall perform such other duties as may be assigned by the division superintendent pursuant to the rules and regulations of the school board.

Code 1950, § 22-217.9; 1973, c. 223; 1980, c. 559; 1992, c. 132; 1999, cc. 1030, 1037; 2013, cc. 588, 650.

§ 22.1-294. Probationary terms of service for principals, assistant principals, and supervisors; evaluation; reassigning principal, assistant principal, or supervisor to teaching position.

A. A person employed as a principal, assistant principal, or supervisor, including a person who has previously achieved continuing contract status as a teacher, shall serve a probationary term of three years in such position in the same school division before acquiring continuing contract status as principal, assistant principal, or supervisor. With such funds as may be appropriated by the General Assembly for such purpose, school boards shall provide each probationary principal, except probationary principals who have prior successful experience as principals, as determined by the local school board in a school division, a mentor, as described in guidelines developed by the Board, during the first year of the probationary period, to assist such probationary principal in achieving excellence in administration.

B. Each local school board shall adopt for use by the division superintendent clearly defined criteria for a performance evaluation process for principals, assistant principals, and supervisors that are consistent with the performance standards set forth in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents as provided in § 22.1-253.13:5 and that includes, among other things, an assessment of such administrators' skills and knowledge; student academic progress and school gains in student learning; and effectiveness in addressing school safety and enforcing student discipline. The division superintendent shall implement such performance evaluation process in making employment recommendations to the school board pursuant to § 22.1-293. Principals and assistant principals who have achieved continuing contract status shall be formally evaluated at least once every three years and evaluated informally at least once each year that they are not formally evaluated. Probationary principals and assistant principals shall be evaluated each school year. The division superintendent shall consider such evaluations, among other things, in making recommendations to the school board regarding the nonrenewal of the probationary contract of any principal or assistant principal.

C. Continuing contract status acquired by a principal, assistant principal, or supervisor shall not be construed (i) as prohibiting a school board from reassigning such principal, assistant principal, or supervisor to a teaching position if notice of reassignment is given by the school board by June 15 of any year or (ii) as entitling any such principal, assistant principal, or supervisor to the salary paid him as principal, assistant principal, or supervisor in the case of any such reassignment to a teaching position.

D. No such salary reduction and reassignment, however, shall be made without first providing such principal, assistant principal, or supervisor with written notice of the reason for such reduction and reassignment and an opportunity to present his or her position at an informal meeting with the division superintendent, the division superintendent's designee, or the school board. Before recommending such reassignment, the division superintendent shall consider, among other things, the performance evaluations for such principal, assistant principal, or supervisor. The principal, assistant principal, or supervisor shall elect whether such meeting shall be with the division superintendent, the division superintendent's designee, or the school board. The school board, division superintendent, or the division superintendent's designee shall determine what processes are to be followed at the meeting. The decision to reassign and reduce salary shall be at the sole discretion of the school board.

The intent of this section is to provide an opportunity for a principal, assistant principal, or supervisor to discuss the reasons for such salary reduction and reassignment with the division superintendent, his designee, or the school board, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause, as defined in § 22.1-307, for the salary reduction and reassignment of a principal, assistant principal, or supervisor.

E. As used in this section, "supervisor" means a person who holds an instructional supervisory position as specified in the regulations of the Board of Education and who is required to hold a license as prescribed by the Board of Education.

Code 1950, § 22-217.3; 1968, c. 691; 1969, Ex. Sess., c. 3; 1976, cc. 191, 226; 1979, c. 275; 1980, c. 559; 1982, c. 47; 1992, c. 132; 1999, cc. 1030, 1037; 2005, cc. 331, 450; 2013, cc. 44, 109, 588, 650.

§ 22.1-295. Employment of teachers.

A. The teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel qualified in the relevant subject areas.

B. School boards shall adopt employment policies and practices designed to promote the employment and retention of highly qualified teachers and to effectively serve the educational needs of students. Such policies shall include, but need not be limited to, incentives for excellence in teaching, including financial support for teachers attending professional development seminars or those seeking and obtaining national certification.

C. School boards shall develop a procedure for use by division superintendents and principals in evaluating teachers that is appropriate to the tasks performed and addresses, among other things, student academic progress and the skills and knowledge of instructional personnel, including, but not limited to, instructional methodology, classroom management, and subject matter knowledge.

Teachers employed by local school boards who have achieved continuing contract status shall be formally evaluated at least once every three years and more often as deemed necessary by the principal, and they shall be evaluated informally during each year in which they are not formally evaluated. Any teacher who has achieved continuing contract status who receives an unsatisfactory formal evaluation and who continues to be employed by the local school board shall be formally evaluated in the following year. The evaluation shall be maintained in the employee's personnel file.

Each local superintendent shall annually certify divisionwide compliance with the provisions of this section to the Department.

Code 1950, § 22-203; 1980, c. 559; 1996, c. 186; 1999, cc. 831, 1030, 1037; 2006, c. 373; 2013, cc. 588, 650.

§ 22.1-295.1. Employee personnel files; maintenance of employee records; confidentiality of certain records.

A. Personnel files of all school board employees may be produced and maintained in digital or paper format.

B. Information determined to be unfounded after a reasonable administrative review shall not be maintained in any employee personnel file, but may be retained in a separate sealed file by the administration if such information alleges civil or criminal offenses. Any dispute over such unfounded information exclusive of opinions retained in the personnel file, or in a separate sealed file, notwithstanding the provisions of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), shall be settled through the employee grievance procedure as provided in §§ 22.1-306 and 22.1-308 through 22.1-314.

C. Teacher performance indicators or other data collected by or for the Department of Education or the local school board or made available to and able to be used by the local school board to judge the performance or quality of a teacher, maintained in a teacher's personnel file or otherwise, shall be confidential but may be disclosed, in a form that does not personally identify any student or other teacher, (i) pursuant to court order, (ii) for the purposes of a grievance proceeding involving the teacher, or (iii) as otherwise required by state or federal law. Nothing in this subsection shall be construed to prohibit the release or to limit the availability of nonidentifying, aggregate teacher performance indicators or other data.

1987, c. 506; 2006, c. 191; 2013, c. 291; 2016, c. 390.

§ 22.1-295.2. Employment discrimination prohibited.

A. For the purposes of this section, "age" means being an individual who is at least 40 years of age.

B. No school board or any agent or employee thereof shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

2020, cc. 1137, 1140.

§ 22.1-296. Payment of employees; reimbursement for private transportation; certain sick leave policies.

A. Each school board shall provide for the payment of teachers, principals, assistant principals, and other employees monthly, semimonthly, or biweekly, as may be determined by the school board.

However, school boards setting the school calendar so that the first day students are required to attend occurs prior to August 15 shall establish a payment schedule to ensure that all contract personnel are compensated for time worked within the first month of employment.

B. All school board employees may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

C. Each local school board shall adopt policies providing for leave without pay for school board employees with debilitating or life-threatening illness or injury, without regard to the employee's length of service with the school board.

Code 1950, §§ 22-57.2, 22-72; 1954, c. 289; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1968, c. 139; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1980, c. 559; 1998, c. 872; 2003, cc. 531, 557; 2005, c. 486; 2019, cc. 569, 570.

§ 22.1-296.1. Data on convictions for certain crimes and child abuse and neglect required; penalty.

A. As a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board shall require on its application for employment certification of whether the applicant has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude. Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, in the case of a teacher, upon conviction, the fact of such conviction is grounds for the Board to revoke his license to teach.

B. No school board shall employ any individual who has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

C. Any school board may employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

D. Every school board shall also require on its application for employment, as a condition of employment requiring direct contact with students, whether full-time or part-time, permanent, or temporary, certification that the applicant has not been the subject of a founded case of child abuse and neglect. Any person making a materially false statement regarding a finding of child abuse and neglect is guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction is grounds for the Board of Education to revoke such person's license to teach.

E. As a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the school board shall require the contractor to provide certification of whether any individual who will provide such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude.

Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction is grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. School boards shall not be liable for materially false statements regarding the certifications required by this subsection.

This subsection shall not apply to a contractor or his employees providing services to a school division in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it is reasonably anticipated that the contractor or his employees will have no direct contact with students.

F. No school board shall award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child.

G. Any school board may award a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities when any individual who provides such services has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 and does not involve the sexual molestation, physical or sexual abuse,

or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor.

1985, c. 487; 1987, c. 359; 1996, c. 960; 1997, c. 103; 2003, c. 723; 2006, c. 790; 2007, cc. 245, 431; 2008, c. 555; 2020, c. 877.

§ 22.1-296.2. Fingerprinting required; reciprocity permitted.

A. As a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment after July 1, 1989, whether full-time or part-time, permanent, or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the school board whether or not the applicant has ever been convicted of a felony or a Class 1 misdemeanor or an equivalent offense in another state.

To conserve the costs of conducting criminal history record checks to applicants and school boards, upon the written request and permission of the applicant, a school board shall inform another school board with which reciprocity has been established, and to which the applicant also has applied for employment, of the results of the criminal history record information conducted within the previous ninety days that it obtained concerning the applicant. Criminal history record information pertaining to an applicant for employment by a school board shall be exchanged only between school boards in the Commonwealth in which a current agreement of reciprocity for the exchange of such information has been established and is in effect. Reciprocity agreements between school boards shall provide for the apportionment of the costs of the fingerprinting or criminal records check between the applicant and the school board, as prescribed in this section. However, school boards that enter into reciprocity agreements shall not each levy the costs of the fingerprinting or criminal records check on the applicant.

B. The division superintendent shall inform the relevant school board of any notification of arrest of a school board employee received pursuant to § 19.2-83.1. The school board shall require such employee, whether full-time or part-time, permanent, or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such employee. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.

The Central Criminal Records Exchange, upon receipt of an employee's record or notification that no record exists, shall report to the school board whether or not the employee has been convicted of any of the offenses listed in subsection A of this section. The contents of the employee's record shall be used by the school board solely to implement the provisions of §§ 22.1-307 and 22.1-315.

C. The Central Criminal Records Exchange shall not disclose information to the school board regarding charges or convictions of any crimes not specified in this section. If an applicant is denied employment or a current employee is suspended or dismissed because of information appearing on his criminal history record, the school board shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant or employee. The information provided to the school board shall not be disseminated except as provided in this section.

1988, c. 851; 1989, c. 544; 1990, c. 766; 1991, c. 342; 1992, cc. 641, 791; 1993, cc. 210, 458; 1994, cc. 232, 782; 1995, cc. 731, 781, 809; 1996, cc. 396, 467; 1997, cc. 444, 721; 1998, c. 412; 1999, c. 448; 2000, cc. 683, 774, 811; 2001, cc. 591, 677.

§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records checks.

A. As a condition of employment, the governing boards or administrators of private elementary or secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts employment, whether full-time or part-time, permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the governing board or administrator, or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of any barrier crime as defined in § 19.2-392.02.

B. The Central Criminal Records Exchange shall not disclose information to such governing board, administrator, or private organization coordinating such records regarding charges or convictions of any crimes. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department

of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private elementary or secondary school in which such teacher has accepted employment. Such governing board, administrator, or private organization transferring criminal records information pursuant to this section shall be immune from civil liability for any official act, decision, or omission done or made in the performance of such transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct.

Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

C. (Effective until July 1, 2021) Effective July 1, 2017, the governing board or administrator of a private elementary or secondary school that is accredited pursuant to § 22.1-19 that operates a child welfare agency regulated by the Department of Social Services pursuant to Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall accept evidence of a background check in accordance with § 63.2-1720.1 for individuals who are required to undergo a background check in accordance with that section as a condition of employment in lieu of the background check required by subsection A.

C. (Effective July 1, 2021) Effective July 1, 2017, the governing board or administrator of a private elementary or secondary school that is accredited pursuant to § 22.1-19 that operates a child day program or family day system regulated by the Department pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) shall accept evidence of a background check in accordance with § 22.1-289.035 for individuals who are required to undergo a background check in accordance with that section as a condition of employment in lieu of the background check required by subsection A.

D. The governing boards or administrators of private elementary and secondary schools that are accredited pursuant to § 22.1-19 shall adopt and implement policies prohibiting any individual who is a governing board member, administrator, employee, contractor, or agent of a private elementary or secondary school to assist a governing board member, administrator, employee, contractor, or agent of such private elementary or secondary school in obtaining a new job if such individual knows or has probable cause to believe that the individual seeking new employment engaged in sexual misconduct regarding a minor or student in violation of law.

E. For purposes of this section, "governing board" or "administrator" means the unit or board or person designated to supervise operations of a system of private schools or a private school accredited pursuant to § 22.1-19.

Nothing in this section or § 19.2-389 shall be construed to require any private or religious school which is not so accredited to comply with this section.

1996, c. 944; 1998, c. 113; 2002, c. 528; 2005, c. 928; 2016, c. 454; 2017, c. 809; 2020, cc. 779, 860, 861.

§ 22.1-296.4. Child abuse and neglect data required.

A. Every school board and every governing board or administrator of a private school accredited pursuant to § 22.1-19 shall require, as a condition of employment, that any applicant who is offered or accepts employment requiring direct contact with students, whether full-time or part-time, permanent or temporary, provide written consent and the necessary personal information for the school board, governing board, or administrator to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515. The school board, governing board, or administrator shall ensure that all such searches are requested in conformance with the regulations of the Board of Social Services. In addition, where the applicant has resided in another state within the last five years, the school board, governing board, or administrator shall require as a condition of employment that such applicant provide written consent and the necessary personal information for the school board, governing board, or administrator to obtain information from each relevant state as to whether the applicant was the subject of a founded complaint of child abuse and neglect in such state. The school board, governing board or administrator shall take reasonable steps to determine whether the applicant was the subject of a founded complaint of child abuse and neglect in the relevant state. The Department of Social Services shall maintain a database of central child abuse and neglect registries in other states that provide access to out-of-state school boards, for use by local school boards, governing boards, and administrators. The applicant may be required to pay the cost of any search conducted pursuant to this subsection at the discretion of the school board, governing board, or administrator. From such funds as may be available for this purpose, however, the school board or the governing board or administrator may pay for the search.

