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## SENATE BILL NO. 1288

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health)  
(Patron Prior to Substitute—Senator Dunnavant)

Senate Amendments in [ ] - February 3, 2021

A *BILL to amend and reenact §§ 22.1-214, 22.1-215, 22.1-253.13:4, and 22.1-298.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-214.4, relating to Department of Education; special education.*

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

**1. That §§ 22.1-214, 22.1-215, 22.1-253.13:4, and 22.1-298.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-214.4 as follows:**

**§ 22.1-214. Board to prepare special education program for children with disabilities.**

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests that will assess inner and middle ear functioning, be performed on each child who is deaf or hard of hearing or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Health, and other state and local agencies that can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall encourage the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians. The procedures shall require that all testimony be given under oath or affirmation administered by the hearing officer.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C may, within 180 days of such findings and decision, bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

D1. In any action brought pursuant to subsection D, the court, in its discretion, may award reasonable attorney fees as part of the costs (i) to a prevailing party who is the parent of a child with a disability; (ii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent who files a complaint or a subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cause of litigation.

Attorney fees may not be awarded relating to any meeting of the ~~Individualized Education Plan~~ *individualized education program (IEP) Team* ~~team~~ unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection B.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education that comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments that would have been available to such school division to provide special

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60 education, directly or by contract, to eligible children with disabilities in such manner as the Board  
61 considers appropriate.

62 F. The Board of Education shall supervise educational programs for children with disabilities by  
63 other public agencies and shall ensure that the identification, evaluation, and placement of children with  
64 disabilities and youth in education programs by other public agencies, as appropriate, are consistent with  
65 the provisions of the Board of Education's special education regulations.

66 G. The Board of Education shall prescribe regulations to provide a range of assessment procedures  
67 for the evaluation of children with disabilities. These regulations shall include provision for parents to  
68 participate, if they so request, in the consideration of the assessment components to be used. However,  
69 such regulations shall not require any local school board to exceed the requirements of federal law or  
70 regulations for the identification and evaluation of children with disabilities. *[ These regulations shall  
71 include a provision requiring that local school divisions provide a draft individualized education  
72 program (IEP) to parents at least two business days in advance of a scheduled IEP meeting, if a draft  
73 IEP is developed in advance of the meeting. ]*

74 **§ 22.1-214.4. Certain duties of Department.**

75 The Department shall:

76 1. Provide training and guidance documents to local school divisions on the development of  
77 individualized education programs (IEPs) for children with disabilities that incorporate specific  
78 examples of high-quality present level of performance descriptions, annual goals, and postsecondary  
79 transition sections.

80 2. Develop a required training module for each individual who participates in an IEP meeting that  
81 comprehensively addresses and explains in detail (i) each IEP team member's respective role in the IEP  
82 meeting, (ii) the IEP development process, and (iii) components of effective IEPs.

83 3. Annually conduct structured reviews of a sample of IEPs from a sufficiently large sample of local  
84 school divisions to verify that the IEPs are in compliance with state and federal laws and regulations *[*  
85 *and are of high quality* governing IEP content *]*, and provide a summary report of the findings of such  
86 reviews and *[ recommendations regarding ]* any necessary corrective actions to the reviewed divisions'  
87 superintendents, special education directors, school board chairs and vice-chairs, and local special  
88 education advisory committees. In reviewing local school divisions' IEPs, the Department shall  
89 determine whether the special education and related services, supplementary aids and services, and  
90 program modifications that will be provided to enable students with disabilities to participate in  
91 nonacademic and extracurricular activities are sufficient, and include its findings and corrective actions  
92 in the summary reports it provides to the reviewed local school divisions' superintendents, special  
93 education directors, and school board members. *[ Nothing in this section shall be construed to (i) direct  
94 the Department to make determinations regarding whether a particular IEP provides a free appropriate  
95 public education to any individual student or (ii) authorize the Department to override a parent's  
96 consent to proposed revisions to an individual student's IEP. In determining corrective actions, the  
97 Department shall make recommendations to the relevant school division regarding, among other things,  
98 those individual IEPs for which the IEP team should convene to consider revisions necessary to  
99 incorporate content required by special education regulations. ]*

