

097602688

**HOUSE BILL NO. 1602**

Offered January 14, 2009

Prefiled October 27, 2008

*A BILL to amend and reenact §§ 22.1-253.13:2, 22.1-274, and 22.1-299.2 of the Code of Virginia, relating to teachers with board certification as behavior analysts in public schools.*

Patron—Poisson

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-253.13:2, 22.1-274, and 22.1-299.2 of the Code of Virginia are amended and reenacted as follows:**

§ 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, 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.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with mental retardation 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. 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.

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.

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 appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

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.

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;

INTRODUCED

HB1602

59 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900  
60 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals  
61 in high schools, one full-time for each 600 students;

62 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;  
63 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time  
64 at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students,  
65 two full-time at 1,000 students;

66 4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at  
67 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance  
68 counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional  
69 period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70  
70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof;  
71 and

72 5. Clerical personnel in elementary schools, part-time to 299 students, one full-time at 300 students;  
73 clerical personnel in middle schools, one full-time and one additional full-time for each 600 students  
74 beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools,  
75 one full-time and one additional full-time for each 600 students beyond 200 students and one full-time  
76 for the library at 750 students.

77 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades  
78 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

79 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades  
80 kindergarten through 12, one to provide technology support and one to serve as an instructional  
81 technology resource teacher.

82 *K. Local school boards shall ensure that for every 25 students diagnosed with autism there is at*  
83 *least one instructional special education position that has current national board certification as a*  
84 *behavior analyst.*

85 ~~KL.~~ Local school boards may employ additional positions that exceed these minimal staffing  
86 requirements. These additional positions may include, but are not limited to, those funded through the  
87 state's incentive and categorical programs as set forth in the appropriation act.

88 ~~LM.~~ A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing  
89 requirements for the highest grade level in that school; this requirement shall apply to all staff, except  
90 for guidance counselors, and shall be based on the school's total enrollment; guidance counselor staff  
91 requirements shall, however, be based on the enrollment at the various school organization levels, i.e.,  
92 elementary, middle, or high school. The Board of Education may grant waivers from these staffing  
93 levels upon request from local school boards seeking to implement experimental or innovative programs  
94 that are not consistent with these staffing levels.

95 ~~MN.~~ School boards shall, however, annually, on or before January 1, report to the public the actual  
96 pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual  
97 ratios shall include only the teachers who teach the grade and class on a full-time basis and shall  
98 exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers  
99 in the same annual report. Any classes funded through the voluntary kindergarten through third grade  
100 class size reduction program shall be identified as such classes. Any classes having waivers to exceed  
101 the requirements of this subsection shall also be identified. Schools shall be identified; however, the data  
102 shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

103 ~~NO.~~ Students enrolled in a public school on a less than full-time basis shall be counted in ADM in  
104 the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving  
105 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time  
106 basis in any mathematics, science, English, history, social science, career and technical education, fine  
107 arts, foreign language, or health education or physical education course shall be counted in the ADM in  
108 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course  
109 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home  
110 school student shall be counted as more than one-half a student for purposes of such pro rata  
111 calculation. Such calculation shall not include enrollments of such students in any other public school  
112 courses.

113 ~~OP.~~ Each local school board shall provide those support services that are necessary for the efficient  
114 and cost-effective operation and maintenance of its public schools.

115 For the purposes of this title, unless the context otherwise requires, "support services" shall include  
116 services provided by the school board members; the superintendent; assistant superintendents; student  
117 services (including guidance counselors, social workers, and homebound, improvement, principal's office,  
118 and library-media positions); attendance and health positions; administrative, technical, and clerical  
119 positions; operation and maintenance positions; educational technology positions; school nurses; and  
120 pupil transportation positions.

Pursuant to the appropriation act, support services shall be funded from basic school aid on the basis of prevailing statewide costs.

§ 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 *OP* of § 22.1-253.13:2, relating to providing support services which 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 of this section and any subsequent increase in prevailing statewide costs, and the mechanism for funding health services, pursuant to subsection *OP* 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 which, 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 ten or more, (i) at least two employees have current certification in cardiopulmonary resuscitation or have received training, within the last two years, in emergency first aid and cardiopulmonary resuscitation 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 ten, school boards shall ensure that (i) at least one employee has current certification in cardiopulmonary resuscitation or has received training, within the last two years, in emergency first aid and cardiopulmonary resuscitation and (ii) 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" shall include 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.

§ 22.1-299.2. National 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

182 provide for its disbursement. The Fund shall be disbursed to award incentive grants to public school  
183 teachers obtaining national certification from the National Board for Professional Teaching Standards *or*  
184 *the Behavior Analyst Certification Board*.

185 To the extent funds are available in the Fund, teachers who obtain national certification shall receive  
186 an initial state-funded award of \$5,000 and a subsequent award of \$2,500 each year for the life of the  
187 certificate. Such awards shall continue to be paid upon renewal of the certificate. The Board shall  
188 establish procedures for determining amounts of awards if the moneys in the Fund are not sufficient to  
189 award each eligible teacher the appropriate award amount.

190 B. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

191 **2. That the provisions of this act shall become effective in the following increments: beginning in**  
192 **the 2010-2011 school year, each local school board shall ensure that for every 100 students**  
193 **diagnosed with autism there is a special education instructor with current board certification as a**  
194 **behavior analyst and at least one additional special education instructor with current board**  
195 **certification as a behavior analyst or associate behavior analyst for each additional 100 students or**  
196 **any portion thereof diagnosed with autism; beginning in the 2011-2012 school year, each local**  
197 **school board shall ensure that for every 50 students diagnosed with autism there is a special**  
198 **education instructor with current board certification as a behavior analyst and at least one**  
199 **additional special education instructor with current board certification as a behavior analyst or**  
200 **associate behavior analyst for each additional 50 students or any portion thereof diagnosed with**  
201 **autism; beginning in the 2012-2013 school year, each local school board shall ensure that for every**  
202 **25 students diagnosed with autism there is a special education instructor with current board**  
203 **certification as a behavior analyst and an additional special education instructor with current**  
204 **board certification as a behavior analyst or associate behavior analyst for each additional 25**  
205 **students or any portion thereof diagnosed with autism; beginning in the 2013-2014 school year,**  
206 **each local school board shall ensure that for every 25 students diagnosed with autism there is one**  
207 **special education instructor with current board certification as a behavior analyst.**