The Department of Social Services shall respond to such request by the school board, governing board, or administrator in cases where there is no match within the central registry regarding applicants for employment within 10 business days of receipt of such request. In cases where there is a match within the central registry regarding applicants for employment, the Department of Social Services shall respond to such request by the school board, governing board, or administrator within 30 business days of receipt of such request. The request and response may be sent electronically or by first-class mail or facsimile transmission.

B. If the response obtained pursuant to subsection A indicates that the applicant is the subject of a founded case of child abuse and neglect, such applicant shall be denied employment or the employment shall be rescinded.

C. If an applicant is denied employment because of information appearing on his record in the registry, the school board, governing board, or administrator shall provide a copy of the information obtained from the registry to the applicant. The information provided to the school board, governing board, or administrator by the Department of Social Services shall be confidential and shall not be disseminated by the school board, governing board, or administrator.

1997, c. 103; 2000, cc. 95, 734; 2008, c. 555; 2009, c. 58; 2016, c. 454; 2020, c. 300.

§ 22.1-297. Assignment of teachers, principals and assistant principals by superintendent.

A division superintendent shall have authority to assign to their respective positions in the school wherein they have been placed by the school board all teachers, principals and assistant principals. If the school board adopts a resolution authorizing the division superintendent to reassign such teachers, principals and assistant principals, the division superintendent may reassign any such teacher, principal or assistant principal for that school year to any school within such division, provided no change or reassignment during a school year shall affect the salary of such teacher, principal or assistant principal for that school year.

Code 1950, § 22-205; 1956, Ex. Sess., c. 61; 1968, c. 643; 1980, cc. 559, 575.

§ 22.1-298. Repealed.

Repealed by Acts 2006, cc. 27 and 349, cl. 2.

§ 22.1-298.1. 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. 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 of Education, 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; and

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.

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 and (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.

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 member of the Armed Forces of the United States or the Commonwealth 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 of Education. Each such individual shall establish a file in the Department of Education 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; 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 of Education. Each such individual shall establish a file in the Department of Education 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.

2006, cc. 27, 349; 2008, cc. 474, 827; 2012, c. 365; 2013, cc. 498, 530, 588, 650; 2014, c. 79; 2015, cc. 385, 562; 2016, cc. 389, 649; 2017, cc. 240, 247, 255, 520, 688, 783; 2018, cc. 711, 745, 746, 747, 748, 749; 2019, cc. 63, 407, 409, 587; 2020, cc. 513, 640, 870.

§ 22.1-298.2. Regulations governing education preparation programs.

A. As used in this section, "education preparation program" includes four-year bachelor's degree programs in teacher education.

B. Education preparation programs shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

C. The Board of Education regulations shall provide for education preparation programs offered by institutions of higher education, Virginia public school divisions, and certified providers for alternate routes to licensure.

D. The Board may prescribe requirements for admission to Virginia's approved education preparation programs in its regulations.

E. The Board shall establish accountability measures for approved education programs. Data shall be submitted to the Board on not less than a biennial basis.

2006, cc. 27, 349; 2018, cc. 518, 748, 749; 2019, cc. 63, 407.

§ 22.1-298.2:1. (Contingent effective date — see note) Teacher employment data; education preparation programs.

The Department of Education shall aggregate and report to each education preparation program the following teacher employment data on such program's graduates, as available and to the extent that such data does not reveal personally identifiable information: the total number of graduates who obtain full licensure within three years of graduation; the percentage of all graduates who teach within three years of graduation; the total number of graduates employed in the Commonwealth by school division, graduation year, and type of school; the school characteristics, attributes of students, and educational outcomes where graduates initially taught; and information on teacher transfers and departures relative to initial employment.

2019, c. 598.

§ 22.1-298.3. Students with autism spectrum disorders; training required of personnel.

A. Each school board shall ensure that aides assigned to work with a teacher who has primary oversight of students with autism spectrum disorders receive training in student behavior management within 60 days of assignment to such responsibility.

The Board of Education shall provide training standards that school boards may use to fulfill the requirements of this subsection.

B. The Board of Education shall establish a training program for school board employees who assist in the transportation of students on school buses, including individuals employed to operate school buses and school bus aides, on autism spectrum disorders, including the characteristics of autism

spectrum disorders, strategies for interacting with students with autism spectrum disorders, and collaboration with other employees who assist in the transportation of students on school buses. Each school board employee who assists in the transportation of students with autism spectrum disorders on school buses shall participate in such training program.

2012, c. 755; 2018, c. 586.

§ 22.1-298.4. Teacher preparation programs; learning disabilities.

The Department of Education shall collaborate with the State Council of Higher Education for Virginia to ensure that all teacher preparation programs offered at public institutions of higher education in the Commonwealth or otherwise available convey information on the identification of students at risk for learning disabilities, including dyslexia, other language-based learning disabilities, and attention deficit disorder.

2016, c. 649.

§ 22.1-298.5. Regulations governing licensure; endorsement in dual language instruction pre-kindergarten through grade six.

A. As used in this section, "dual language instruction" means instruction that is delivered in English and in a second language.

B. In its regulations governing licensure established pursuant to § 22.1-298.1, the Board shall provide for licensure of teachers with an endorsement in dual language instruction pre-kindergarten through grade six. In establishing the requirements for such endorsement, the Board shall require, at minimum, coursework in dual language education; bilingual literacy development; methods of second language acquisition; theories of second language acquisition; instructional strategies for classroom management for the elementary classroom; and content-based curriculum, instruction, and assessment.

C. Each teacher with an endorsement in dual language instruction pre-kindergarten through grade six is exempt from the Virginia Communication and Literacy Assessment requirement but is subject to the subject matter-specific professional teacher's assessment requirements.

D. No teacher with an endorsement in dual language instruction pre-kindergarten through grade six is required to obtain an additional endorsement in early/primary education pre-kindergarten through grade three or elementary education pre-kindergarten through grade six in order to teach in pre-kindergarten through grade six.

2018, c. 391.

§ 22.1-298.6. Mental health awareness training.

A. Each school board shall adopt and implement policies that require each teacher and other relevant personnel, as determined by the school board, employed on a full-time basis, to complete a mental health awareness training or similar program at least once.

B. Each school board shall provide required personnel the training required by subsection A and may contract with the Department of Behavioral Health and Developmental Services, a community

services board, a behavioral health authority, a nonprofit organization, or other certified trainer as defined in § 37.2-312.2 to provide such training. Such training may be provided via an online module.

2020, cc. 471, 472.

§ 22.1-299. License required of teachers; provisional licenses; exceptions.

A. No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board.

B. Notwithstanding the provision in § 22.1-298.1 that the provisional license is limited to three years, the following exceptions shall apply:

1. If a teacher employed in the Commonwealth under a provisional license is activated or deployed for military service within a school year (July 1-June 30), an additional year shall be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

2. The Board shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license.

3. The Board shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher employed in an accredited private elementary or secondary school or a school for students with disabilities that is licensed pursuant to Chapter 16 (§ 22.1-319 et seq.) upon receiving from the school administrator of such school (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license.

C. In accordance with regulations prescribed by the Board, a person not meeting the requirements for a license or provisional license may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency.

Code 1950, § 22-204; 1954, c. 638; 1958, c. 300; 1979, c. 532; 1980, c. 559; 1992, c. 132; 2000, c. 689; 2008, c. 51; 2013, cc. 588, 650; 2018, cc. 748, 749; 2020, cc. 172, 639.

§ 22.1-299.1. Repealed.

Repealed by Acts 1990, c. 970.

§ 22.1-299.2. National Teacher Certification Incentive Reward Program and Fund.

A. From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the National Teacher Certification Incentive Reward Program (the "Program"), to be administered by the Board of Education, and a special nonreverting fund within the state treasury known as the National Teacher Certification Incentive Reward Program Fund (the "Fund"). The Fund shall be established on the

books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

The State Treasurer shall manage the Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund shall be disbursed to award incentive grants to public school teachers obtaining national certification from the National Board for Professional Teaching Standards.

To the extent funds are available in the Fund, teachers who obtain national certification shall receive an initial state-funded award of $5,000 and a subsequent award of $2,500 each year for the life of the certificate. Such awards shall continue to be paid upon renewal of the certificate. The Board shall establish procedures for determining amounts of awards if the moneys in the Fund are not sufficient to award each eligible teacher the appropriate award amount.

B. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

1999, cc. 1030, 1032, 1037.

§ 22.1-299.3. Repealed.

Repealed by Acts 2013, cc. 588 and 650, cl. 2.

§ 22.1-299.4. (Effective until July 1, 2021) Teach For America license.

A. Notwithstanding any provision of law to the contrary, the Board shall issue a two-year provisional license, hereafter referred to as the Teach For America license, to any participant in Teach For America, a nationwide nonprofit organization focused on closing the academic achievement gaps between students in high-income and low-income areas, who submits an application and meets the following criteria:

1. Holds, at minimum, a baccalaureate degree from a regionally accredited institution of higher education;

2. Has met the requirements prescribed by the Board for all endorsements sought or has met the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought;

3. Possesses good moral character according to criteria developed by the Board;

4. Has been offered and has accepted placement in Teach For America;

5. Has successfully completed pre-service training and is participating in the professional development requirements of Teach For America, including teaching frameworks, curricula, lesson planning, instructional delivery, classroom management, assessment and evaluation of student progress, classroom diversity, and literacy development;

6. Has an offer of employment from a local school board to teach in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to subsection C of § 22.1-199.1; and

7. Receives a recommendation from the employing school division for a Teach For America license in the endorsement area in which the individual seeks to be licensed.

B. In addition to the criteria set forth in subsection A, any individual who seeks an endorsement in early childhood, early/primary, or elementary education shall either (i) agree to complete such coursework in the teaching of reading as may be prescribed by the Board pursuant to regulation during the first year of employment or (ii) achieve a passing score on a reading instructional assessment prescribed by the Board pursuant to regulation.

C. Teachers issued a Teach For America provisional license shall not be eligible for continuing contract status while employed under the authority of a Teach For America license and shall be subject to the probationary terms of employment specified in § 22.1-303.

D. The Board may extend any Teach For America license for one additional year upon request of the employing school division, provided that no Teach For America license shall exceed a total of three years in length.

E. Notwithstanding any provision of law to the contrary, upon completion of at least two years of full-time teaching experience in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to subsection C of § 22.1-199.1, an individual holding a Teach For America license shall be eligible to receive a renewable license if he has (i) achieved satisfactory scores on all professional teacher assessments required by the Board and (ii) received satisfactory evaluations at the conclusion of each year of employment.

F. Notwithstanding any provision of law to the contrary, the Board shall issue a Teach For America license to any individual who (i) has completed two years of successful teaching in the Teach For America program in another state, (ii) is not eligible to receive a renewable license, and (iii) meets the criteria set forth in subsection A.

2013, cc. 53, 440.

§ 22.1-299.4. (Effective July 1, 2021) Teach For America license.

A. Notwithstanding any provision of law to the contrary, the Board shall issue a two-year provisional license, hereafter referred to as the Teach For America license, to any participant in Teach For America, a nationwide nonprofit organization focused on closing the academic achievement gaps between students in high-income and low-income areas, who submits an application and meets the following criteria:

1. Holds, at minimum, a baccalaureate degree from a regionally accredited institution of higher education;

2. Has met the requirements prescribed by the Board for all endorsements sought or has met the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought;

3. Possesses good moral character according to criteria developed by the Board;

4. Has been offered and has accepted placement in Teach For America;

5. Has successfully completed pre-service training and is participating in the professional development requirements of Teach For America, including teaching frameworks, curricula, lesson planning, instructional delivery, classroom management, assessment and evaluation of student progress, classroom diversity, and literacy development;

6. Has an offer of employment from a local school board to teach in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to § 22.1-289.09; and

7. Receives a recommendation from the employing school division for a Teach For America license in the endorsement area in which the individual seeks to be licensed.

B. In addition to the criteria set forth in subsection A, any individual who seeks an endorsement in early childhood, early/primary, or elementary education shall either (i) agree to complete such coursework in the teaching of reading as may be prescribed by the Board pursuant to regulation during the first year of employment or (ii) achieve a passing score on a reading instructional assessment prescribed by the Board pursuant to regulation.

C. Teachers issued a Teach For America provisional license shall not be eligible for continuing contract status while employed under the authority of a Teach For America license and shall be subject to the probationary terms of employment specified in § 22.1-303.

D. The Board may extend any Teach For America license for one additional year upon request of the employing school division, provided that no Teach For America license shall exceed a total of three years in length.

E. Notwithstanding any provision of law to the contrary, upon completion of at least two years of full-time teaching experience in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to § 22.1-289.09, an individual holding a Teach For America license shall be eligible to receive a renewable license if he has (i) achieved satisfactory scores on all professional teacher assessments required by the Board and (ii) received satisfactory evaluations at the conclusion of each year of employment.

F. Notwithstanding any provision of law to the contrary, the Board shall issue a Teach For America license to any individual who (i) has completed two years of successful teaching in the Teach For America program in another state, (ii) is not eligible to receive a renewable license, and (iii) meets the criteria set forth in subsection A.

2013, cc. 53, 440; 2020, cc. 860, 861.

§ 22.1-299.5. Waiver of teacher licensure requirements; trade and industrial education programs.
A. Notwithstanding any provision of law to the contrary, any division superintendent may apply to the Department of Education for a biennial waiver of the teacher licensure requirements for any individual whom the local school board hires or seeks to hire to teach in a trade and industrial education program who has obtained or is working toward an industry credential relating to the program area and

who has at least 4,000 hours of recent and relevant employment experience, as defined by the Board pursuant to regulation.

B. The Department of Education shall establish a procedure for submitting, receiving, and acting upon such biennial waiver applications.

2016, c. 435; 2018, cc. 748, 749.