100 4. Develop and maintain a statewide plan for improving (i) its ongoing oversight of local practices  
101 related to transition planning and services for children with disabilities and (ii) technical assistance and  
102 guidance provided for postsecondary transition planning and services for children with disabilities. At a  
103 minimum, such plan shall articulate how the Department will reliably and comprehensively assess the  
104 compliance and quality of transition plans for children with disabilities on an ongoing basis and  
105 communicate findings to local school division staff and local school boards. The Department shall, no  
106 later than December 1 of each year, update the Chairmen of the Senate Committee on Education and  
107 Health and the House Committee on Education on its progress in implementing such plan.

108 5. Develop and maintain a statewide strategic plan for recruiting and retaining special education  
109 teachers. At a minimum, such plan shall (i) use data analyses to determine the specific staffing needs of  
110 each local school division on an ongoing basis; (ii) evaluate the potential effectiveness of strategies for  
111 addressing recruitment and retention challenges, including tuition assistance, differentiated pay for  
112 special education teachers, and the expansion of special education teacher mentorships; and (iii)  
113 estimate the costs of implementing each such strategy, including the extent to which federal funds could  
114 be used to support implementation. The Department shall, no later than November 1 of each year,  
115 update the Chairmen of the Senate Committee on Education and Health and the House Committee on  
116 Education on its progress in implementing such plan.

117 **§ 22.1-215. School divisions to provide special education; plan to be submitted to Board.**

118 Each school division shall provide free and appropriate education, including special education, for (i)  
119 the children with disabilities residing within its jurisdiction and (ii) the children with disabilities who do  
120 not reside within its jurisdiction but reside in the Commonwealth and are enrolled in a full-time virtual  
121 school program provided by the school division, in accordance with regulations of the Board of

Education. A school division that is required to provide a free and appropriate education, including special education, for a nonresident student who is enrolled in its full-time virtual school program pursuant to this section shall be entitled to any federal and state funds applicable to the education of such student. In the case of a student who is a resident of the Commonwealth but does not reside in the school division in which he is enrolled in a full-time virtual school program, the school division in which the student resides shall be released from the obligation to provide a free and appropriate education, including special education, for such student.

For the purposes of this section, "children with disabilities, residing within its jurisdiction" shall include: (a) those individuals of school age identified as appropriate to be placed in public school programs who are residing in a state facility operated by the Department of Behavioral Health and Developmental Services located within the school division, or (b) those individuals of school age who are Virginia residents and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 as a result of being in the custody of a local department of social services or welfare or being privately placed, not solely for school purposes.

The Board of Education shall promulgate regulations to identify those children placed within facilities operated by the Department of Behavioral Health and Developmental Services who are eligible to be appropriately placed in public school programs.

The cost of the education provided to children residing in state facilities who are appropriate to place within the public schools shall remain the responsibility of the Department of Behavioral Health and Developmental Services. The cost of the education provided to children who are not residents of the Commonwealth and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall be billed to the sending agency or person by the school division as provided in subsection C of § 22.1-5. No school division shall refuse to educate any such child or charge tuition to any such child.

Each school division shall submit to the Board of Education in accordance with the schedule and by the date specified by the Board, a plan acceptable to the Board for such education for the period following and a report indicating the extent to which the plan required by law for the preceding period has been implemented. However, the schedule specified by the Board shall not require plans to be submitted more often than annually unless changes to the plan are required by federal or state law or regulation.

*Each local school division shall complete a self-assessment and action planning instrument addressing inclusion practices, as developed by the Department, once every three years and report the results of the assessment and plans for improvement to the Department, the division's superintendent, the division's special education director, and the chairs of the local school board and local special education advisory committee.*

**§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards. *The Board shall develop and implement statewide requirements for earning an Applied Studies diploma for implementation at the beginning of the 2022-2023 school year.*

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right

183 to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of  
184 Chapter 13.

