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**HOUSE BILL NO. 367**

Offered January 11, 2012

Prefiled January 10, 2012

*A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to the Board of Education; publication of disciplinary offense and outcome data.*

Patrons—McClellan, BaCote, Bell, Richard P., Robinson, Tyler and Ward

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:**

§ 22.1-253.13:3. Standard 3. Accreditation, other standards and evaluation.

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, but not be limited to, 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, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board shall review annually the accreditation status of all schools in the Commonwealth.

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 review the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.

When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, 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 submit for approval by the Board a corrective action plan, consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt and implement an academic review process, to be conducted by the Department of Education, to assist schools that are accredited with warning. The Department shall forward a report of each academic review to the relevant local school board, and such school board shall report the results of such academic review and the required annual progress reports in public session. The local school board shall implement any actions identified through the academic review and utilize them for improvement planning.

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 identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. Such identification 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.

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HB367

59 C. With such funds as are available for this purpose, the Board of Education shall prescribe  
60 assessment methods to determine the level of achievement of the Standards of Learning objectives by all  
61 students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and  
62 skills related to the Standards of Learning being assessed. The Board shall (i) in consultation with the  
63 chairpersons of the eight regional superintendents' study groups, establish a timetable for administering  
64 the Standards of Learning assessments to ensure genuine end-of-course and end-of-grade testing and (ii)  
65 with the assistance of independent testing experts, conduct a regular analysis and validation process for  
66 these assessments.

67 In prescribing such Standards of Learning assessments, the Board shall provide local school boards  
68 the option of administering tests for United States History to 1877, United States History: 1877 to the  
69 Present, and Civics and Economics. The last administration of the cumulative grade eight history test  
70 will be during the 2007-2008 academic school year. Beginning with the 2008-2009 academic year, all  
71 school divisions shall administer the United States History to 1877, United States History: 1877 to the  
72 Present, and Civics and Economics tests. The Board shall also provide the option of industry  
73 certification and state licensure examinations as a student-selected verified credit.

74 The Board of Education shall make publicly available such assessments in a timely manner and as  
75 soon as practicable following the administration of such tests, so long as the release of such assessments  
76 does not compromise test security or deplete the bank of assessment questions necessary to construct  
77 subsequent tests, or limit the ability to test students on demand and provide immediate results in the  
78 web-based assessment system.

79 The Board shall include in the student outcome measures that are required by the Standards for  
80 Accreditation end-of-course or end-of-grade tests for various grade levels and classes, as determined by  
81 the Board, in accordance with the Standards of Learning. These Standards of Learning assessments shall  
82 include, but need not be limited to, end-of-course or end-of-grade tests for English, mathematics,  
83 science, and history and social science.

84 In addition, to assess the educational progress of students, the Board of Education shall (i) develop  
85 appropriate assessments, which may include criterion-referenced tests and alternative assessment  
86 instruments that may be used by classroom teachers; (ii) select appropriate industry certification and  
87 state licensure examinations and (iii) prescribe and provide measures, which may include nationally  
88 normed tests to be used to identify students who score in the bottom quartile at selected grade levels.  
89 An annual justification that includes evidence that the student meets the participation criteria defined by  
90 the Virginia Department of Education shall be provided for each student considered for the Virginia  
91 Grade Level Alternative. Each Individual Education Program team shall review such justification and  
92 make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for  
93 the student. The superintendent and the school board chairman shall certify to the Board of Education,  
94 as a part of certifying compliance with the Standards of Quality, that there is a justification in the  
95 Individual Education Program for every student who takes the Virginia Grade Level Alternative.  
96 Compliance with this requirement shall be monitored as a part of the special education monitoring  
97 process conducted by the Department of Education. The Board shall report to the Governor and General  
98 Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with  
99 this requirement.

100 The Standard of Learning requirements, including all related assessments, shall be waived for any  
101 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to  
102 § 30-231.2, who is enrolled in a preparation program for the General Education Development (GED)  
103 certificate or in an adult basic education program to obtain the high school diploma.