§ 22.1-299.6. Career and technical education; three-year licenses.

A. Notwithstanding any provision of law to the contrary, the Board shall provide for the issuance of three-year licenses to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas.

B. The Board shall issue a three-year license to teach high school career and technical education courses in a specific subject area to an individual who:

1. Submits an application to the Board, in the form prescribed by the Board, that includes a recommendation for such a license from the local school board;

2. Meets certain basic conditions for licensure as prescribed by the Board;

3. Meets one of the following requirements: (i) holds, at a minimum, a baccalaureate degree from a regionally accredited institution of higher education and has completed coursework in the career and technical education subject area in which the individual seeks to teach, (ii) holds the required professional license in the specific career and technical education subject area in which the individual seeks to teach, where applicable, or (iii) holds an industry certification credential, as that term is defined in § 22.1-298.1, in the specific career and technical education subject area in which the individual seeks to teach;

4. Has at least four years of full-time work experience or its equivalent in the specific career and technical education subject area in which the individual seeks to teach; and

5. If appropriate, has obtained qualifying scores on the communication and literacy professional teacher's assessment prescribed by the Board.

C. The employing school board shall assign a mentor to supervise an individual issued a three-year license pursuant to this section during his first two years of teaching.

D. Except as otherwise provided in subsection E, any individual issued a three-year license pursuant to this section may be granted subsequent three-year extensions of such license by the Board upon recommendation of the local school board.

E. Any individual issued a three-year license pursuant to this section who completes (i) nine semester hours of specialized professional studies credit from a regionally accredited institution of higher education or (ii) an alternative course of professional studies proposed by the local school board and approved by the Department of Education shall be granted a three-year extension of such license by the Board and may be granted subsequent three-year extensions of such license by the Board upon

recommendation of the local school board. Any such specialized professional studies credit or alternative course of professional studies may be completed through distance learning programs and shall include human growth and development; curriculum, instructional, and technology procedures; and classroom and behavior management.

F. No three-year license issued by the Board pursuant to this section shall be deemed a provisional license or a renewable license, as those terms are defined in § 22.1-298.1.

G. Individuals issued a three-year license pursuant to this section shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303.

H. The provisions of this article and of Board regulations governing the denial, suspension, cancellation, revocation, and reinstatement of licensure shall apply to three-year licenses issued pursuant to this section.

I. The Board shall report at least triennially to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health on the issuance of three-year licenses pursuant to this section by high school, local school division, and career and technical education subject area.

2016, cc. 642, 651; 2018, cc. 748, 749.

§ 22.1-299.7. Microcredential program; certain STEM subjects.

A. The Department of Education may establish a microcredential program for the purpose of permitting any public elementary or secondary school teacher who holds a renewable or provisional license or any individual who participates in any alternate route to licensure program to complete additional coursework and earn microcredentials in science, technology, engineering, and mathematics (STEM) endorsement areas, including computer science, for which there is a high need for additional qualified teachers.

B. The Department of Education shall direct the Advisory Board on Teacher Education and Licensure to convene a workgroup including pertinent education stakeholders to determine how any microcredential awarded pursuant to any microcredential program established pursuant to subsection A will be used to award add-on endorsements and certifications for teachers in STEM endorsement areas, including computer science, for which there is a high need for additional qualified teachers.

C. Any course offered through any microcredential program established pursuant to subsection A shall be offered in-person or in a blended format of in-person and online instruction.

D. Any teacher who holds a renewable license and who participates, through any microcredential program offered pursuant to subsection A, in courses that do not contribute to an endorsement is eligible for professional development points toward renewal of his license for the number of in-person hours of coursework completed, upon providing a certificate of such participation from the course provider.

2019, cc. 227, 597.

§ 22.1-299.8. Technical professional licenses; substitution of certain professional development activities for required coursework.

The Board shall permit any individual who seeks a technical professional license to substitute the successful completion of an intensive, job-embedded, three-year program of professional development for the nine semester hours of professional studies required for such license.

2020, c. 684.

§ 22.1-300. Tuberculosis certificate.

As a condition to employment, every public school employee, including without limitation teachers, cafeteria workers, janitors and bus drivers, shall submit a certificate signed by a licensed physician, or by a registered nurse licensed pursuant to Article 2 (§ 54.1-3016 et seq.) of Chapter 30 of Title 54.1, stating that such employee appears free of communicable tuberculosis. Such certificate shall be based on recorded results of such skin tests, X-rays and other examinations, singly or in combination, as are deemed necessary by a licensed physician that have been performed within the twelve months' period immediately preceding submission of the certificate. After consulting with the local health director, any school board may require the submission of such certificates annually, or at such intervals as it deems appropriate, as a condition to continued employment.

Code 1950, § 22-249; 1968, c. 445; 1970, c. 526; 1973, c. 491; 1974, c. 160; 1977, c. 220; 1979, c. 262; 1980, c. 559; 1994, c. 68; 2000, c. 476.

§ 22.1-301. Costs of medical examinations and of furnishing medical records.

It shall be unlawful for any school board to require any instructional employee to pay the costs of a medical examination or the cost of furnishing medical records required as a condition to continued employment. Nothing in this section shall prohibit the immediate supervisor from requesting an employee to submit a physician's certificate verifying the illness of an employee at the employee's expense.

Code 1950, § 22-249; 1968, c. 445; 1970, c. 526; 1973, c. 491; 1974, c. 160; 1977, c. 220; 1979, c. 262; 1980, c. 559.

§ 22.1-302. Written contracts required; execution of contracts; qualifications of temporarily employed teachers; rules and requirements.

A. A written contract, in a form permitted by the Board of Education's regulations, shall be made by the school board with each teacher employed by it, except those who are temporarily employed, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties.

The standard 10-month contract shall include 200 days, including (i) a minimum of 180 teaching days or 990 instructional hours and (ii) up to 20 days for activities such as teaching, participating in professional development, planning, evaluating, completing records and reports, participating on committees or in conferences, or such other activities as may be assigned or approved by the local school board.

A temporarily employed teacher, as used in this section, means (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

B. Temporarily employed teachers, as defined in this section, shall be at least 18 years of age and shall hold a high school diploma or have passed a high school equivalency examination approved by the Board of Education.

A temporarily employed teacher is not required to be licensed by the Board of Education, nor is the local school board required to enter into a written contract with a temporarily employed teacher. However, local school boards shall establish employment qualifications for temporarily employed teachers that may exceed these requirements for the employment of such teachers. School boards shall also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes exceed baseline employment qualifications.

C. A separate contract in a form permitted by the Board of Education shall be executed by the school board with a teacher who is receiving a monetary supplement for any athletic coaching or extracurricular activity sponsorship assignment. This contract shall be separate and apart from the contract for teaching.

Termination of a separate contract for any athletic coaching or extracurricular activity sponsorship assignment by either party thereto shall not constitute cause for termination of the separate teaching contract of the coach or teacher.

All such contracts shall require the party intending to terminate the coaching or extracurricular activity sponsorship contract to give reasonable notice to the other party before termination thereof shall become effective.

For the purposes of this section, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

Code 1950, § 22-217.2; 1968, c. 691; 1980, c. 559; 1989, c. 92; 1990, c. 388; 1996, c. 986; 1997, c. 689; 1999, c. 486; 2010, c. 93; 2013, cc. 588, 644, 650; 2014, c. 84.

§ 22.1-303. Probationary terms of service for teachers.

A. A probationary term of service of three years in the same school division shall be required before a teacher is issued a continuing contract. School boards shall provide each probationary teacher except probationary teachers who have prior successful teaching experience, as determined by the local school board in a school division, a mentor teacher, as described by Board guidelines developed

pursuant to § 22.1-305.1, during the first year of the probationary period, to assist such probationary teacher in achieving excellence in instruction. During the probationary period, such probationary teacher shall be evaluated annually based upon the evaluation procedures developed by the employing school board for use by the division superintendent and principals in evaluating teachers as required by subsection C of § 22.1-295. A teacher in his first year of the probationary period shall be evaluated informally at least once during the first semester of the school year. The division superintendent shall consider such evaluations, among other things, in making any recommendations to the school board regarding the nonrenewal of such probationary teacher's contract as provided in § 22.1-305.

Any teacher hired on or after July 1, 2001, shall be required, as a condition of achieving continuing contract status, to have successfully completed training in instructional strategies and techniques for intervention for or remediation of students who fail or are at risk of failing the Standards of Learning assessments. Local school divisions shall be required to provide said training at no cost to teachers employed in their division. In the event a local school division fails to offer said training in a timely manner, no teacher will be denied continuing contract status for failure to obtain such training.

B. Once a continuing contract status has been attained in a school division in the Commonwealth, another probationary period need not be served in any other school division unless such probationary period, not to exceed two years, is made a part of the contract of employment. Further, when a teacher has attained continuing contract status in a school division in the Commonwealth and separates from and returns to teaching service in a school division in Virginia by the beginning of the third year, such teacher shall be required to serve a probationary period not to exceed two years, if made a part of the contract for employment.

C. For the purpose of calculating the years of service required to attain continuing contract status, at least 160 contractual teaching days during the school year shall be deemed the equivalent of one year in the first year of service by a teacher.

D. Teachers holding three-year local eligibility licenses issued prior to July 1, 2013, shall not be eligible for continuing contract status while teaching under the authority of such license. Upon attainment of a collegiate professional or postgraduate professional license issued by the Department of Education, such teachers shall serve a probationary term of service of three years prior to being eligible for continuing contract status pursuant to this section.

Code 1950, § 22-217.3; 1968, c. 691; 1969, Ex. Sess., c. 3; 1976, cc. 191, 226; 1979, c. 275; 1980, c. 559; 1985, c. 348; 1989, c. 100; 1999, cc. 831, 1030, 1037; 2000, c. 689; 2001, cc. 865, 872; 2006, c. 373; 2013, cc. 588, 650; 2020, cc. 53, 167.

§ 22.1-303.1. Immunity from civil liability for certain individuals.

Any teacher who, in good faith, participates in conducting a peer review of another teacher or a person who conducts a review of a teacher as a mentor teacher shall be immune from civil liability for any act,

omission or statement made in the performance of these duties unless such act, omission or statement was made in bad faith or with malicious intent.

1988, c. 319; 1999, cc. 1030, 1037.

§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.

A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within 15 days of receipt of such notice. Except as provided in § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of non-renewal of the probationary contract must be given by the school board on or before June 15 of each year. If no such notice is given a teacher by June 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

B. Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service. Written notice of noncontinuation of the contract by either party must be given by June 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

C. A teacher may resign after June 15 of any school year with the approval of the local school board or, upon authorization by the school board, with the approval of the division superintendent. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

If the division superintendent has been authorized to approve resignations, a teacher may, within one week, withdraw a request to resign. Upon the expiration of the one-week period, the division superintendent shall notify the school board of his decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the division superintendent.

In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include written reprimand, suspension, or revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

D. As soon after June 15 as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

E. A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

F. Within two weeks of the approval of the school budget by the appropriating body, but no later than July 1, school boards shall notify all teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

G. If a school board implements a reduction in workforce pursuant to this section, such reduction shall not be made solely on the basis of seniority but must include consideration of, among other things, the performance evaluations of the teachers potentially affected by the reduction in workforce.

Code 1950, § 22-217.4; 1968, c. 691; 1978, c. 147; 1979, c. 98; 1980, c. 559; 1992, c. 132; 1993, c. 294; 1996, c. 840; 2000, c. 709; 2001, c. 540; 2002, c. 714; 2003, c. 706; 2012, cc. 106, 687; 2013, cc. 588, 650; 2019, c. 587; 2020, c. 513.

§ 22.1-305. Nonrenewal of contract of probationary teacher.

A. Before a division superintendent recommends to the school board nonrenewal of the contract of a teacher who has not achieved continuing contract status, the division superintendent shall consider, among other things, the performance evaluations for such teacher required by § 22.1-303 and shall notify the teacher of the proposed recommendation. Upon written request of the teacher within five working days after receipt of such notice, the division superintendent or his designee shall orally provide the specific reasons, if any, for such recommendation, along with supporting documentation, including such performance evaluations, to the teacher and, if requested by the teacher, to his or her representative. Within 10 days after receiving such reasons, the teacher may request, by notification in writing to the division superintendent, a conference before the division superintendent. Upon such request, the division superintendent shall set a date for the conference, which shall be within 30 days of the request, and shall give the teacher at least 15 days' notice of the time and place of the conference.

B. The conference shall be before the division superintendent or his designee. No such designee shall have recommended to the division superintendent the nonrenewal of the teacher's contract. The teacher and the person or persons who recommended the nonrenewal of the teacher's contract to the division superintendent, or a representative of either or both, shall be allowed to participate in the conference, but no such representative shall be an attorney.

C. If the conference is before a designee of the division superintendent, the designee shall communicate his recommendations to the division superintendent and to the teacher.

D. The division superintendent shall notify the teacher, in writing, of his intention with respect to the recommendation within 10 days after the conference.

E. In any case in which a teacher requests reasons for the recommendation as provided in this section, written notice of nonrenewal of the contract by the school board must be given either within 10 days after the time for requesting a conference has expired and the teacher has not made a timely request for a conference or, if a conference is requested, within 30 days after the division superintendent notifies the teacher of his intention with respect to the recommendation and the provisions of § 22.1-304 requiring such notice on or before June 15 shall not be applicable.

F. The conference shall be confidential and no written or oral communication of such conference shall be made to anyone other than the school board, in executive session, and employees of the school division having an interest therein; however, both the teacher and the division superintendent, upon request, may provide the reasons for the nonrenewal to a potential employer of the teacher.

G. The provisions of this section shall be inapplicable when a decrease in enrollment or the abolition of a particular subject or reduction in the number of classes offered in a particular subject causes a reduction in the number of teachers; however, a statement to that effect shall be placed in the personnel file of each teacher whose contract is nonrenewed for any such reason.