185 *Each local school board shall provide guidance from the Department of Education to parents of*  
186 *students with disabilities regarding the Applied Studies diploma and its limitations at a student's first*  
187 *individualized education program meeting and in each circumstance when curriculum or testing*  
188 *decisions are being made that will negatively impact a student's ability to obtain a standard diploma.*

189 C. Students who have completed a prescribed course of study as defined by the local school board  
190 shall be awarded certificates of program completion by local school boards if they are not eligible to  
191 receive a Board of Education-approved diploma.

192 Each local school board shall provide notification of the right to a free public education for students  
193 who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1  
194 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve  
195 graduation requirements as provided in the standards for accreditation. If such student who does not  
196 graduate or complete such requirements is a student for whom English is a second language, the local  
197 school board shall notify the parent of the student's opportunity for a free public education in accordance  
198 with § 22.1-5.

199 D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of  
200 Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who  
201 enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a  
202 junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the  
203 Board shall:

204 1. Develop and implement, in consultation with stakeholders representing elementary and secondary  
205 education, higher education, and business and industry in the Commonwealth and including parents,  
206 policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that  
207 identifies the knowledge and skills that students should attain during high school in order to be  
208 successful contributors to the economy of the Commonwealth, giving due consideration to critical  
209 thinking, creative thinking, collaboration, communication, and citizenship.

210 2. Emphasize the development of core skill sets in the early years of high school.

211 3. Establish multiple paths toward college and career readiness for students to follow in the later  
212 years of high school. Each such pathway shall include opportunities for internships, externships, and  
213 credentialing.

214 4. Provide for the selection of integrated learning courses meeting the Standards of Learning and  
215 approved by the Board to satisfy graduation requirements, which shall include Standards of Learning  
216 testing, as necessary.

217 5. Require students to complete at least one course in fine or performing arts or career and technical  
218 education, one course in United States and Virginia history, and two sequential elective courses chosen  
219 from a concentration of courses selected from a variety of options that may be planned to ensure the  
220 completion of a focused sequence of elective courses that provides a foundation for further education or  
221 training or preparation for employment.

222 6. Require that students (i) complete an Advanced Placement, honors, International Baccalaureate, or  
223 dual enrollment course; (ii) complete a high-quality work-based learning experience, as defined by the  
224 Board; or (iii) earn a career and technical education credential that has been approved by the Board,  
225 except when a career and technical education credential in a particular subject area is not readily  
226 available or appropriate or does not adequately measure student competency, in which case the student  
227 shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and  
228 technical education credential, when required, could include the successful completion of an industry  
229 certification, a state licensure examination, a national occupational competency assessment, the Armed  
230 Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment. The  
231 Department of Education shall develop, maintain, and make available to each local school board a  
232 catalogue of the testing accommodations available to English language learners for each such  
233 certification, examination, assessment, and battery. Each local school board shall develop and implement  
234 policies to require each high school principal or his designee to notify each English language learner of  
235 the availability of such testing accommodations prior to the student's participation in any such  
236 certification, examination, assessment, or battery.

237 7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be  
238 trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external  
239 defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary  
240 resuscitation.

241 8. Make provision in its regulations for students with disabilities to earn a diploma.

242 9. Require students to complete one virtual course, which may be a noncredit-bearing course.

243 10. Provide that students who complete elective classes into which the Standards of Learning for any  
244 required course have been integrated and achieve a passing score on the relevant Standards of Learning

test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Armed Services Vocational Aptitude Battery assessments passed, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.

17. Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution.

18. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction after the student has completed the course curriculum and relevant Standards of Learning end-of-course assessment, or Board-approved substitute, provided that such student subsequently receives instruction, coursework, or study toward an industry certification approved by the local school board.

