

2020 SPECIAL SESSION I

SENATE SUBSTITUTE

20200844D

SENATE BILL NO. 5004

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on September 19, 2020)

(Patron Prior to Substitute—Senator Kiggans)

A BILL to amend and reenact §§ 22.1-253.13:2, 22.1-274 and 22.1-274.01:1 of the Code of Virginia, relating to school personnel; school nurses.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:2, 22.1-274 and 22.1-274.01:1 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, school 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. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability 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. (Effective until July 1, 2022) 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.

D. (Effective July 1, 2022) 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.

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.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

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 general

SENATE SUBSTITUTE

SB5004S1

60 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the
61 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii)
62 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000
63 students identified as having limited English proficiency, which positions may include dual language
64 teachers who provide instruction in English and in a second language.

65 To provide flexibility in the instruction of English language learners who have limited English
66 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
67 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to
68 employ additional English language learner teachers or dual language teachers to provide instruction to
69 identified limited English proficiency students. Using these funds in this manner is intended to
70 supplement the instructional services provided in this section. School divisions using the SOQ
71 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel
72 licensed by the Board of Education.

73 G. In addition to the full-time equivalent positions required elsewhere in this section, each local
74 school board shall employ the following reading specialists in elementary schools, one full-time in each
75 elementary school at the discretion of the local school board. One reading specialist employed by each
76 local school board that employs a reading specialist shall have training in the identification of and the
77 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a
78 related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist
79 shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to
80 help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at
81 different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory,
82 explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations,
83 and assistive technology supports for students with dyslexia.

84 To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ
85 reading specialists to provide the required reading intervention services. School divisions using the Early
86 Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed
87 by the Board of Education.

88 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions
89 for any school that reports fall membership, according to the type of school and student enrollment:

90 1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students;
91 principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high
92 schools, one full-time, to be employed on a 12-month basis;

93 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900
94 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals
95 in high schools, one full-time for each 600 students; and school divisions that employ a sufficient
96 number of assistant principals to meet this staffing requirement may assign assistant principals to schools
97 within the division according to the area of greatest need, regardless of whether such schools are
98 elementary, middle, or secondary;

99 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
100 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time
101 at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students,
102 two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to
103 meet this staffing requirement may assign librarians to schools within the division according to the area
104 of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

105 4. School counselors:

106 a. Effective with the 2020-2021 school year, in elementary schools, one hour per day per 75
107 students, one full-time at 375 students, one hour per day additional time per 75 students or major
108 fraction thereof; in middle schools, one period per 65 students, one full-time at 325 students, one
109 additional period per 65 students or major fraction thereof; in high schools, one period per 60 students,
110 one full-time at 300 students, one additional period per 60 students or major fraction thereof.

111 b. Effective with the 2021-2022 school year, local school boards shall employ one full-time
112 equivalent school counselor position per 325 students in grades kindergarten through 12.

113 c. Local school divisions that employ a sufficient number of school counselors to meet the school
114 counselor staffing requirements set forth in this subdivision may assign school counselors to schools
115 within the division according to the area of greatest need, regardless of whether such schools are
116 elementary, middle, or high schools.

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

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

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. *Local school boards shall employ at least one full-time equivalent school nurse position in each elementary school, middle school, and high school in the local school division. For purposes of this section, a school nurse is a registered nurse engaged in the specialized practice of nursing who protects and promotes student health, facilitates optimal development, and advances academic success. The Department of Education shall establish and administer a waiver process for local school boards for which the requirements of this subsection would create an undue hardship.*

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

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

~~M.~~ N. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher 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 that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction 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.

~~N.~~ O. 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. Each such course enrollment by such students shall be counted as 0.25 in the ADM; 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.

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

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social workers and social work administrative positions; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including licensed behavior analysts, licensed assistant behavior analysts, ~~school nurses~~, and school psychologists, *but excluding school nurses*;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

~~P.~~ *Q.* Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-274. School health services.

A. ~~A~~ *Each* school board shall provide pupil personnel and support services in compliance with § 22.1-253.13:2. ~~A~~ *Each* school board may employ school nurses, physicians, physical therapists, occupational therapists, and speech therapists *and shall employ school nurses in compliance with subsection K of § 22.1-253.13:2.* 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 O of § 22.1-253.13:2, relating to providing support services that 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 and any subsequent increase in prevailing statewide costs, and the mechanism for funding health services, pursuant to subsection O of § 22.1-253.13:2 and the appropriation act. The Board shall also determine *analyze* 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.~~ C. 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 that, when performed in a health care facility, must be delivered by or under the supervision of a licensed or certified professional.

~~E.~~ D. Each school board shall ensure that in school buildings with an instructional and administrative staff of 10 or more (i) at least three employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator 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 10, school boards shall ensure that (a) at least two employees have current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (b) 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" includes 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.

§ 22.1-274.01:1. Students who are diagnosed with diabetes; self-care; insertion and reinsertion of insulin pump.

A. Each local school board shall permit each enrolled student who is diagnosed with diabetes, with parental consent and written approval from the prescriber, as that term is defined in § 54.1-3401, to (i) carry with him and use supplies, including a reasonable and appropriate short-term supply of carbohydrates, an insulin pump, and equipment for immediate treatment of high and low blood glucose levels, and (ii) self-check his own blood glucose levels on a school bus, on school property, and at a school-sponsored activity.

B. A local school board employee who is a registered nurse, licensed practical nurse, or certified nurse aide and who has been trained in the administration of insulin, including the use and insertion of insulin pumps, and the administration of glucagon may assist a student who is diagnosed with diabetes and who carries an insulin pump with the insertion or reinsertion of the pump or any of its parts. For the purposes of this subsection, "employee" has the same meaning as in subsection E D of § 22.1-274. Prescriber authorization and parental consent shall be obtained for any such employee to assist with the insertion or reinsertion of the pump or any of its parts. Nothing in this section shall require any employee to assist with the insertion or reinsertion of the pump or any of its parts.