H. The intent of this section is to provide an opportunity for a probationary teacher to discuss the reasons for nonrenewal with the division superintendent or his designee, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause, as defined in § 22.1-307, for the nonrenewal of the contract of a teacher who has not achieved continuing contract status nor shall the failure of the school board or the division superintendent to comply with any time requirement herein constitute a basis for continued employment of the teacher.

Code 1950, § 22-217.4:1; 1979, c. 98; 1980, c. 559; 1999, cc. 1030, 1037; 2013, cc. 588, 650.

§ 22.1-305.1. Mentor teacher programs.

A. The Board of Education shall establish, from such funds as may be appropriated by the General Assembly, mentor teacher programs utilizing specially trained public school teachers as mentors to provide assistance and professional support to teachers entering the profession and to improve the performance of experienced teachers who are not performing at an acceptable level.

The Board shall issue guidelines for such mentor teacher programs and shall set criteria for beginning and experienced teacher participation, including self-referral, and the qualifications and training of mentor teachers. Such guidelines shall provide that the mentor programs be administered by local school boards, with the assistance of an advisory committee made up of teachers, principals, and supervisors, and that mentors (i) be classroom teachers who have achieved continuing contract status and who work in the same building as the teachers they are assisting or be instructional personnel who are assigned solely as mentors; (ii) be assigned a limited number of teachers at one time; however, instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at one time; and (iii) guide teachers in the program through demonstrations, observations, and consultations to promote instructional excellence. Local school boards shall strive to provide adequate release time for mentor teachers during the contract day.

B. The local school board shall serve as fiscal agent for the participating school boards in matters concerning the mentor teacher programs. The Department of Education shall allocate, from such funds as are appropriated, moneys to participating school divisions for the purpose of supporting such programs which shall include, but not be limited to, compensation for mentor teachers.

1989, c. 516; 1999, cc. 1030, 1037; 2013, cc. 588, 650.

Article 2.1 - The Advisory Board on Teacher Education and Licensure

§ 22.1-305.2. Advisory Board on Teacher Education and Licensure.

There is hereby established the Advisory Board on Teacher Education and Licensure (the Advisory Board), which shall consist of three legislative members to be appointed as follows: two members of the House of Delegates to be appointed by the Speaker of the House of Delegates, one member of the Senate to be appointed by the Senate Committee on Rules, and 21 nonlegislative citizen members to be appointed by the Board of Education. Ten nonlegislative citizen members of the Advisory Board shall be classroom teachers, with at least the following representation: three elementary school teachers, three middle school teachers, and three high school teachers. Three nonlegislative citizen members of the Advisory Board shall be school administrators, one of whom shall be a school principal, one of whom shall be a division superintendent, and one of whom shall be a school personnel administrator. Four nonlegislative citizen members of the Advisory Board shall be faculty members in teacher preparation programs in public or private institutions of higher education, who may represent the arts and sciences. One nonlegislative citizen member of the Advisory Board shall be a member of a school board. One nonlegislative citizen member of the Advisory Board shall be a member of a parent-teacher association. One nonlegislative citizen member of the Advisory Board shall be a representative of the business community, and one nonlegislative citizen member shall be a citizen at large. The Chancellor of the Virginia Community College System or his designee shall serve as an ex officio member of the Advisory Board. The Superintendent of Public Instruction or his designee and the Director of the State Council of Higher Education for Virginia or his designee shall serve as nonvoting ex officio members of the Advisory Board.

The Superintendent of Public Instruction shall designate a staff liaison to coordinate the activities of the Advisory Board. The Advisory Board shall meet five times per year or upon the request of its chairman or the Board of Education. The Advisory Board shall annually elect a chairman from its membership. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the Advisory Board shall be compensated as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as members of the Advisory Board as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Department of Education.

The nonlegislative citizen members of the Advisory Board shall be appointed for three-year terms. Legislative members shall serve terms coincident with their terms of office. No person may be appointed to serve for more than two consecutive terms. Members shall hold office after expiration of their terms until their successors are duly appointed. Appointments to fill vacancies of members, other than by expiration of a term, shall be for the unexpired terms. Such vacancies shall be filled in the same manner as the original appointments.

The Advisory Board on Teacher Education and Licensure shall advise the Board of Education and submit recommendations on policies applicable to the qualifications, examination, licensure, and regulation of school personnel including revocation, suspension, denial, cancellation, reinstatement, and

renewals of licensure, fees for processing applications, standards for the approval of preparation programs, reciprocal approval of preparation programs, and other related matters as the Board of Education may request or the Advisory Board may deem necessary. The final authority for licensure of school personnel shall remain with the Board of Education.

1990, c. 970; 1992, c. 132; 2014, c. 334; 2017, c. 331; 2019, c. 767.

Article 3 - Grievances; Dismissal, etc., of Teachers

§ 22.1-306. Definitions.

As used in this article:

"Business day" means any day that the relevant school board office is open.

"Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday, the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

"Grievance" means a complaint or dispute by a teacher relating to his employment, including (i) disciplinary action including dismissal; (ii) the application or interpretation of (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the basis of race, color, creed, religion, political affiliation, disability, age, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or status as a veteran. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to (1) establishment and revision of wages or salaries, position classifications, or general benefits; (2) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; (3) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (4) failure to promote; (5) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject, or insufficient funding; (6) hiring, transfer, assignment, and retention of teachers within the school division; (7) suspension from duties in emergencies; (8) the methods, means, and personnel by which the school division's operations are to be carried on; or (9) coaching or extracurricular activity sponsorship.

While these management rights are reserved to the school board, failure to apply, where applicable, the rules, regulations, policies, or procedures as written or established by the school board is grievable.

Code 1950, § 22-217.5:1; 1979, c. 298; 1980, c. 559; 1981, c. 646; 1992, c. 679; 2013, cc. 588, 650; 2020, cc. 1137, 1140.

§ 22.1-307. Dismissal of teacher; grounds.

Teachers may be dismissed for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence when in compliance with federal law, conviction of a felony or a crime of moral turpitude, or other good and just cause. A teacher shall be dismissed if such teacher is or becomes the subject of a founded complaint of child abuse and neglect, pursuant to § 63.2-1505, and after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. The fact of such finding, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted, shall be grounds for the local school division to recommend that the Board of Education revoke such person's license to teach. No teacher shall be dismissed or placed on probation solely on the basis of the teacher's refusal to submit to a polygraph examination requested by the school board.

Code 1950, § 22-217.5; 1968, c. 691; 1975, c. 308; 1980, c. 559; 1993, c. 498; 1996, c. 961; 2008, c. 555; 2013, cc. 588, 650; 2017, c. 240; 2020, cc. 56, 168.

§ 22.1-308. Grievance procedure.

A. The Board of Education shall prescribe a grievance procedure which shall include the following:

1. Except in the case of dismissal or placing on probation, a first step which shall provide for an informal, initial processing of a grievance by the most immediate appropriate supervisor through a discussion;

2. A requirement that all stages of the grievance beyond the first step be in writing on forms prescribed by the Board of Education and supplied by the school board;

3. A requirement that in reducing the grievance to writing, the teacher shall specify the specific relief sought through the use of the procedure;

4. The right of the grievant and the respondent to present appropriate witnesses and be represented by legal counsel and another representative;

5. Reasonable time limitations, prescribed by the Board, for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure which shall correspond generally or be equivalent to the time prescribed for response at each step;

6. Termination of the right of the grievant to further appeal upon failure of the grievant to comply with all substantial procedural requirements of the grievance procedure without just cause;

7. The right of the grievant, at his option, upon failure of the respondent to comply with all substantial procedural requirements without just cause, to advancement to the next step or, in the final step, to a decision in his favor;

8. A final step which shall provide for a final decision on the grievance by the school board;

9. The provisions of §§ 22.1-309 through 22.1-313.

B. Representatives referred to in subsection A 4 of this section may examine, cross-examine, question and present evidence on behalf of a grievant or respondent in the grievance procedure without being in violation of the provisions of § 54.1-3904.

C. Nothing in the procedure shall be construed to restrict any teacher's right to seek or a school division administration's right to provide customary review of complaints that are not included within the definition of a grievance.

Code 1950, § 22-217.5:2; 1979, c. 298; 1980, c. 559; 1992, c. 679.

§ 22.1-309. Notice to teacher of recommendation of dismissal; school board not to consider merits during notice; superintendent required to provide reasons for recommendation upon request.

In the event a division superintendent determines to recommend dismissal of any teacher, written notice shall be sent to the teacher notifying him of the proposed dismissal and informing him that within 10 business days after receiving the notice the teacher may request a hearing before the school board or, at the option of the local school board, a hearing officer appointed by the school board as provided in § 22.1-311. During such 10-business-day period and thereafter until a hearing is held in accordance with the provisions of this section, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed or acted upon by the school board except as provided for in this section. At the request of the teacher, the division superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to § 22.1-311, the division superintendent shall provide, within 10 days of the request, the teacher or his representative with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal. Within 10 days of the request of the division superintendent, the teacher or his representative shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal. The division superintendent and the teacher or his representative shall be under a continuing duty to disclose and produce any additional documents identified later which may be used in the respective parties' cases-in-chief. The cost of copying such documents shall be paid by the requesting party.

For the purposes of this section, "personnel file" means any and all memoranda, entries, or other documents included in the teacher's file as maintained in the central school administration office or in any file on the teacher maintained within a school in which the teacher serves.

Code 1950, § 22-217.6; 1968, c. 691; 1975, c. 308; 1979, c. 298; 1980, c. 559; 1985, c. 441; 1992, c. 679; 2013, cc. 588, 650; 2014, cc. 13, 103.

§ 22.1-310. Repealed.

Repealed by Acts 2013, cc. 588 and 650, cl. 2.

§ 22.1-311. Hearing before school board, hearing officer, or fact-finding panel.

A. Upon a timely request for a hearing pursuant to § 22.1-309, the school board or, at the option of the school board, a hearing officer appointed by the school board or a three-member fact-finding panel

shall set a hearing and the teacher shall be given at least 10 days' written notice of the time and the place. The hearing shall be private unless the teacher requests the hearing to be public. At the hearing the teacher may appear with or without a representative and be heard, presenting testimony of witnesses and other evidence. The school board may hear a recommendation for dismissal and make a determination whether to make a recommendation to the Board of Education regarding the teacher's license at the same hearing or hold a separate hearing for each action.

B. Each school board may appoint an impartial hearing officer from outside the school division to conduct hearings pursuant to this section. A hearing officer shall not have been involved in the recommendation of dismissal as a witness or a representative. A hearing officer shall possess some knowledge and expertise in public education and education law and be capable of presiding over an administrative hearing. The hearing officer shall schedule and preside over such hearings and shall create a record or recording of such proceedings. The hearing officer shall make a written recommendation to the school board, a copy of which shall be provided to the teacher. The hearing officer shall transmit the recommendation and the record or recording of the hearing to the school board as soon as practicable and no more than 10 business days after the hearing. In the event of a hearing before a hearing officer, the school board may make its decision upon the record or recording of such hearing, pursuant to § 22.1-313, or the school board may elect to conduct a further hearing to receive additional evidence by giving written notice of the time and place to the teacher and the division superintendent within 10 business days after the board receives the record or recording of the initial hearing. Such notice shall also specify each matter to be inquired into by the school board.

C. Each school board may elect for a three-member fact-finding panel to conduct hearings pursuant to this section. The teacher and the division superintendent shall each select one panel member, and the two panel members so selected shall select an impartial hearing officer to serve as the chairman of the panel. The fact-finding panel shall schedule and preside over such hearings and shall create a record or recording of such proceedings. The fact-finding panel shall make a written recommendation to the school board, a copy of which shall be provided to the teacher. The fact-finding panel shall transmit the recommendation and the record or recording of the hearing to the school board as soon as practicable but in no case more than 10 business days after the hearing. In the event of a hearing before a fact-finding panel, the school board may make its decision upon the record or recording of such hearing, pursuant to § 22.1-313, or the school board may elect to conduct a further hearing to receive additional evidence by giving written notice of the time and place of the hearing to the teacher and the division superintendent within 10 business days after the board receives the record or recording of the initial hearing. Such notice shall also specify each matter to be inquired into by the school board.

D. A record or recording of any hearing conducted pursuant to this section shall be made. The parties shall share the cost of the recording equally. In proceedings concerning grievances not related to dismissal, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share the cost of the recording

equally; if either party requests a transcript, that party shall bear the expense of its preparation. In cases of dismissal, the record or recording shall be preserved for a period of six months. If the school board requests that a transcript be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the cost of the transcription.

E. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

Code 1950, § 22-217.7; 1968, c. 691; 1976, c. 282; 1980, c. 559; 2004, c. 1007; 2013, cc. 588, 650; 2020, c. 875.

§ 22.1-312. Repealed.

Repealed by Acts 2013, cc. 588 and 650, cl. 2.

§ 22.1-313. Decision of school board; generally.

A. The school board shall retain its exclusive final authority over matters concerning employment and supervision of its personnel, including dismissals and suspensions.

B. In the case of a hearing before the school board, the school board shall give the teacher its written decision as soon as practicable but in no case more than 30 days after the hearing.

C. In the case of a hearing before a hearing officer appointed by the school board or a three-member fact-finding panel, the school board shall give the teacher its written decision as soon as practicable but in no case more than 30 days after receiving the record or recording of the hearing; however, should there be a further hearing before the school board, such decision shall be furnished the teacher as soon as practicable but in no case more than 30 days after such further hearing.

D. A teacher may be dismissed or suspended by a majority of a quorum of the school board.

E. The school board's attorney, assistants, or representative, if he or they represented a participant in the prior proceedings, the grievant, the grievant's attorney or representative, and notwithstanding the provisions of § 22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.

F. In those instances when licensed personnel are dismissed or resign due to a conviction of any felony, any offense involving the sexual molestation, physical or sexual abuse or rape of a child, any offense involving drugs, or due to having become the subject of a founded case of child abuse or neglect, the local school board shall notify the Board of Education within 10 business days of such dismissal or the acceptance of such resignation.

