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HOUSE BILL NO. 1161

Offered January 14, 2004

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A BILL to amend and reenact §§ 22.1-253.13:1, 22.1-295, 22.1-303, 22.1-304, 22.1-306, and 22.1-307 of the Code of Virginia, relating to administration of the Standards of Learning assessments to public school teachers.

Patron—Frederick

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:1, 22.1-295, 22.1-303, 22.1-304, 22.1-306, and 22.1-307 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:1. Standard 1. Basic skills, selected programs, and instructional personnel.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to develop the skills that are necessary for success in school and preparation for life, and 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 to implement the development of the skills that are necessary for success in school and for preparation for life in the years beyond. The current educational objectives, known as the Standards of Learning, shall not be construed to be regulations as defined in § 2.2-4001; however, the Board of Education may, from time to time, revise these educational objectives to maintain academic rigor.

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 new educational objectives. 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 revise these educational objectives 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 these educational objectives.

The Board shall seek to ensure that any revised educational objectives are consistent with the world's highest educational standards. These objectives shall include, but not be limited to, basic skills of communication, computation and critical reasoning including problem solving, decision making, and proficiency in the use of computers and related technology and the skills to manage personal finances and to make sound financial decisions, and the development of personal qualities such as self-esteem, sociability, self-management, integrity, and honesty.

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 social studies Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

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. By October 1, 2000, 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.

School boards shall implement these objectives 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 utilized by the school division at appropriate age or grade levels.

With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of these objectives by all students. Such assessments

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59 shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards
60 of Learning being assessed. The Board shall (i) in consultation with the chairpersons of the eight
61 regional superintendents' study groups, establish a timetable for administering the Standards of Learning
62 assessments to ensure genuine end-of-course and end-of-grade testing and (ii) with the assistance of
63 independent testing experts, conduct a regular analysis and validation process for these assessments. In
64 prescribing such assessments, the Board shall provide local school boards the option of administering
65 tests for United States History to 1877, United States History: 1877 to the Present, and Civics and
66 Economics. The Board of Education shall make publicly available such assessments in a timely manner
67 and as soon as practicable following the administration of such tests, so long as the release of such
68 assessments does not compromise test security or deplete the bank of assessment questions necessary to
69 construct subsequent tests.

70 *The Board of Education shall provide for the administration and scoring of such Standards of*
71 *Learning assessments in the relevant subjects and grade levels for public school teachers.*

72 By July 1, 1999, the Board shall develop and approve objectives for mathematics, at the middle and
73 high school levels, for personal living and finances, which shall focus on money management skills for
74 individuals and families. The personal living and finances objectives shall require instruction in those
75 skills necessary to handle personal business and finances and shall include, but need not be limited to,
76 the following: opening a bank account and how to judge the quality of a bank's services; balancing a
77 checkbook; completing a loan application; the implications of an inheritance; the basics of personal
78 insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt
79 management, including retail and credit card debt; state and federal tax computation; local tax
80 assessments; computation of interest rates by various mechanisms; understanding simple contracts; and
81 how to contest an incorrect bill. These personal living and finances objectives shall not be required to be
82 included in the Board's Standards of Learning, and shall be developed in a manner to ensure that
83 instruction in the Standards of Learning shall not be de-emphasized. The Board shall not be required to
84 evaluate student achievement concerning such objectives in the Standards of Learning Assessment Tests
85 required by § 22.1-253.13:3.

86 The Board of Education shall supplement the Standards of Learning for social studies to ensure the
87 study of contributions to society of diverse people. For the purposes of this subsection, "diverse" shall
88 include consideration of disability, ethnicity, race, and gender.

89 C. Local school boards shall develop and implement a program of instruction for grades K through
90 12 that emphasizes reading, writing, speaking, mathematical concepts and computations, proficiency in
91 the use of computers and related technology, and scientific concepts and processes; essential skills and
92 concepts of citizenship, including knowledge of Virginia history and world and United States history,
93 economics, government, foreign languages, international cultures, health and physical education,
94 environmental issues and geography necessary for responsible participation in American society and in
95 the international community; fine arts, which may include, but need not be limited to, music and art,
96 and practical arts; knowledge and skills needed to qualify for further education and employment or, in
97 the case of some handicapped children, to qualify for appropriate training; and development of the
98 ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning.
99 School boards shall strive to employ licensed instructional personnel qualified in the relevant subject
100 areas, including qualified teachers, licensed through the Board of Education's provisional licensure
101 procedures, who have professional expertise in the relevant subject areas.

