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## HOUSE BILL NO. 2147

Offered January 9, 2019

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A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to the Standards for Accreditation; review and corrective action.

Patrons—Turpin, Adams, D.M., Bourne, Kory, Krizek, Rasoul, Rodman, Simon, Tyler, Ward and Watts

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, 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. 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.

*The Department shall cause an academic or other review to be conducted to assist schools not meeting requirements for school quality indicators established by the Board. Each school board shall report the results of such review and the required annual progress reports in public session. The local school board shall implement any actions identified through the review and utilize them for improvement planning.*

*The Board may require a local school board to develop a corrective action plan for any school within its division not meeting requirements for school quality indicators established by the Board. Any such corrective action plan shall be developed cooperatively and in consultation with the Department and shall include actions identified through any academic or other review. The school board of a school division that does not demonstrate progress in implementing such corrective action plan shall enter into a memorandum of understanding with the Board.*

When the Board of Education determines through the school academic review process that the failure of schools within a division to ~~achieve full accreditation status~~ *meet requirements for school quality indicators 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

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59 school board shall *enter into a memorandum of understanding with the Board and shall subsequently*  
60 *submit to the Board for approval a corrective action plan, consistent with criteria established by the*  
61 *Board setting forth specific actions and a schedule designed to ensure that schools within its school*  
62 *division achieve full accreditation status meet requirements for school quality indicators established by*  
63 *the Board.* If the Board determines that the proposed corrective action plan is not sufficient to enable all  
64 schools within the division to *achieve full accreditation meet requirements for school quality indicators*  
65 *established by the Board,* the Board may return the plan to the local school board with directions to  
66 submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the  
67 relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

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

75 B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve  
76 criteria for determining and recognizing educational performance in the Commonwealth's public school  
77 divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation  
78 process and shall include student outcome measurements. The Superintendent of Public Instruction shall  
79 annually report to the Board on the accreditation status of all school divisions and schools. Such report  
80 shall include an analysis of the strengths and weaknesses of public education programs in the various  
81 school divisions in Virginia and recommendations to the General Assembly for further enhancing student  
82 learning uniformly across the Commonwealth. In recognizing educational performance in the school  
83 divisions, the Board shall include consideration of special school division accomplishments, such as  
84 numbers of dual enrollments and students in Advanced Placement and International Baccalaureate  
85 courses, and participation in academic year Governor's Schools.

86 The Superintendent of Public Instruction shall assist local school boards in the implementation of  
87 action plans for increasing educational performance in those school divisions and schools that are  
88 identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor  
89 the implementation of and report to the Board of Education on the effectiveness of the corrective actions  
90 taken to improve the educational performance in such school divisions and schools.

91 C. With such funds as are available for this purpose, the Board of Education shall prescribe  
92 assessment methods to determine the level of achievement of the Standards of Learning objectives by all  
93 students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and  
94 skills related to the Standards of Learning being assessed. The Board shall, with the assistance of  
95 independent testing experts, conduct a regular analysis and validation process for these assessments. The  
96 Department of Education shall make available to school divisions Standards of Learning assessments  
97 typically administered by the middle and high schools by December 1 of the school year in which such  
98 assessments are to be administered or when newly developed assessments are available, whichever is  
99 later.

100 The Board shall also provide the option of industry certification and state licensure examinations as a  
101 student-selected credit.

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

107 The Board shall include in the student outcome measures that are required by the Standards for  
108 Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including  
109 the completion of the alternative assessments implemented by each local school board, in accordance  
110 with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for  
111 English, mathematics, science, and history and social science and may be integrated to include multiple  
112 subject areas.

113 The Board shall prescribe alternative methods of Standards of Learning assessment administration for  
114 children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the  
115 Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual  
116 Education Program team shall make the final determination as to whether an alternative method of  
117 administration is appropriate for the student.

118 The Standards of Learning assessments administered to students in grades three through eight shall  
119 not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science  
120 in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and

121 mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life  
122 science, and physical science Standards of Learning and before the student completes grade eight; and  
123 (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each  
124 local school board.

125 Each school board shall annually certify that it has provided instruction and administered an  
126 alternative assessment, consistent with Board guidelines, to students in grades three through eight in  
127 each Standards of Learning subject area in which a Standards of Learning assessment was not  
128 administered during the school year. Such guidelines shall (1) incorporate options for age-appropriate,  
129 authentic performance assessments and portfolios with rubrics and other methodologies designed to  
130 ensure that students are making adequate academic progress in the subject area and that the Standards of  
131 Learning content is being taught; (2) permit and encourage integrated assessments that include multiple  
132 subject areas; and (3) emphasize collaboration between teachers to administer and substantiate the  
133 assessments and the professional development of teachers to enable them to make the best use of  
134 alternative assessments.

135 Local school divisions shall provide targeted mathematics remediation and intervention to students in  
136 grades six through eight who show computational deficiencies as demonstrated by their individual  
137 performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures  
138 non-calculator computational skills.

139 The Department of Education shall award recovery credit to any student in grades three through eight  
140 who fails a Standards of Learning assessment in English reading or mathematics, receives remediation,  
141 and subsequently retakes and passes such an assessment, including any such student who subsequently  
142 retakes such an assessment on an expedited basis.