Code 1950, § 22-217.8; 1968, c. 691; 1974, c. 18; 1979, c. 298; 1980, c. 559; 1983, c. 327; 1992, c. 679; 2003, c. 187; 2008, cc. 474, 827; 2013, cc. 588, 650; 2020, c. 875.

§ 22.1-314. Decision of school board; issue of grievability; appeal.

Decisions regarding whether or not a matter is grievable shall be made by the school board at the request of the school division administration or grievant and such decision shall be made within 10 business days of such request. The school board shall reach its decision only after allowing the school division administration and the grievant opportunity to present written or oral arguments regarding grievability. The decision as to whether the arguments shall be written or oral shall be in the discretion of the school board. Decisions of the school board may be appealed to the circuit court having jurisdiction in the school division for a hearing on the issue of grievability.

Proceedings for review of the decision of the school board shall be instituted by filing a notice of appeal with the school board within 10 business days after the date of the decision and giving a copy thereof to all other parties. Within 10 business days thereafter, the school board shall transmit to the clerk of the court to which the appeal is taken a copy of its decision, a copy of the notice of appeal, and the exhibits. The failure of the school board to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the school board to transmit the record on or before a certain date. Within 10 business days of receipt by the clerk of such record, the court, sitting without a jury, shall hear the appeal on the record transmitted by the school board and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the school board or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. Such determination of grievability shall be made subsequent to the reduction of the grievance to writing but prior to any hearing or the right to such determination shall be deemed to have been waived.

Code 1950, § 22-217.8:01; 1979, c. 298; 1980, c. 559; 1987, c. 97; 2003, c. 187; 2013, cc. 588, 650.

Article 4 - SUSPENSION

§ 22.1-315. Grounds and procedure for suspension.

A. A teacher or other public school employee, whether full-time or part-time, permanent, or temporary, may be suspended for good and just cause when the safety or welfare of the school division or the students therein is threatened or when the teacher or school employee has been charged by summons, warrant, indictment or information with the commission of a felony; a misdemeanor involving (i) sexual assault as established in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (ii) obscenity and related offenses as established in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, (iii) drugs as established in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (iv) moral turpitude, or (v) the physical or sexual abuse or neglect of a child; or an equivalent offense in another state. Except when a teacher or school employee is suspended because of being charged by summons, warrant,

indictment or information with the commission of one of the above-listed criminal offenses, a division superintendent or appropriate central office designee shall not suspend a teacher or school employee for longer than sixty days and shall not suspend a teacher or school employee for a period in excess of five days unless such teacher or school employee is advised in writing of the reason for the suspension and afforded an opportunity for a hearing before the school board in accordance with §§ 22.1-311 and 22.1-313, if applicable. Any teacher or other school employee so suspended shall continue to receive his or her then applicable salary unless and until the school board, after a hearing, determines otherwise. No teacher or school employee shall be suspended solely on the basis of his or her refusal to submit to a polygraph examination requested by the school board.

B. Any school employee suspended because of being charged by summons, warrant, information or indictment with one of the offenses listed in subsection A may be suspended with or without pay. In the event any school employee is suspended without pay, an amount equal to his or her salary while on suspended status shall be placed in an interest-bearing demand escrow account. Upon being found not guilty of one of the offenses listed in subsection A or upon the dismissal or nolle prosequi of the charge, such school employee shall be reinstated with all unpaid salary and accrued interest from the escrow account, less any earnings received by the school employee during the period of suspension, but in no event shall such payment exceed one year's salary.

C. In the event any school employee is found guilty by an appropriate court of one of the offenses listed in subsection A and, after all available appeals have been exhausted and such conviction is upheld, all funds in the escrow account shall be repaid to the school board.

D. No school employee shall have his or her insurance benefits suspended or terminated because of such suspension in accordance with this section.

E. Nothing in this section shall be construed to limit the authority of a school board to dismiss or place on probation a teacher or school employee pursuant to Article 3 (§ 22.1-306 et seq.) of this chapter.

F. For the purposes of this section, the placing of a school employee on probation pursuant to the terms and conditions of § 18.2-251 shall be deemed a finding of guilt.

Code 1950, §§ 22-72, 22-97, 22-217.8:1; 1954, cc. 289, 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, § 1; 1966, c. 691; 1968, c. 501; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1978, c. 430; 1979, c. 298; 1980, c. 559; 1987, c. 328; 1993, c. 498; 1996, c. 960; 1997, c. 721; 2001, cc. 430, 450.

Article 5 - INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

§ 22.1-316. Agreement entered into and enacted into law; form of agreement.

The Interstate Agreement on Qualification of Educational Personnel is hereby enacted into law and entered into with all jurisdictions legally joined therein in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

Article I.

Purpose, Findings, and Policy.

A. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it and to authorize specific interstate educational personnel contracts to achieve that end.

B. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel without reference to their states of origin can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II.

Definitions.

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the educational official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

3. "Accept" or any variant thereof means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating state" means a state or subdivision thereof whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving state" means a state or subdivision thereof which accepts educational personnel in accordance with the terms of a contract made pursuant to Article III of this section.

Article III.

Interstate Educational Personnel Contracts.

A. The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it and the subdivisions of those states with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, licensure standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable even though not identical to that prevailing in his own state.

B. Any such contract shall provide for:

1. Its duration.

2. The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

3. Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

4. Any other necessary matters.

C. No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

D. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

E. The licensure or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. Any license or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a license or other qualifying document initially granted or approved in the receiving state.

F. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV.

Approved and Accepted Programs.

A. Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

B. To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V.

Interstate Cooperation.

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

2. They will facilitate and strengthen cooperation in interstate licensure and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in licensure and other elements of educational personnel qualification.

Article VI.

Agreement Evaluation.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement and to formulate recommendations for changes.

Article VII.

Other Arrangements.

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII.

Effect and Withdrawal.

A. This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

B. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

C. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX.

Construction and Severability.

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable; and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States or if the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

Code 1950, § 22-348; 1970, c. 193; 1980, c. 559; 1992, c. 132.

§ 22.1-317. Superintendent of Public Instruction to be "designated state official.".

The "designated state official" for this Commonwealth for the purposes of the Interstate Agreement on Qualification of Educational Personnel shall be the Superintendent of Public Instruction. The Superintendent of Public Instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the Board of Education.

Code 1950, § 22-349; 1970, c. 193; 1980, c. 559.

§ 22.1-318. Filing and publication of contracts made pursuant to Agreement.

True copies of all contracts made on behalf of this Commonwealth pursuant to the Interstate Agreement on Qualification of Educational Personnel shall be kept on file in the State Department of Education. The State Department of Education shall publish all such contracts in convenient form.

Code 1950, § 22-350; 1970, c. 193; 1980, c. 559.

Article 6 - STRATEGIC COMPENSATION GRANT INITIATIVE

§ 22.1-318.1. Strategic Compensation Grant Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Strategic Compensation Grant Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All funds as may be appropriated for this purpose and any gifts, donations, grants, bequests, and other funds as may be received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding grants, pursuant to § 22.1-318.2, on a competitive basis to any local school division. Expenditures and disbursements from the Fund shall be made by the State

Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of Public Instruction.

2013, cc. 228, 691.

§ 22.1-318.2. Strategic Compensation Grant Initiative.

A. As used in this section:

"Fund" means the Strategic Compensation Grant Fund established pursuant to § 22.1-318.1.

"Grant" means a grant issued pursuant to the Strategic Compensation Grant Initiative.

B. The Department shall develop guidelines, consistent with this section, setting forth the general requirements of qualifying for a grant.

C. Local school divisions may submit proposals to the Department to apply for a grant. Grants shall be awarded, on a competitive basis, for the purposes of awarding incentive payments to teachers. All proposals shall designate groups or types of teachers targeted for the incentives. Proposals may include plans to (i) reward teachers who help students make significant academic progress; (ii) incentivize team performance in schools achieving goals set by the school division; (iii) reward teachers assuming additional responsibilities, such as serving as a mentor to other teachers; (iv) pay incentives to effective teachers who have essential expertise and who are willing to transfer to positions at hard-to-staff or low-performing schools; (v) reward effective teachers who are assigned to teach critical shortage areas; or (vi) pay incentives to attract talented teachers with specified expertise in hard-to-staff positions. Any proposal that is designed to offer incentives for improved performance to an entire school team may include school leaders other than teachers.

D. Each proposal shall outline a strategic compensation model used to disburse awarded funds. Stakeholder involvement is required in the development and implementation of the model. No individual shall receive more than $5,000 per year. The compensation model shall include measurable and appropriate achievement goals for student academic progress and plans for the professional development of the designated teachers. The compensation model may include tiers or a range of incentives.

E. Any teacher awarded according to the terms of the proposal by the school division in its proposal shall (i) be licensed by the Board; (ii) be employed by the local school board under a contract; (iii) hold an endorsement in his subject area and grade level; (iv) be "highly qualified," as that term is defined by the federal Elementary and Secondary Education Act, P.L. 89-10, as amended; (v) be evaluated using an effective system, consistent with the evaluations and criteria of the Board, including a weight of 40 percent on student academic progress for the summative rating; and (vi) be rated as "proficient" or better.

2013, cc. 228, 691.

Chapter 16 - Schools for Students with Disabilities

§ 22.1-319. Definitions.

As used in this chapter unless the context requires a different meaning:

"Board" means the Virginia Board of Education.

"Department" means the Department of Education.

"Person" means any individual, group of individuals, partnership, association, business trust, corporation, or other business entity.

"School for students with disabilities" or "school" or "schools" means a privately owned and operated preschool, school, or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction for a consideration, profit, or tuition to persons determined to have autism, deaf-blindness, a developmental delay, hearing loss including deafness, intellectual disability, multiple disabilities, an orthopedic impairment, other health impairment, an emotional disturbance, a severe disability, a specific learning disability, a speech or language impairment, a traumatic brain injury, or a visual impairment including blindness.

"Superintendent" means the Superintendent of Public Instruction.

Code 1950, § 22-330.17; 1970, c. 665; 1972, c. 523; 1974, c. 303; 1977, c. 444; 1980, c. 559; 1988, c. 574; 1993, c. 351; 1996, cc. 691, 832; 2004, c. 991; 2012, cc. 476, 507; 2019, c. 288.

§ 22.1-320. Exemptions.

This chapter shall not apply to any of the following:

1. Any school that is licensed or approved pursuant to other statutes of the Commonwealth;

2. Any public or private high school accredited or recognized by the Board of Education that has offered or that may offer programs for students with disabilities covered in this chapter, if any tuition, fees and charges made by the school are collected in accordance with the regulations prescribed by the governing body of such school;

3. Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in any public or private school or in preparation of an individual for an examination for professional practice or higher education; or

4. A program through which persons with disabilities are provided employment and training primarily in simple skills in a sheltered or protective environment.

Code 1950, § 22-330.18; 1970, c. 665; 1971, Ex. Sess., c. 198; 1972, c. 523; 1973, c. 435; 1980, c. 559; 1988, c. 574; 1993, c. 351; 1996, cc. 691, 832; 2004, c. 991.

§ 22.1-321. Regulations.

The Board of Education shall make regulations not inconsistent with law for the management and conduct of schools. The regulations may include standards for programs offered by the schools.

The Board may authorize the Superintendent to issue licenses to operate schools.

Code 1950, §§ 22-330.19, 22-330.20; 1970, c. 665; 1972, c. 523; 1976, c. 16; 1980, c. 559; 1988, c. 574; 2004, c. 991.

§ 22.1-321.1. Possession and administration of epinephrine.

By the beginning of the 2016 - 2017 school year, the Board shall promulgate regulations for the possession and administration of epinephrine in every school for students with disabilities, to be administered by any employee of the school who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction.

2015, c. 387.

§ 22.1-322. Advisory committees.

The Board may appoint an advisory committee, to be composed of nine persons who shall serve for terms of two years each, the majority of whom shall be representative of the schools subject to regulation under this chapter and the balance of whom shall be representative of the public and shall have no connection with any school. No member of any advisory committee shall serve for more than two consecutive terms.

Code 1950, § 22-330.20; 1970, c. 665; 1976, c. 16; 1980, c. 559; 1988, c. 574; 1993, c. 351; 2004, c. 991.

§ 22.1-323. Licenses generally.

A. No person shall open, operate or conduct any school for students with disabilities in this Commonwealth without a license to operate such school issued by the Board of Education. A license shall be issued for a school if it is in compliance with the regulations of the Board issued pursuant to this chapter, any fee for such license has been paid, and its facilities are approved by the Board after an inspection by the Department. No such license shall be transferable. The license shall be prominently displayed on the premises of the school in a place open for inspection by any interested person during the hours of operation.

B. Any license issued to a residential school for students with disabilities, except a provisional or conditional license issued pursuant to § 22.1-323.1, may, upon written notification to the school, expire on a date subsequent to its stated expiration date and determined at the discretion of the Board, but in no case later than three years from the effective date. Licenses issued to residential schools for students with disabilities which are effective on or after July 1, 1992, may be issued for periods of up to three successive years. Licenses may be issued to private day special education schools for periods of up to three successive years.

C. The Superintendent or his authorized agents may make unannounced inspections of each school for students with disabilities each year.

Code 1950, § 22-330.21; 1970, c. 665; 1972, c. 523; 1980, c. 559; 1992, c. 666; 1994, c. 258; 2004, c. 991.

§ 22.1-323.1. Provisional and conditional licenses.

Upon completion of the investigation for renewal of a license or certificate, the Board may issue a provisional license or certificate to any residential school for students with disabilities if the school is temporarily unable to comply with all of the requirements of this chapter. A provisional license or certificate may be renewed, but the issuance of a provisional license or certificate and any renewal thereof shall be for no longer a period than six successive months.

At the discretion of the Board, a conditional license or certificate may be issued to operate a new residential school for students with disabilities in order to permit the school to demonstrate compliance with all of the requirements of this chapter. A conditional license or certificate may be renewed, but the issuance of a conditional license or certificate and any renewals thereof shall be for no longer a period than six successive months.