102 Local school boards shall also develop and implement programs of prevention, intervention, or
103 remediation for students who are educationally at risk including, but not limited to, those whose scores
104 are in the bottom national quartile on Virginia State Assessment Program Tests, who fail to achieve a
105 passing score on any Standards of Learning assessment in grades three, five, and eight or who fail an
106 end-of-course test required for the award of a verified unit of credit required for the student's graduation.

107 Any student who does not pass any of the Standards of Learning assessments in grades three, five, or
108 eight shall be required to attend a summer school program or to participate in another form of
109 remediation; any student who passes one or more, but not all, of the Standards of Learning assessments
110 in grades three, five, or eight may be required to attend a remediation program. Division superintendents
111 shall require such students to take special programs of prevention, intervention, or remediation, which
112 may include attendance in public summer school programs, in accordance with clause (ii) of subsection
113 A of § 22.1-254 and § 22.1-254.01. Remediation programs shall include, when applicable, a procedure
114 for early identification of students who are at risk of failing the Standards of Learning assessments in
115 grades three, five, or eight or an end-of-course test required for the award of a verified unit of credit
116 required for the student's graduation. Such programs may also include summer school for all elementary
117 and middle school grades and for all high school academic courses, as defined by regulations
118 promulgated by the Board of Education, or other forms of remediation. Summer school remediation
119 programs or other forms of remediation shall be chosen by the division superintendent to be appropriate
120 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 which 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 which 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.

To ensure consistency in program quality, each school board may establish a remediation program standards committee which may include, but need not be limited to, the superintendent or his designee, a teacher, a parent, and one representative of the community at large. The remediation program standards committee shall recommend the program components for the remediation programs and shall evaluate the success of the programs. Such program components may include pupil/teacher ratios, objectives, and time, site, and duration of the programs and may include a mechanism to ensure the smooth transition of students between remediation programs and regular instructional programs.

D. Local school boards shall also implement the following:

1. Programs in grades K through 3 that emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or retrieval designed to increase the number of students who earn a high school diploma or general education development (GED) certificate. As provided in the appropriation act, state funding, in addition to basic aid, shall be allocated to support programs grounded in sound educational policy to reduce the number of students who drop out of school. From such funds as may be appropriated for this purpose, sufficient funds shall be provided to hold all local school divisions harmless by providing no-loss funding which maintains the level of each school division's funding as allocated for drop-out prevention programs on July 1, 1996, if the level of funding for such school division's drop-out prevention programs would be less than its level of funding for such programs in fiscal year 1995. Effective on and after July 1, 1996, the Board of Education shall develop and implement a funding mechanism to ensure that no school board is penalized in its state funding for drop-out prevention programs for reducing the drop-out rate in its school division.

3. Career and technical education programs infused into the K through 12 curricula that promote knowledge of careers and all types of employment opportunities including, but not limited to, apprenticeships, the military, career education schools, and the teaching profession, and emphasize the advantages of completing school with marketable skills. School boards may include career exploration opportunities in the middle school grades.

4. Competency-based career and technical education programs, which integrate academic outcomes, career guidance and job-seeking skills for all secondary students including those identified as disabled that reflect employment opportunities, labor market needs, applied basic skills, job-seeking skills, and career guidance. Career guidance shall include employment counseling designed to furnish information on available employment opportunities to all students, including those identified as disabled, 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 community colleges and shall be submitted to the Superintendent of Public Instruction in accordance with the timelines established by federal law.

5. Academic and career and technical education for students who plan to continue their education beyond secondary school or who plan to enter employment.

6. Early identification of handicapped students and enrollment of such students in appropriate instructional programs consistent with state and federal law.

7. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

8. 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.

9. 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.

10. A plan to make achievements for students who are educationally at risk a divisionwide priority which shall include procedures for measuring the progress of such students.

11. A plan to notify students and their parents of the availability of advanced placement classes, the International Baccalaureate program, and Academic Year Governor's School Programs, the qualifications for enrolling in such classes and programs, and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs.

