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**HOUSE BILL NO. 2325**

Offered January 9, 2019

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*A BILL to amend and reenact §§ 22.1-292.1, 22.1-298.1, and 22.1-304 of the Code of Virginia, relating to school board employees; discipline; private reprimand.*

Patrons—Thomas, Filler-Corn, Ayala, Bagby, Bourne, Davis, Hodges, Hugo, Hurst, Landes, McNamara, Orrock, Robinson, Stolle, VanValkenburg and Yancey

Referred to Committee on Education

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

**1. That §§ 22.1-292.1, 22.1-298.1, and 22.1-304 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-292.1. Violations related to secure mandatory tests.**

A. The Board of Education may (i) *issue private reprimand to* or (ii) suspend or revoke the administrative or teaching license ~~it has issued to~~ of any ~~person~~ holder of a Board-issued administrative or teaching license who knowingly and willfully commits any of the following acts related to secure mandatory tests administered to students as required by this title or by the Board of Education:

1. Giving unauthorized access to secure test questions;
2. Copying or reproducing all or any portion of any secure test booklet;
3. Divulging the contents of any portion of a secure test;
4. Coaching or assisting examinees during testing or altering test materials or examinees' responses in any way;
5. Making available any answer keys;
6. Failing to follow test security procedures established by the Department of Education;
7. Providing a false certification on any test security form required by the Department of Education;
8. Retaining a copy of secure test questions;
9. Excluding students from testing who are required to be assessed; and
10. Participating in, directing, aiding, assisting in, or encouraging any of the acts prohibited by this section.

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

Nothing in this section shall be construed to prohibit educational personnel from providing input to administrators or other authorized personnel, including school board members and members of the General Assembly, except when done in a manner that violates test integrity or security regarding the accuracy, clarity, or propriety of test items or test administration procedures.

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

C. Any *reprimand*, suspension, or revocation imposed for the acts enumerated in this section shall be rendered pursuant to Board regulations promulgated pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and § 22.1-298.1, governing the licensure of teachers.

**§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified

58 period of time, not to exceed three years, to an individual who may be employed by a school division in  
59 the Commonwealth and who generally meets the requirements specified in the Board of Education's  
60 regulations for licensure, but who may need to take additional coursework or pass additional assessments  
61 to be fully licensed with a renewable license.

62 "Renewable license" means a license issued by the Board of Education for 10 years to an individual  
63 who meets the requirements specified in the Board of Education's regulations.

64 B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of  
65 teachers and other school personnel required to hold a license. Such regulations shall include  
66 ~~requirements~~ *procedures* for (i) the denial, suspension, cancellation, revocation, and reinstatement of  
67 licensure; (ii) *the private reprimand of license holders*; and ~~procedures for~~ (iii) the immediate and  
68 thorough investigation by the division superintendent or his designee of any complaint alleging that a  
69 license holder has engaged in conduct that may form the basis for the revocation of his license. At a  
70 minimum, such procedures for investigations contained in such regulations shall require ~~(i)~~ (a) the  
71 division superintendent to petition for the revocation of the license upon completing such investigation  
72 and finding that there is reasonable cause to believe that the license holder has engaged in conduct that  
73 forms the basis for revocation of a license; ~~(ii)~~ (b) the school board to proceed to a hearing on such  
74 petition for revocation within 90 days of the mailing of a copy of the petition to the license holder,  
75 unless the license holder requests the cancellation of his license in accordance with Board regulations;  
76 and ~~(iii)~~ (c) the school board to provide a copy of the investigative file and such petition for revocation  
77 to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of  
78 Education shall revoke the license of any person for whom it has received a notice of dismissal or  
79 resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a  
80 founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by  
81 § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth  
82 to approve educational programs, only the Board of Education shall have the authority to license  
83 teachers to be regularly employed by school boards, including those teachers employed to provide  
84 nursing education.

85 The Board of Education shall prescribe by regulation the licensure requirements for teachers who  
86 teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching  
87 online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may  
88 teach online courses for which they are properly endorsed.

89 C. The Board of Education's regulations shall include requirements that a person seeking initial  
90 licensure:

- 91 1. Complete professional assessments as prescribed by the Board of Education;
- 92 2. Complete study in attention deficit disorder;
- 93 3. Complete study in gifted education, including the use of multiple criteria to identify gifted  
94 students; and
- 95 4. Complete study in methods of improving communication between schools and families and ways  
96 of increasing family involvement in student learning at home and at school.

97 D. In addition, such regulations shall include requirements that:

98 1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have  
99 not completed such study shall complete study in child abuse recognition and intervention in accordance  
100 with curriculum guidelines developed by the Board of Education in consultation with the Department of  
101 Social Services that are relevant to the specific teacher licensure routes;

102 2. Every person seeking renewal of a license shall complete all renewal requirements, including  
103 professional development in a manner prescribed by the Board, except that no person seeking renewal of  
104 a license shall be required to satisfy any such requirement by completing coursework and earning credit  
105 at an institution of higher education;

106 3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion  
107 of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of  
108 automated external defibrillators. The certification or training program shall (i) be based on the current  
109 national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and  
110 the use of an automated external defibrillator, such as a program developed by the American Heart  
111 Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to  
112 perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any  
113 person with a disability whose disability prohibits such person from completing the certification or  
114 training;

115 4. Every person seeking licensure with an endorsement as a teacher of the blind and visually  
116 impaired shall demonstrate proficiency in reading and writing Braille;

117 5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of  
118 career and technical education shall have an industry certification credential in the area in which the  
119 teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained

an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; and

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, or 6 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

G. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

H. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

I. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

J. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

K. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification

181 program shall be approved by the Board. Nothing in this subsection shall preclude the Board from  
182 establishing other alternate routes to licensure.

183 L. The Board, in its regulations providing for licensure by reciprocity established pursuant to  
184 subsection J, shall permit applicants to submit third-party employment verification forms.

185 **§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of**  
186 **continuing contract; resignation of teacher; reduction in number of teachers.**

187 A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he  
188 must accept or reject in writing within 15 days of receipt of such notice. Except as provided in  
189 § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of  
190 nonrenewal of the probationary contract must be given by the school board on or before June 15 of each  
191 year. If no such notice is given a teacher by June 15, the teacher shall be entitled to a contract for the  
192 ensuing year in accordance with local salary stipulations including increments.

193 B. Teachers employed after completing the probationary period shall be entitled to continuing  
194 contracts during good behavior and competent service. Written notice of noncontinuation of the contract  
195 by either party must be given by June 15 of each year; otherwise the contract continues in effect for the  
196 ensuing year in conformity with local salary stipulations including increments.

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

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

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

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

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

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

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

220 G. If a school board implements a reduction in workforce pursuant to this section, such reduction  
221 shall not be made solely on the basis of seniority but must include consideration of, among other things,  
222 the performance evaluations of the teachers potentially affected by the reduction in workforce.