1992, c. 666; 1994, c. 258.

§ 22.1-323.2. Licensure of services delivered in group homes and residential facilities for children.
A. The Department of Education shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities regarding educational programs offered in group homes and residential facilities in the Commonwealth. The Board shall promulgate regulations allowing the Department of Education to so assist and cooperate with other state departments.

B. The Board's regulations shall address the educational services required to be provided in such group homes and residential facilities as it may deem appropriate to ensure the education and safety of the students.

1992, c. 666; 2005, cc. 358, 471; 2006, c. 781; 2008, c. 873.

§ 22.1-324. Application for license; information required; student guaranty provisions.
A. To obtain a license to operate a school, an application, certified as true and correct, shall be filed with the Board upon forms prepared and furnished by it setting forth information deemed necessary by the Board.

B. Each school shall submit and maintain a guaranty instrument payable to the Commonwealth of Virginia and conditioned to protect the contractual rights of students and other contracting parties. The amount of such bond shall be established in the Board's regulations. The minimum guaranty instrument for any school shall be $1,000. The word "students" as used in this subsection means all enrolled students.

Code 1950, § 22-330.22; 1970, c. 665; 1977, c. 444; 1980, c. 559; 1988, c. 574; 1993, c. 351; 2004, c. 991.

§ 22.1-325. Application to contain certain commitments.
Each application for a license to operate a school shall contain the following commitments:

1. To conduct the school in accordance with all applicable regulations of the Board;

2. To permit the Board or Department to inspect the school or classes being conducted therein at any time and to make available to the Board or Department, when requested to do so, all information

pertaining to the activities of the school required for the administration of this chapter, including its financial condition;

3. To advertise the school at all times in a form and manner that will be free from misrepresentation, deception or fraud and to conform to regulations of the Board governing such advertising;

4. To see that all representations made by an agent of the school shall be free from misrepresentation, deception or fraud and shall conform to regulations of the Board governing such misrepresentations;

5. To display the current license prominently where it may be inspected by students, visitors and the Board or Department; and

6. To maintain all premises, equipment and facilities of the school in an adequate, safe and sanitary condition.

Code 1950, § 22-330.23; 1970, c. 665; 1977, c. 444; 1980, c. 559; 2004, c. 991.

§ 22.1-326. License restricted to specific disability categories; supplementary application.
A school may offer education programs serving the disability categories specifically indicated on its license only. A supplementary application for additional programs of instruction or disability categories may be submitted in such form as the Board may prescribe.

Code 1950, § 22-330.24; 1970, c. 665; 1980, c. 559; 1996, cc. 691, 832; 2004, c. 991.

§ 22.1-326.1. Repealed.
Repealed by Acts 2004, c. 991.

§ 22.1-327. Fees.
The Board may establish fees and the methods for collecting such fees for schools as it deems necessary to carry out the provisions of this chapter. All fees shall be nonrefundable.

Code 1950, § 22-330.25; 1970, c. 665; 1977, c. 444; 1980, c. 559; 1988, c. 574; 1993, c. 351.

§ 22.1-328. Renewal of licenses.
The license of each school that continues to operate as such shall be renewed on or before the anniversary date set by the Department. Every license that has not been renewed in accordance with these provisions shall expire and a new license shall be obtained from the Board before such school may continue to operate, for which an original application must be submitted. The application shall be accompanied by such information deemed necessary by the Board.

Code 1950, § 22-330.26; 1970, c. 665; 1977, c. 444; 1980, c. 559; 1992, c. 666; 1993, c. 351; 2004, c. 991.

§ 22.1-329. Denial, revocation or suspension of license; grounds; summary suspension under certain circumstances; penalty.
A. The Board may refuse to issue or renew a license or may revoke or suspend the license of any school issued pursuant to this chapter for the following causes:

1. Violation of any provision of this chapter or any regulation of the Board;

2. Furnishing false, misleading or incomplete information to the Board or Department or failure to furnish any information requested by the Board or Department;

3. Violation of any commitment made in an application for a license;

4. Presenting, either by the school or by any agent of the school, to prospective students information relating to the school which is false, misleading or fraudulent;

5. Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by law;

6. Making any false promises through agents or by advertising or otherwise of a character likely to influence, persuade or induce enrollments;

7. Paying commission or valuable consideration to any person for any act of service performed in willful violation of this chapter;

8. Failing to maintain financial resources adequate for the satisfactory conduct of courses of instruction offered or to retain a sufficient or qualified instructional staff;

9. Demonstrating unworthiness or incompetency to conduct the school in a manner calculated to safeguard the interests of the public;

10. Failing within a reasonable time to provide information requested by the Board or Department as a result of a formal or informal complaint to or by the Board or Department which would indicate a violation of this chapter;

11. Attempting to use or employ any enrolled students in any commercial activity whereby the school receives any compensation whatsoever without reasonable remuneration to the student, except to the extent that employment of students in such activities is necessary or essential to their training and is permitted and authorized by the Board; or

12. Engaging in or authorizing any other conduct whether of the same or of a different character from that herein specified which constitutes fraudulent or dishonest dealings.

The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall be applicable to proceedings under this subsection.

B. Pursuant to the procedures set forth in subsection C and in addition to the authority for other disciplinary actions provided in this chapter, the Superintendent of Public Instruction may issue a summary order of suspension of the license of a residential or day school for students with disabilities, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the school that pose an immediate and substantial threat to the health, safety, and welfare of the students who are residing or attending the school and the Superintendent of Public Instruction believes the operation of the school should be suspended during the pendency of such proceeding.

C. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return

receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Superintendent of Public Instruction or his designee.

After such hearing, the Superintendent of Public Instruction may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Superintendent of Public Instruction's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Superintendent of Public Instruction had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Superintendent of Public Instruction may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of students who are residents of a home or facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to students.

Code 1950, § 22-330.27; 1970, c. 665; 1977, c. 444; 1980, c. 559; 1988, c. 574; 1996, cc. 691, 832; 2004, c. 991; 2006, c. 168.

§ 22.1-330. Same; investigation; time within which to correct unsatisfactory conditions.

The Board or Department may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute grounds for refusal, suspension or revocation of a license, investigate the actions of any applicant for or any person or persons holding or claiming to hold a license to operate a school.

Before refusing to renew, revoking or suspending any license, the Board may grant such period of time as it deems reasonable to correct any unsatisfactory condition.

Code 1950, § 22-330.28; 1970, c. 665; 1977, c. 444; 1980, c. 559; 2004, c. 991.

§ 22.1-331. Violations.

Any person who opens, operates or conducts any school without a license required by this chapter shall be guilty of a Class 2 misdemeanor. Each day such person permits the school to be open and operate without such a license shall constitute a separate offense.

Code 1950, § 22-330.31; 1970, c. 665; 1980, c. 559; 2004, c. 991.

§ 22.1-332. List of schools holding valid licenses.

The Department shall maintain a list of schools holding valid licenses under the provisions of this chapter that shall be available for the information of the public.

Code 1950, § 22-330.32; 1970, c. 665; 1980, c. 559; 1988, c. 574; 2004, c. 991.

§§ 22.1-333 through 22.1-335. Repealed.
Repealed by Acts 2004, c. 991.

Chapter 17 - COMPACT FOR EDUCATION; EDUCATION COMMISSION OF THE STATES

§ 22.1-336. Compact entered into and enacted into law; form of compact.
The compact for education is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I.

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states as well as in the excellence of its own educational systems and institutions because individuals are highly mobile throughout the nation and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

Article II.

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Article III.

A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations, be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education and lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution designated by the governor having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners are present. The Commission shall meet at least once a year. In its bylaws and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the executive director except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III (J).

C. The Commission shall have a seal.

D. The Commission shall elect annually from among its members a chairman, who shall be a governor, a vice-chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission and, together with the treasurer and such other personnel as the Commission may deem appropriate, shall be bonded in such amount as the Commission shall determine. The executive director shall serve as secretary of the Commission.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, subject to the approval of the steering committee, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The Commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph F of this article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

H. The Commission may establish and maintain such facilities as may be necessary for transacting its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

J. The Commission annually shall make to the governor and legislature of each party state a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

Article IV.

In addition to authority conferred on the Commission by other provisions of this compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources;

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems;

3. Develop proposals for adequate financing of education as a whole and at each of its many levels;

4. Conduct or participate in research of the types referred to in this article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private;

5. Formulate suggested policies and plans for the improvement of public education as a whole or for any segment thereof and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials;

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

Article V.

A. If the laws of the United States specifically so provide or if administrative provision is made therefor within the federal government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law and may be drawn from any one or more branches of the federal government. No such representative shall have a vote on the Commission.

B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states and may advise any such agencies or officers concerning any matter of mutual interest.

Article VI.

A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One fourth of the voting membership of the steering committee shall consist of governors, one fourth shall consist of legislators, and the remainder shall consist of other members of the Commission. A federal representative on the Commission may serve without vote on the steering committee. The voting members of the steering committee shall serve for terms of two years except that members elected to the first steering committee of the Commission shall be elected as follows: Sixteen for one year and sixteen for two years. The chairman, vice-chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

B. The Commission may establish advisory and technical committees composed of state, local and federal officials and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

C. The Commission may establish such additional committees as its bylaws may provide.

Article VII.

A. The Commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The Commission shall not pledge the credit of any party states. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to paragraph G of Article III of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to paragraph G of Article III of this compact, the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VIII.

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In any such jurisdiction not having a governor, the term "governor" as used in this compact shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

C. Adoption of the compact shall be by enactment.

D. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or if the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Code 1950, § 22-345; 1968, c. 564; 1980, c. 559.

§ 22.1-337. Virginia representatives on Education Commission of the States; membership; terms; compensation and expenses; chairman's executive summary.

In accordance with the Compact for Education of 1968, which established the Education Commission of the States, there shall be seven commissioners representing Virginia on the Education Commission of the States. The Virginia commissioners shall consist of one member of the House of Delegates, to be appointed by the Speaker of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; four nonlegislative citizen members, of whom one shall be the Superintendent of Public Instruction, to be appointed by the Governor; and the Governor. The commissioners representing Virginia shall by virtue of their training, experience, knowledge, or affiliations, collectively reflect the broad interests of state government, the state's system of education, public and higher education, nonprofessional and professional public and nonpublic educational leadership.

Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall serve at the pleasure of the Governor. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

The commissioners shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-

2813 and 2.2-2825. The costs of expenses of the legislative commissioners incurred in the performance of their duties shall be paid from appropriations to the Virginia Commission on Intergovernmental Cooperation for the attendance of conferences. The costs of expenses of nonlegislative citizen commissioners incurred in the performance of their duties shall be paid from such funds as may be provided for this purpose in the appropriations act.

The chairman of the Commissioners shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commissioners no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Code 1950, § 22-346; 1968, c. 564; 1973, c. 524; 1980, c. 559; 2003, c. 885; 2005, c. 758; 2011, cc. 691, 714.

§ 22.1-338. Education Commission to file bylaws with State Council of Higher Education.
Pursuant to paragraph I of Article III of the compact for education set forth in § 22.1-336, the Education Commission of the States shall file a copy of its bylaws and amendments thereto with the State Council of Higher Education for Virginia.

Code 1950, § 22-347; 1968, c. 564; 1980, c. 559.

Chapter 18 - DEPARTMENT OF CORRECTIONAL EDUCATION [Repealed]

§§ 22.1-339 through 22.1-345.1. Repealed.
Repealed by Acts 2012, cc. 803 and 835, cl. 100.

Chapter 19 - THE VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND

§ 22.1-346. Transfer of property; rights and duties of the Board of Visitors of the Virginia School for the Deaf and the Blind; supervision of school; appointment and removal of officers and faculty; certain funding initiatives.
A. All of the real estate and personal property now existing at the Virginia School for the Deaf and the Blind at Staunton and standing in the name of the Board of Education shall be transferred to and be under the control of the Board of Visitors of the Virginia School for the Deaf and the Blind. The Department of General Services shall cooperate with the Board in supervising the maintenance and repair of the real and personal property of the school.

B. Any gift, grant, devise or bequest made prior to July 1, 1984, to the Virginia School for the Deaf and the Blind at Staunton shall be held by the Board of Visitors of the Virginia School for the Deaf and the Blind for the school. The Board shall have the power to take, hold, receive and enjoy any gift, grant, devise or bequest made hereafter to the Virginia School for the Deaf and the Blind. Such gift, grant, devise or bequest shall be held for uses and purposes designated by the donor or if not designated for a specific purpose, for the general purposes of any programs of the school. The Board shall provide

fiduciary administration of such funds, including investments, disbursements, accounting, and financial reporting. The Board shall also accept, execute and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

C. The Board of Visitors of the Virginia School for the Deaf and the Blind shall be charged with the operational control of the Virginia School for the Deaf and the Blind at Staunton. In exercising this operational control, the Board shall include, in any budget recommendations to the Governor for state funding for the several school divisions which may be related to educational technology or other programs appropriate for implementation within the school, state funding for such programs to be provided to the Virginia School for the Deaf and the Blind. However, the Virginia School for the Deaf and the Blind shall not be defined as a school division for constitutional purposes. Supervision of the contracts and agreements of the Virginia School for the Deaf and the Blind are hereby transferred to the Board of Visitors of the Virginia School for the Deaf and the Blind.

The Board shall provide rules and regulations for the governance of the school. The Board shall administer, supervise and direct the activities and programs of the school pursuant to the rules and regulations of the Board. The Board shall appoint the officers and employees of the school subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

1984, c. 413; 1998, c. 66; 2000, c. 285; 2009, c. 210.

§ 22.1-346.1. Repealed.

Repealed by Acts 2009, c. 210, cl. 4, effective July 1, 2009.

§ 22.1-346.2. Board of Visitors of the Virginia School for the Deaf and the Blind established.