E. 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 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.

F. In addition to the positions supported by basic aid and in support of regular school year remedial programs, 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 estimated to score in the bottom national quartile on Virginia State Assessment Program Tests and those who fail the literacy tests or Standards of Learning assessments for grades three, five, and eight prescribed by the Board. State funding for remedial 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. The Board of Education shall establish criteria for identification of educationally at-risk students, which shall not be construed to be regulations as defined in § 2.2-4001; however, the Board of Education may, from time to time, revise these identification criteria. 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 or revising such identification criteria. 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 establish or revise such identification criteria 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 such identification criteria or revisions thereto.

F1. In addition to the positions supported by basic aid and those in support of regular school year remedial programs, state funding, pursuant to the appropriation act, shall be provided to support 10 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

G. Licensed instructional personnel shall be assigned by each school board 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, counselors, and librarians, that are not greater than the following ratios: (i) 24 to 1 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 1 in grade one with no class being larger than 30 students; (iii) 24 to 1 in grades two and three with no class being larger than 30 students; (iv) 25 to 1 in grades four through six with no class being larger than 35 students; and (v) 24 to 1 in English classes in grades six through twelve.

Further, pursuant to the appropriation act, school boards:

1. May implement in kindergarten through third grade, within certain schools, lower ratios of students in average daily membership to full-time equivalent teaching positions by assigning instructional personnel in a manner that produces ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, as follows: (i) in schools having high concentrations of at-risk students, 18 to 1; and (ii) in schools having moderate concentrations of at-risk students, 20 to 1. For the purposes of this subsection, "schools having high concentrations of at-risk students" and "schools having moderate concentrations of at-risk students" shall be as defined in the appropriation act.

2. Shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 25 to 1 in middle schools and high schools.

School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual 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 which include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third

grade at-risk student/lower ratio 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.

H. 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. 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.

§ 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 the highest quality instructional personnel 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. School boards shall develop a procedure for use by division superintendents and principals in evaluating instructional personnel 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.

C. As a condition of initial and continued employment, school boards shall require full-time, permanently employed teachers to obtain a passing score on the relevant Standards of Learning assessment annually. If a teacher provides instruction in a grade level for which there is no Standards of Learning assessment, such teacher shall be required to obtain a passing score on the relevant assessment for the next highest grade level.

Failure of a probationary teacher to obtain such passing score shall result in such teacher's dismissal from employment.

Failure of a teacher who has attained continuing contract status to obtain a passing score on such assessment shall constitute incompetent service for purposes of subsection B of § 22.1-304 and shall result in such teacher's dismissal.

Such dismissals shall not constitute a grievance as set forth in § 22.1-306.

§ 22.1-303. Probationary terms of service for teachers.

A. A probationary term of service for 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 instructional personnel as required by § 22.1-295 B. 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.

If the teacher's performance evaluation during the probationary period is not satisfactory or the teacher fails to obtain a passing score on the relevant Standards of Learning assessment as required by § 22.1-295, the school board shall not reemploy the teacher; however, nothing contained in this subsection shall be construed 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.

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.

305 B. Once a continuing contract status has been attained in a school division in the Commonwealth,
306 another probationary period need not be served in any other school division unless such probationary
307 period, not to exceed one year, is made a part of the contract of employment. Further, when a teacher
308 has attained continuing contract status in a school division in the Commonwealth, and separates from
309 and returns to teaching service in a school division in Virginia by the beginning of the third year, such
310 teacher shall be required to serve a probationary period not to exceed one year, if made a part of the
311 contract for employment.

312 C. For the purpose of calculating the three years of service required to attain continuing contract
313 status, at least 160 contractual teaching days during the school year shall be deemed the equivalent of
314 one year in the first year of service by a teacher.

315 D. Teachers holding three-year local eligibility licenses pursuant to § 22.1-299.3 shall not be eligible
316 for continuing contract status while teaching under the authority of such license. Upon attainment of a
317 collegiate professional or postgraduate professional license issued by the Department of Education, such
318 teachers shall serve the three-year probationary period prior to being eligible for continuing contract
319 status pursuant to this section.

320 § 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of
321 continuing contract; resignation of teacher; reduction in number of teachers.