104 The Board of Education may adopt special provisions related to the administration and use of any  
105 SOL test or tests in a content area as applied to accreditation ratings for any period during which the  
106 SOL content or assessments in that area are being revised and phased in. Prior to statewide  
107 administration of such tests, the Board of Education shall provide notice to local school boards regarding  
108 such special provisions.

109 D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or  
110 administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of  
111 test materials or test results.

112 The Board may initiate or cause to be initiated a review or investigation of any alleged breach in  
113 security, unauthorized alteration, or improper administration of tests, including the exclusion of students  
114 from testing who are required to be assessed, by local school board employees responsible for the  
115 distribution or administration of the tests.

116 Records and other information furnished to or prepared by the Board during the conduct of a review  
117 or investigation may be withheld pursuant to subdivision 12 of § 2.2-3705.3. However, this section shall  
118 not prohibit the disclosure of records to (i) a local school board or division superintendent for the  
119 purpose of permitting such board or superintendent to consider or to take personnel action with regard to  
120 an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a)

121 does not reveal the identity of any person making a complaint or supplying information to the Board on  
122 a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any  
123 local school board or division superintendent receiving such records or other information shall, upon  
124 taking personnel action against a relevant employee, place copies of such records or information relating  
125 to the specific employee in such person's personnel file.

126 Notwithstanding any other provision of state law, no test or examination authorized by this section,  
127 including the Standards of Learning assessments, shall be released or required to be released as  
128 minimum competency tests, if, in the judgment of the Board, such release would breach the security of  
129 such test or examination or deplete the bank of questions necessary to construct future secure tests.

130 E. With such funds as may be appropriated, the Board of Education may provide, through an  
131 agreement with vendors having the technical capacity and expertise to provide computerized tests and  
132 assessments, and test construction, analysis, and security, for (i) web-based computerized tests and  
133 assessments for the evaluation of student progress during and after remediation and (ii) the development  
134 of a remediation item bank directly related to the Standards of Learning.

135 F. To assess the educational progress of students as individuals and as groups, each local school  
136 board shall require the use of Standards of Learning assessments and other relevant data, such as  
137 industry certification and state licensure examinations, to evaluate student progress and to determine  
138 educational performance. Each local school shall require the administration of appropriate assessments to  
139 all students for grade levels and courses identified by the Board of Education, which may include  
140 criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the  
141 Standards of Learning Assessments and the National Assessment of Educational Progress state-by-state  
142 assessment. Each school board shall analyze and report annually, in compliance with any criteria that  
143 may be established by the Board of Education, the results from the Stanford Achievement Test Series,  
144 Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the  
145 Standards of Learning Assessments to the public.

146 The Board of Education shall not require administration of the Stanford Achievement Test Series,  
147 Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the  
148 requirements for home instruction pursuant to § 22.1-254.1.

149 The Board shall include requirements for the reporting of the Standards of Learning assessment  
150 scores and averages for each year, *as well as disciplinary offense and outcome data*, as part of the  
151 Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated  
152 for each school by student subgroups on the Virginia assessment program as appropriate and shall be  
153 reported to the public within three months of their receipt. *Disciplinary offense and outcome data shall*  
154 *be reported for all students and also by race, ethnicity, gender, and disability*. These reports (i) shall be  
155 posted on the portion of the Department of Education's website relating to the School Performance  
156 Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the  
157 National Assessment of Educational Progress state-by-state assessment.

158 G. Each local school division superintendent shall regularly review the division's submission of data  
159 and reports required by state and federal law and regulations to ensure that all information is accurate  
160 and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the  
161 required reports and data to division superintendents annually. The status of compliance with this  
162 requirement shall be included in the Board of Education's annual report to the Governor and the General  
163 Assembly as required by § 22.1-18.

164 H. Any school board, on behalf of one or more of its schools, may request the Board of Education  
165 for releases from state regulations and for approval of an Individual School Accreditation Plan for the  
166 evaluation of the performance of one or more of its schools as authorized for certain other schools by  
167 the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.