A. There is hereby established the Board of Visitors of the Virginia School for the Deaf and the Blind (Board), as a policy agency in the executive branch of state government under the name of the "Virginia School for the Deaf and the Blind," for the purpose of governing the educational programs and services to deaf, blind, and multi-disabled students enrolled at the Virginia School for the Deaf and the Blind.

B. The Board shall have a total membership of 11 members that shall consist of four legislative members and seven nonlegislative citizen members. Members shall be appointed as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules; and seven nonlegislative citizen members, of whom one shall be a parent of a child who is deaf or blind representing the Eastern region of the Commonwealth, one shall be a parent of a child who is deaf or blind representing the Western region of the Commonwealth, and one shall be a representative of the Virginia School for the Deaf and the Blind Alumni Association, to be appointed by the Governor, subject to confirmation by the General Assembly. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. Legislative members of the Board shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative members appointed shall serve for four-year

terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative member appointed by the Governor shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

The Board shall elect a chairman and vice-chairman from among its membership. The Board shall elect a secretary, who shall keep an accurate record of the proceedings of the Board and of the executive committee if one is created by the Board, and such other officers as the Board deems appropriate. A majority of the members shall constitute a quorum. The Board shall meet no more than four times each year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

C. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided from such funds as may be appropriated to the Board of Visitors of the Virginia School for the Deaf and the Blind, in accordance with the appropriations act.

D. The Superintendent of Public Instruction shall designate a member of the staff of the Department of Education to serve as a consultant to the Board of Visitors of the Virginia School for the Deaf and the Blind on matters pertaining to instruction, federal and state special education requirements, and school accreditation, and to provide technical assistance to assist the Board in meeting specific instructional and school accreditation needs.

E. The Board shall have the following powers and duties:

1. Establish such rules, policies, and regulations for the governance of the Virginia School for the Deaf and the Blind.

2. Prescribe the criteria and procedures governing admissions to the school, and the review of student placement, to ensure the appropriateness of the placement and instructional program of each student admitted to the school, pursuant to § 22.1-348 and in accordance with federal and state special education laws and regulations.

3. Establish a policy governing the transportation of students at the school to permit frequent home visits by students, and to provide to each student transportation to and from the school and the place of residence of such student's parent or guardian whenever the school is officially closed.

4. Prescribe and approve the education programs of the Virginia School for the Deaf and the Blind, in consultation with the Department of Education, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind and Visually Impaired.

5. Appoint the superintendent, other officers, and the faculty of the school. The superintendent shall be appointed every two years and the other officers and faculty annually. However, the superintendent, with the approval of the chairman of the Board, shall be authorized to fill vacancies in positions appointed by the Board occurring between meetings of the Board. The Board may remove at any time the superintendent, other officers, faculty and employees for cause, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

6. Establish the qualifications, duties, and compensation of the superintendent, other officers, faculty, and employees of the school.

7. Prepare and submit to the Governor and General Assembly, beginning July 1, 2010, an annual report detailing the curricula and other educational programs and services of the school, including receipts and disbursements pertaining to the operation of the school for each fiscal year ending on June 30.

2009, c. 210; 2011, cc. 691, 714.

§ 22.1-347. Repealed.

Repealed by Acts 2009, c. 210, cl. 4, effective July 1, 2009.

§ 22.1-348. Persons eligible; fees; educational programs to be provided; admissions procedures.

A. Persons from birth through age 21 shall be eligible for educational services provided by the school. The Department of Education shall be entitled to deduct annually from the locality's share for the education of pupils with disabilities a sum equal to the actual local expenditure per pupil in support of those students placed by the relevant local school division in the Virginia School for the Deaf and the Blind. The amount of the actual transfers shall be based on data accumulated during the prior school year. Fees for student activities may be charged at the Board's discretion.

B. From such funds as may be appropriated, the Virginia School for the Deaf and the Blind shall provide an educational program for children in preschool through grade twelve who are deaf, blind, or who may have sensory impairments and other disabilities, including intellectual disabilities.

The Board, from time to time, may approve additional programs as may be appropriate.

C. The Board shall prescribe procedures and criteria for determining admission to and the appropriate placement in the Virginia School for the Deaf and the Blind. The appropriateness of the placement of each student attending the school shall be reviewed at least annually.

1984, c. 413; 1993, c. 2; 1994, c. 259; 1999, cc. 427, 428; 2000, c. 285; 2009, c. 210; 2010, c. 666.

§ 22.1-349. Terms of employment of teachers.

For the purpose of retirement and other statutory benefits, teachers employed as full-time instructional personnel by the Board shall be deemed to be full-time state personnel and shall receive the same

benefits as are accorded all other full-time state personnel. The Board shall require the teachers at the Virginia School for the Deaf and the Blind to comply with the provisions of §§ 22.1-298.1, 22.1-299, and 22.1-303. Contracts for the employment of teachers shall be in the form prescribed by the school board of the school division in which the school is located. In cases of nonrenewal of contracts of probationary teachers, the decisions shall be appealable to the Board. For all other purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia School for the Deaf and the Blind.

The Board shall establish salary schedules for all professional personnel which are competitive with those in effect for the school divisions in which the facility is located.

1984, c. 413; 1993, c. 2; 2006, cc. 27, 349; 2009, c. 210.

Chapter 20 - SOUTHWEST VIRGINIA PUBLIC EDUCATION CONSORTIUM

§ 22.1-350. Southwest Virginia Public Education Consortium created; region defined; governing board.

A. The Southwest Virginia Public Education Consortium is hereby established and shall be referred to in this chapter as the Consortium. For the purposes of this chapter and the work of the Consortium, "Southwest Virginia" shall include the Counties of Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe, and the Cities of Bristol, Galax, and Norton. The governing board of the Consortium shall consist of the school superintendents of the named localities; the chancellor or his designee of the University of Virginia's College at Wise; the presidents or their designees of Emory and Henry College, Virginia Intermont College, Bluefield College, Mountain Empire Community College, Virginia Highlands Community College, Southwest Virginia Community College, and Wytheville Community College; and the Director of the Southwest Virginia Higher Education Center. The region's legislators shall serve as nonvoting, advisory members of the board.

B. Members of the board shall be reimbursed for their actual expenses incurred in the performance of their duties in the work of the Consortium, except that legislative members shall be reimbursed pursuant to § 30-19.16. The board shall elect a chairman and a vice-chairman from among its members.

1992, c. 785; 1994, c. 276; 1999, cc. 424, 437.

§ 22.1-351. Functions and duties.

The Consortium shall perform the following functions and duties:

1. Coordinate with those educational institutions and agencies in the Commonwealth and surrounding areas to develop joint educational initiatives;

2. Promote and establish, in conjunction with the Department of Education and the region's public school divisions, regional programs to address area educational needs;

3. Coordinate the development and sharing of programs, educational techniques, and resources among and between the region's school divisions and institutions of higher education to enhance the educational opportunities for students and teachers in Southwest Virginia; and

4. Provide technical assistance to school divisions throughout the Commonwealth for the implementation of effective educational programs.

1992, c. 785.

§ 22.1-352. Executive director; staff support; location.

From such funds as may be appropriated or received, the board of the Consortium may appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Consortium to perform its duties as set forth in this chapter. The board is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received. The Consortium's offices shall be housed at the University of Virginia's College at Wise.

1992, c. 785; 1999, cc. 424, 437.

§ 22.1-353. Application for and acceptance of gifts and grants.

The Consortium is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

1992, c. 785.

§ 22.1-354. Cooperation of other agencies.

All agencies of the Commonwealth shall cooperate with the Consortium and, upon request, assist the Consortium in the performance of its duties and responsibilities.

1992, c. 785.

Chapter 20.1 - WESTERN VIRGINIA PUBLIC EDUCATION CONSORTIUM

§ 22.1-354.1. Western Virginia Public Education Consortium and board created; region defined; governing board; chairman's executive summary.

A. The Western Virginia Public Education Consortium is hereby established and shall be referred to as the Consortium. For the purposes of this chapter and the work of the Consortium, "Western Virginia" shall include the Counties of Alleghany, Bath, Bland, Botetourt, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski, Roanoke, and Wythe, and the Cities of Covington, Martinsville, Radford, Roanoke, and Salem. The governing board of the Consortium shall consist of 33 members that include 14 legislative members and the 19 school superintendents of the named localities as follows: 10 members of the House of Delegates representing the Fifth, Sixth, Seventh, Eighth, Ninth, Eleventh, Twelfth, Sixteenth, Seventeenth, and Nineteenth House Districts; four members of the Senate representing the Nineteenth, Twentieth, Twenty-first, and Twenty-fifth Senatorial Districts, all serving as ex officio nonvoting members; and the school superintendents of Alleghany, Bath, Bland, Botetourt, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski, Roanoke County, Wythe, Covington, Martinsville, Radford, Roanoke City, and Salem.

B. Legislative members and school superintendents shall serve terms coincident with their terms of office. The board shall elect a chairman and a vice-chairman from among its members.

C. Members of the board shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Consortium as provided in §§ 2.2-2813 and 2.2-2825. All such expenses shall be paid from existing appropriations to or received by the Consortium or, if unfunded, shall be approved by the Joint Rules Committee.

D. A majority of the members of the board shall constitute a quorum. The board shall meet at the call of the chairman or whenever a majority of the members so request.

E. The chairman of the board shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

2000, cc. 105, 302; 2002, cc. 417, 465; 2003, c. 885; 2006, c. 861; 2016, c. 232.

§ 22.1-354.2. Functions and duties.

The Consortium shall perform the following functions and duties:

1. Coordinate with organizations and agencies providing programs and services to Consortium school divisions to reduce duplication of effort and optimize the use of available resources;

2. Conduct ongoing assessments to identify needs of member school divisions and develop plans and programs responding to those needs;

3. Facilitate the coordination of programs in the Consortium region that affect K through 12 public education in career and technical education, workforce development, and other linkages between public schools, institutions of higher education, and business and industry;

4. Coordinate technology-related activities between Consortium members in areas of common concern, such as video conferencing and distance learning, including the acquisition and utilization of hardware and software for administrative and instructional purchases;

5. Develop and maintain linkages with schools and school divisions in Northern Virginia to promote enhanced usage of educational technology; and

6. Create the capacity for development within the Consortium of shared services and activities, including purchasing, facility planning, staff development, and special needs programming, and implementation of such shared services and activities as need is determined.

2000, cc. 105, 302; 2001, c. 483.

§ 22.1-354.3. Executive director; staff support.

From such funds as may be appropriated or received, the board of the Consortium may appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Consortium to perform its duties as set forth in this chapter. The board is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received.

2000, cc. 105, 302; 2002, cc. 417, 465.

§ 22.1-354.4. Application for and acceptance of gifts and grants.

The Consortium is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

2000, cc. 105, 302.

§ 22.1-354.5. Cooperation of other agencies.

All agencies of the Commonwealth shall cooperate with the Consortium and, upon request, assist the Consortium in the performance of its duties and responsibilities.

2000, cc. 105, 302.

Chapter 20.2 - NORTHERN NECK-MIDDLE PENINSULA PUBLIC EDUCATION CONSORTIUM

§ 22.1-354.6. Northern Neck-Middle Peninsula Public Education Consortium created; region defined; governing board; membership; terms; compensation and expenses.

A. The Northern Neck-Middle Peninsula Public Education Consortium is hereby established as an independent local entity without political subdivision status and shall be referred to in this chapter as the Consortium. For the purposes of this chapter and the work of the Consortium, "Northern Neck-Middle Peninsula" includes the Counties of Essex, Gloucester, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland. The governing board of the Consortium shall consist of the school superintendents of the named localities, the President of Rappahannock Community College or his designee, the Director of the Virginia Institute of Marine Science, and seven nonlegislative citizen members representing business, industry, and community interests in the region, four of whom shall be appointed by the Speaker of the House of Delegates and three of whom shall be appointed by the Senate Committee on Rules. The region's legislators, representing the Third, Fourth, Sixth, and Twenty-eighth Senatorial Districts and the Ninety-seventh, Ninety-eighth, and Ninety-ninth House Districts, shall serve as nonvoting advisory members of the board. Legislative members and members who serve by virtue of their office shall serve terms coincident with their terms of office. The nonlegislative citizen members shall serve terms of two years and may be reappointed for successive terms. The board may appoint additional nonvoting advisory members to assist in the performance of its duties. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

B. No board members shall receive compensation or reimbursement for expenses incurred in the performance of their duties. The board shall elect a chairman and a vice-chairman from among its members and may provide such rules as it considers appropriate concerning its membership, quorum, and establishment of committees.

2000, c. 676; 2004, c. 1000; 2016, c. 147.

§ 22.1-354.7. Functions and duties.

The Consortium shall perform the following functions and duties:

1. Coordinate with those educational institutions and agencies in the Commonwealth and surrounding areas to develop joint educational initiatives;

2. Promote and establish, in conjunction with the Department of Education and the region's public school divisions, regional programs to address area educational needs;

3. Coordinate the development and sharing of programs, educational techniques, and resources among and between the region's school divisions and institutions of higher education to enhance the educational opportunities for students and teachers in the Northern Neck-Middle Peninsula region; and

4. Provide technical assistance to school divisions throughout the Commonwealth for the implementation of effective educational programs.

2000, c. 676.

§ 22.1-354.8. Executive director; staff support.

From such funds as may be appropriated or received, the board of the Consortium may appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Consortium to perform its duties as set forth in this chapter. The board is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received.

2000, c. 676.

§ 22.1-354.9. Application for and acceptance of gifts and grants.

The Consortium is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

2000, c. 676.

§ 22.1-354.10. Cooperation of other agencies.

All agencies of the Commonwealth shall cooperate with the Consortium and, upon request, assist the Consortium in the performance of its duties and responsibilities.

2000, c. 676.

Chapter 21 - VIRGINIA GIFTED EDUCATION CONSORTIUM [Expired]

§ 22.1-355. Expired.

Expired.

Chapter 22 - THE HAMPTON ROADS MUSEUM CONSORTIUM

§ 22.1-356. The Hampton Roads Museum Consortium created; region defined; governing board.