322 A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he
323 must accept or reject in writing within 15 days of receipt of such notice. Except as provided in
324 § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of
325 nonrenewal of the contract must be given by the school board on or before April 15 of each year. If no
326 such notice is given a teacher by April 15, the teacher shall be entitled to a contract for the ensuing year
327 in accordance with local salary stipulations including increments.

328 B. Teachers employed after completing the probationary period shall be entitled to continuing
329 contracts during good behavior and competent service and prior to the age at which they are eligible or
330 required to retire except as hereinafter provided. *Failure of such teacher to obtain a passing score on*
331 *the relevant Standards of Learning assessment shall constitute incompetent service for purposes of this*
332 *subsection and shall result in the teacher's dismissal.* Written notice of noncontinuation of the contract
333 by either party must be given by April 15 of each year; otherwise the contract continues in effect for the
334 ensuing year in conformity with local salary stipulations including increments.

335 C. A teacher may resign after April 15 of any school year with the approval of the local school
336 board or, upon authorization by the school board, with the approval of the division superintendent. The
337 teacher shall request release from contract at least two weeks in advance of intended date of resignation.
338 Such request shall be in writing and shall set forth the cause of resignation.

339 If the division superintendent has been authorized to approve resignations, a teacher may, within one
340 week, withdraw a request to resign. Upon the expiration of the one-week period, the division
341 superintendent shall notify the school board of his decision to accept or reject the resignation. The
342 school board, within two weeks, may reverse the decision of the division superintendent.

343 In the event that the board or the division superintendent declines to grant the request for release on
344 the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary
345 action, which may include revocation of the teacher's license, may be taken pursuant to regulations
346 prescribed by the Board of Education.

347 D. As soon after April 15 as the school budget shall have been approved by the appropriating body,
348 the school board shall furnish each teacher a statement confirming continuation of employment, setting
349 forth assignment and salary.

350 Nothing in the continuing contract shall be construed to authorize the school board to contract for
351 any financial obligation beyond the period for which funds have been made available with which to
352 meet such obligation.

353 E. A school board may reduce the number of teachers, whether or not such teachers have reached
354 continuing contract status, because of decrease in enrollment or abolition of particular subjects.

355 F. Within two weeks of the approval of the school budget by the appropriating body, but no later
356 than June 1, school boards shall notify all teachers who may be subject to a reduction in force due to a
357 decrease in the school board's budget as approved by the appropriating body.

358 § 22.1-306. Definitions.

359 As used in this article:

360 "Grievance" means a complaint or dispute by a teacher relating to his or her employment including,
361 but not necessarily limited to: (i) disciplinary action including dismissal, *except as otherwise provided in*
362 *this section*, or placing on probation; (ii) the application or interpretation of: (a) personnel policies, (b)
363 procedures, (c) rules and regulations, (d) ordinances and (e) statutes; (iii) acts of reprisal against a
364 teacher for filing or processing a grievance, participating as a witness in any step, meeting or hearing
365 relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of
366 discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin or

sex. 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 (i) establishment and revision of wages or salaries, position classifications or general benefits, (ii) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status, (iii) the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations, (iv) failure to promote, (v) discharge, layoff or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject or insufficient funding, (vi) hiring, transfer, assignment and retention of teachers within the school division, (vii) suspension from duties in emergencies, ~~or~~ (viii) the methods, means and personnel by which the school division's operations are to be carried on; *or (ix) dismissal of a teacher who fails to obtain a passing score on the relevant Standards of Learning assessment as required by § 22.1-295.*

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.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract and the nonrenewal of the contract of a teacher on continuing contract, *but shall not include those dismissals required by § 22.1-295 for failure to obtain a passing score on the relevant Standards of Learning assessment.*

§ 22.1-307. Dismissal, etc., of teacher; grounds.

A. Teachers may be dismissed or placed on probation 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. 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.

Teachers shall be dismissed for failure to obtain a passing score on the relevant Standards of Learning assessment as required by § 22.1-295.

B. For the purposes of this article, "incompetency" may be construed to include, but shall not be limited to, consistent failure to meet the endorsement requirements for the position or performance that is documented through evaluation to be consistently less than satisfactory.