143 In addition, to assess the educational progress of students, the Board of Education shall (A) develop  
144 appropriate assessments, which may include criterion-referenced tests and other assessment instruments  
145 that may be used by classroom teachers; (B) select appropriate industry certification and state licensure  
146 examinations; and (C) prescribe and provide measures, which may include nationally normed tests to be  
147 used to identify students who score in the bottom quartile at selected grade levels. An annual  
148 justification that includes evidence that the student meets the participation criteria defined by the  
149 Virginia Department of Education shall be provided for each student considered for the Virginia Grade  
150 Level Alternative. Each Individual Education Program team shall review such justification and make the  
151 final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the  
152 student. The superintendent and the school board chairman shall certify to the Board of Education, as a  
153 part of certifying compliance with the Standards of Quality, that there is a justification in the Individual  
154 Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with  
155 this requirement shall be monitored as a part of the special education monitoring process conducted by  
156 the Department of Education. The Board shall report to the Governor and General Assembly in its  
157 annual reports pursuant to § 22.1-18 any school division that is not in compliance with this  
158 requirement.

159 The Standards of Learning requirements, including all related assessments, shall be waived for any  
160 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to  
161 § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination  
162 approved by the Board of Education or in an adult basic education program or an adult secondary  
163 education program to obtain the high school diploma or a high school equivalency certificate.

164 The Department of Education shall develop processes for informing school divisions of changes in  
165 the Standards of Learning.

166 The Board of Education may adopt special provisions related to the administration and use of any  
167 Standards of Learning test or tests in a content area as applied to accreditation ratings for any period  
168 during which the Standards of Learning content or assessments in that area are being revised and phased  
169 in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local  
170 school boards regarding such special provisions.

171 The Board of Education shall not include in its calculation of the passage rate of a Standards of  
172 Learning assessment for the purposes of state accountability any student whose parent has decided to not  
173 have his child take such Standards of Learning assessment, unless such exclusions would result in the  
174 school's not meeting any required state or federal participation rate.

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

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

182 Records and other information furnished to or prepared by the Board during the conduct of a review  
183 or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall  
184 not prohibit the disclosure of records to (i) a local school board or division superintendent for the  
185 purpose of permitting such board or superintendent to consider or to take personnel action with regard to  
186 an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a)  
187 does not reveal the identity of any person making a complaint or supplying information to the Board on  
188 a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any  
189 local school board or division superintendent receiving such records or other information shall, upon  
190 taking personnel action against a relevant employee, place copies of such records or information relating  
191 to the specific employee in such person's personnel file.

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

196 E. With such funds as may be appropriated, the Board of Education may provide, through an  
197 agreement with vendors having the technical capacity and expertise to provide computerized tests and  
198 assessments, and test construction, analysis, and security, for (i) web-based computerized tests and  
199 assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of  
200 student progress during and after remediation and (ii) the development of a remediation item bank  
201 directly related to the Standards of Learning.

202 F. To assess the educational progress of students as individuals and as groups, each local school  
203 board shall require the use of Standards of Learning assessments, alternative assessments, and other  
204 relevant data, such as industry certification and state licensure examinations, to evaluate student progress  
205 and to determine educational performance. Each local school shall require the administration of  
206 appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests  
207 and shall include the Standards of Learning assessments, the local school board's alternative assessments,  
208 and the National Assessment of Educational Progress state-by-state assessment. Each school board shall  
209 analyze and report annually, in compliance with any criteria that may be established by the Board of  
210 Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine)  
211 assessment, if administered, industry certification examinations, and the Standards of Learning  
212 Assessments to the public.

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

216 The Board shall include requirements for the reporting of the Standards of Learning assessment  
217 scores and averages for each year, regardless of accreditation frequency, as part of the Board's  
218 requirements relating to the School Performance Report Card. Such scores shall be disaggregated for  
219 each school by student subgroups on the Virginia assessment program as appropriate and shall be  
220 reported to the public within three months of their receipt. These reports (i) shall be posted on the  
221 portion of the Department of Education's website relating to the School Performance Report Card, in a  
222 format and in a manner that allows year-to-year comparisons, and (ii) may include the National  
223 Assessment of Educational Progress state-by-state assessment.

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

230 H. Any school board may request the Board of Education for release from state regulations or, on  
231 behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the  
232 evaluation of the performance of one or more of its schools as authorized for certain other schools by  
233 the Standards of ~~for~~ Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code.  
234 Waivers of regulatory requirements may be granted by the Board of Education based on submission of a  
235 request from the division superintendent and chairman of the local school board. The Board of  
236 Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i)  
237 mandated by state or federal law or (ii) designed to promote health or safety. The school board shall  
238 provide in its waiver request a description of how the releases from state regulations are designed to  
239 increase the quality of instruction and improve the achievement of students in the affected school or  
240 schools. The Department of Education shall provide (a) guidance to any local school division that  
241 requests releases from state regulations and (b) information about opportunities to form partnerships with  
242 other agencies or entities to any local school division in which the school or schools granted releases  
243 from state regulations have demonstrated improvement in the quality of instruction and the achievement

244 of students.

245 The Board of Education may also grant local school boards waivers of specific requirements in  
246 § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the  
247 local school board, permitting the local school board to assign instructional personnel to the schools with  
248 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide  
249 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size  
250 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its  
251 request a description of how the waivers from specific Standards of Quality staffing standards are  
252 designed to increase the quality of instruction and improve the achievement of students in the affected  
253 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on  
254 student achievement results in the affected school or schools.