A. The Hampton Roads Museum Consortium is hereby established and shall hereinafter be referred to as the Consortium. For the purposes of this chapter and the work of the Consortium, "Hampton Roads" shall include the jurisdictions located within the boundaries of Planning District 23, including the Counties of Gloucester, Isle of Wight, James City, Southampton, and York; and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. The Consortium may consist of any or all accredited museums located within Hampton Roads that are not state agencies. Other museums and cultural facilities located in Hampton Roads may join the Consortium upon the approval of the governing board. The governing board of the Consortium shall consist of the chief executive officer of each of the member museums. The region's legislators may serve as nonvoting, advisory members to assist in the performance of the Consortium's duties.

B. No board members shall receive compensation or reimbursement for expenses incurred in the performance of their duties. The board shall elect a chairman and a vice-chairman from among its members and may provide such rules as it considers appropriate concerning its membership, quorum, and establishment of committees.

2001, c. 472.

§ 22.1-357. Purpose of the Consortium; functions; authority to apply for and receive gifts and grants.

A. The Consortium shall serve the school divisions of Hampton Roads in providing training to the teachers, administrators and students in the various Standards of Learning for English, social studies and history, science, and mathematics.

B. In the fulfillment of its purpose, the Consortium shall perform the following functions:

1. Coordinate among its members and the school divisions of Hampton Roads the development of joint educational initiatives;

2. Establish and deliver, in conjunction with the school divisions of Hampton Roads, regional programs to address area education needs, particularly, to assist area schools in meeting the Board of Education Regulations for Accrediting Public Schools in Virginia and to assist area students in achieving passing scores on the Standards of Learning assessments; and

3. Provide technical assistance to the school divisions of Hampton Roads in achieving full accreditation, including administrator, teacher, and student training.

C. The Consortium may apply for, accept, and expend gifts, grants, or bequests from public or private sources to enable it to carry out its functions and achieve its purpose.

2001, c. 472.

Chapter 23 - SOUTHERN REGIONAL EDUCATION COMPACT

§ 22.1-358. Form of Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Southern Regional Education Compact of 1950 with any and all states legally joining therein according to its terms agreed to in Senate Joint Resolution 22 (1950), as amended by the House Joint Resolution No. 28 (1956), in the form substantially as follows:

§ 1. Agreement.

In consideration of the mutual agreements, covenants and obligations assumed by the respective States who are parties to this compact (hereinafter referred to as States), the States do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting States which, for the purposes of this compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent States and derived from other sources for the establishment, acquisition, operation and maintenance of regional educational schools and institutions for the benefit of citizens of the respective States residing within the region so established as may be determined from time to time in accordance with the terms and provisions of this compact.

§ 2. Southern Regional Education Board established; membership; terms.

The States do further hereby establish and create a joint agency, which shall be known as the Board of Control for Southern Regional Education (hereinafter referred to as the Board). The members of the Board shall consist of the Governor of each State, ex officio, and four additional citizens of each State to be appointed by the Governor thereof, at least one of whom shall be selected from the field of education, and at least one of whom shall be a member of the Legislature of that State. The Governor shall continue as a member of the Board during his tenure of office as Governor of the State, but the members of the Board appointed by the Governor shall hold office for a period of four years following the initial staggering of terms. Vacancies on the Board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the Governor for the unexpired portion of the term.

§ 3. Officers and meetings.

The officers of the Board shall be a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and such additional officers as may be created by the Board from time to time. The Board shall meet annually and officers shall be elected to hold office until the next annual meeting. The Board shall have the right to formulate and establish by-laws not inconsistent with the provisions of this compact to govern

its own actions in the performance of the duties delegated to it including the right to create and appoint an Executive Committee and a Finance Committee with such powers and authority as the Board may delegate to them from time to time. The Board may, within its discretion, elect as its Chairman a person who is not a member of the Board, provided such person resides within a signatory State, and upon such election such person shall become a member of the Board with all the rights and privileges of such membership.

§ 4. Powers and duties.

It shall be the duty of the Board to submit plans and recommendations to the States from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the States, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the States and to all properties and facilities used in connection therewith shall be vested in the Board as the agency of and for the use and benefit of the States and the citizens thereof, and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative acts of the States authorizing the creation, establishment and operation of such educational institutions.

In addition, the Board shall have the power to enter into such agreements or arrangements with any of the States and with educational institutions or agencies, as may be required in the judgment of the Board, to provide adequate services and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective States residing within the region, and such additional and general power and authority as may be vested in the Board from time to time by legislative enactment of the States.

§ 5. Supplemental agreements.

Any two or more States who are parties of the compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institutions for the benefit of citizens residing within an area that constitutes a portion of the general region created, such institutions to be financed exclusively by such States and to be controlled exclusively by the members of the Board representing such States provided such agreement is submitted to and approved by the Board prior to the establishment of such institutions.

§ 6. Funding.

Each State agrees that, when authorized by the legislature, it will from time to time make available and pay over to the Board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the States under the terms of this compact, the contribution of each State at all times to be in the proportion that its population bears to the total combined population of the States who are parties as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America; or upon such other basis as may be agreed upon.

§ 7. Effective date.

This compact shall not take effect or be binding upon any State unless and until it shall be approved by proper legislative action of as many as six or more of the States whose governors have subscribed to this compact within a period of 18 months from the subscribed date. When and if six or more States shall have given legislative approval to this compact within the 18-month period, it shall be and become binding upon the six or more States 60 days after the date of legislative approval by the sixth State and the governors of such six or more States shall name the members of the Board from their States, and the Board shall then meet on call of the governor of any State approving this compact, at which time the Board shall elect officers, adopt bylaws, appoint committees and otherwise fully organize. Other States whose names are subscribed to this compact shall thereafter become parties upon approval of this compact by legislative action within two years from the subscribed date, upon such conditions as may be agreed upon at the time. However, any State whose constitution may require amendment in order to permit legislative approval of the compact, shall become a party upon approval of this compact by legislative action within seven years from the subscribed date, upon such conditions as may be agreed upon at the time.

§ 8. Termination and withdrawal.

After becoming effective this compact shall thereafter continue until terminated by unanimous action of the States. A State may withdraw from this compact if such withdrawal is approved by its legislature. Such withdrawal shall become effective two years after written notice to the Board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing State from its obligations accruing up to the effective date of such withdrawal. Any State so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the Board or to any of the funds of the Board held under the terms of this compact.

§ 9. Defaulting states.

If any State shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon the State as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting State, its members on the Board and its citizens shall ipso facto be and become suspended from and

after the date of such default. Unless such default shall be remedied and made good within a period of one year immediately following the date of such default this compact may be terminated with respect to such defaulting State by an affirmative vote of three-fourths of the members of the Board (exclusive of the members representing the State in default), from and after which time such State shall cease to be a party to this compact and shall have no further claim to or ownership of any of the property held by or vested in the Board or to any of the funds of the Board held under the terms of this compact, but such termination shall in no manner release such defaulting State from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining States.

2004, c. 1000.

§ 22.1-359. Southern Regional Education Board; appointment; terms; compensation and expenses.
The Commonwealth's representatives to the Southern Regional Education Board in compliance with the Southern Regional Education Compact shall consist of: the Governor, who shall serve ex officio, and four citizens to be appointed by the Governor of whom one shall be selected from the field of education and one shall be a member of the legislature. The legislative member shall serve a term coincident with his term of office. The gubernatorial appointees shall serve four-year terms. All appointees may be reappointed for successive terms.

Any legislative member of the Board shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his duties as provided in §§ 2.2-2813 and 2.2-2825. The costs of compensation and expenses of the legislative members shall be provided from existing appropriations to the Virginia Commission on Intergovernmental Cooperation for the attendance of conferences. Nonlegislative citizen members shall receive such compensation and reimbursement for all their reasonable and necessary expenses in the performance of their duties as may be appropriated or made available for such purposes.

2004, c. 1000.

Chapter 24 - Interstate Compact on Educational Opportunity for Military Children

§ 22.1-360. Interstate Compact on Educational Opportunity for Military Children.
The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I. Purpose.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Article II. Definitions.

As used in this compact, unless the context clearly requires a different construction:

"Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.

"Children of military families" means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active duty member.

"Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

"Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

"Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

"Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

"Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

"Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through 12th grade public educational institutions.

"Member state" means a state that has enacted this compact.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Nonmember state" means a state that has not enacted this compact.

"Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

"Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state if approved by the legislature of the member state.

"Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory.

"Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through 12th grade.

"Transition" means: (i) the formal and physical process of transferring from school to school or (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

"Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

"Veteran" means a person who served in the active military, naval, or air service and who was discharged or released there from under conditions other than dishonorable.

Article III. Applicability.

A. Except as otherwise provided in subsection B, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;

2. Members of the uniformed services now retired, except as provided in subsection A;

3. Veterans of the uniformed services, except as provided in subsection A; and

4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Article IV. Educational Records and Enrollment.

A. Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education records from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, ini-

tial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age. Students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of minimum age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of minimum age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from a local education agency in the sending state.

Article V. Placement and Attendance.

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, honors, International Baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to, (i) gifted and talented programs and (ii) English as a second language (ESL) programs. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services. In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP) and in compliance with the requirements of § 504 of the Rehabilitation Act, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, and the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility. Local education agency administrative officials shall have flexibility in waiving course/program prerequisites or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Article VI. Eligibility.

A. Eligibility for enrollment.

1. Children of military families shall be eligible for enrollment in the public schools of Virginia provided that the documents required by §§ 22.1-3.1 and 22.1-3.2 are provided and subject to the authority of a local education agency to exclude such children from attendance pursuant to § 22.1-277.2 or if such children have been found guilty or adjudicated delinquent for any offense listed in subsection G of § 16.1-260 or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories;

2. Special power of attorney, relative to the guardianship of a child of a military family, and executed under Title 10, United States Code, § 1044b, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent;

3. A local education agency shall be prohibited from charging local tuition to a military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent; and

4. A military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the opportunity for military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Article VII. Graduation.

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a

student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing acceptable to the receiving state, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state, then the provisions of subsection C of this Article shall apply. Within 12 months of the effective date of this compact, the Interstate Commission shall adopt a rule addressing the acceptance of exit exams.

C. Transfers during senior year. Should a military student transferring in his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending local education agency, with the cooperation of the receiving local education agency, shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections A and B of this Article.

Article VIII. State Coordination.

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: (i) the state superintendent of education, (ii) the superintendent of a school district with a high concentration of military children, (iii) one representative from a military installation, and (iv) one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. Each member state shall employ a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The Governor of each member state shall appoint or designate a compact commissioner responsible for the administration and management of the state's participation in the compact and who is empowered to establish statewide policy related to matters governed by this compact.

D. The compact commissioner and the military family education liaison described herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

Article IX. Interstate Commission on Educational Opportunity for Military Children.

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner and who is empowered to establish statewide policy related to matters governed by this compact.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote;

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission;

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from the state for a specified meeting; and

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information that is privileged or confidential;

4. Involve accusing a person of a crime or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law-enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to the provisions of subsection G, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. The Interstate Commission shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed

by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

Article X. Powers and Duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of regulations adopted under the Administrative Process Act (§ 2.2-4000 et seq.), and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.

E. To establish and maintain offices, which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees, including but not limited to an executive committee as required by Article IX, subsection E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of them.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

Article XI. Organization and Operation of the Interstate Commission.

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing "start-up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, officers, and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to: (i) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission; (ii) overseeing an organizational structure within and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and (iii) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or the Interstate Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Article XII. Rulemaking Functions of the Interstate Commission.

A. Rulemaking authority. The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

Article XIII. Oversight, Enforcement, and Dispute Resolution.

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as regulations adopted under the Administrative Process Act (§ 2.2-4000 et seq.);

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the Interstate Commission; and

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, technical assistance, suspension, and termination.

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states;

5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination;

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state; and

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for mediation for disputes as appropriate.

Article XIV. Financing of the Interstate Commission.

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

Article XV. Member States, Effective Date, and Amendment.

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Article XVI. Withdrawal and Dissolution.

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact specifically by repealing the statute that enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Article XVII. Severability and Construction.

A. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Article XVIII. Binding Effect of Compact and Other Laws.

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

2009, c. 187; 2010, c. 148.

§ 22.1-361. Virginia Council on the Interstate Compact on Educational Opportunity for Military Children.

In accordance with the Interstate Compact on Educational Opportunity for Military Children, there is hereby created the Virginia Council on the Interstate Compact on Educational Opportunity for Military Children, hereinafter referred to in this section as the "Virginia Council." The Virginia Council shall consist of one member of the House of Delegates, to be appointed by the Speaker of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; seven nonlegislative citizen members, including the Superintendent of Public Instruction, one parent of a military child, and one representative from a military installation in Virginia, to be appointed by the Governor; the superintendent of a school district with a high concentration of military children and one military spouse who serves on the Department of Education's Military Student Support Process Action Team, to be appointed by the Superintendent of Public Instruction; and also the Governor, or his designee. The Department of Education shall employ a military family education liaison to provide staff support to the Virginia Council and to assist military families and the state in facilitating the implementation of this compact.

Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall serve at the pleasure of the Governor. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

The Governor shall designate one member of the Virginia Council to serve as compact chairman for a two-year term. The Virginia Council shall meet on the call of the chairman or at the request of a majority of members. A majority of members shall constitute a quorum. The Virginia Council may consider any and all matters related to the Interstate Compact on Educational Opportunity for Military Children or the general activities and business of the organization and shall have the authority to represent the Commonwealth in all actions of the Compact.

The Virginia Council members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. The costs of expenses of the legislative members incurred in the performance of their duties shall be paid from appropriations to the Virginia Commission on Intergovernmental Cooperation for the attendance of conferences. The costs of expenses of nonlegislative citizen members incurred in the performance of their duties shall be paid from such funds as may be provided for this purpose in the appropriation act.

The chairman of the Virginia Council shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Virginia Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.