19. Permit any English language learner who previously earned a sufficient score on an Advanced Placement or International Baccalaureate foreign language examination or an SAT II Subject Test in a foreign language to substitute computer coding course credit for any foreign language course credit required to graduate, except in cases in which such foreign language course credit is required to earn an advanced diploma offered by a nationally recognized provider of college-level courses.

20. Permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student that elects to substitute a credit in computer science for credit in world language, his or her school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical

education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics (STEM) for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) relevant coursework; (ii) technical writing, reading, and oral communication skills; (iii) relevant training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

#### **§ 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 guidelines developed pursuant to subsection N or 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 period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework, pass additional assessments, or meet alternative evaluation standards to be fully licensed with a renewable license.

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

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of

teachers and other school personnel required to hold a license. Such regulations shall include procedures for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) written reprimand of license holders on grounds established by the Board, in accordance with law, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

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

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

1. Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

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

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

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

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

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

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the 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;

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; and

8. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

9. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, 6, or 8 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months or, at the discretion of the school board and division superintendent, within six months if the individual has received a satisfactory mid-year performance review in the current school year; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

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

M. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection K, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

N. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

**2. That the Department of Education shall (i) conduct a one-time targeted review of the transition sections of a random sample of students' individualized education program (IEPs) in each local school division; (ii) communicate its findings to each local school division, school board, and local special education advisory committee; and (iii) ensure that local school divisions correct any IEPs that are found to be out of compliance no later than the end of the 2021-2022 school year. The Superintendent of Public Instruction shall submit a letter to the Chairmen of the Senate Committee on Education and Health and the House Committee on Education certifying that school divisions have corrected all instances of noncompliance identified pursuant to such review.**

**3. That the Department of Education shall submit to the Chairmen of the Senate Committee on Education and Health and the House Committee on Education (i) the statewide plan developed pursuant to subdivision 4 of § 22.1-214.4 of the Code of Virginia, as created by this act, no later than December 1, 2022, and (ii) the statewide strategic plan developed pursuant to subdivision 5 of § 22.1-214.4 of the Code of Virginia, as created by this act, no later than November 1, 2021.**

**4. That the Department of Education shall develop guidance, in multiple languages, for students and parents conveying (i) the limitations of the applied studies diploma, (ii) key curriculum and testing decisions that reduce the likelihood that a student will be able to obtain a standard diploma, and (iii) a statement that the pursuit of an applied studies diploma may preclude a student's ability to pursue a standard diploma.**

**5. That the Board of Education shall review and amend its regulations governing general education teacher preparation programs for kindergarten through twelfth grade to ensure graduates are required to demonstrate proficiency in (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.**

**6. That the Board of Education shall review and amend its regulations governing administrator preparation programs to ensure graduates are required to demonstrate comprehension of (i) key special education laws and regulations, (ii) individualized education program development, (iii) the roles and responsibilities of special education teachers, and (iv) appropriate behavior management practices.**

**7. That the Department of Education shall (i) develop criteria for what constitutes "exceptional circumstances" that warrant extension of the 60-calendar day regulatory timeline for complaint investigations and include the criteria in its publicly available complaint resolution procedures, (ii)**

consistently track the Department of Education's receipt of each sufficient complaint and its issuance of the respective letter of findings, and (iii) require staff to report at least quarterly to the Superintendent of Public Instruction on the specific reasons for granting an extension due to "exceptional circumstances" and the amount of time it took to complete each investigation beyond the 60-calendar day regulatory timeline.

8. That the Department of Education shall develop policies and procedures for tracking, investigating, and resolving allegations of violations of special education law and regulations that do not meet the current regulatory standard for state complaints. These policies and procedures shall include expectations and mechanisms for collaboration between the Office of Dispute Resolution and Administrative Services and the Office of Special Education Program Improvement to investigate and resolve alleged violations that do not qualify for state complaint investigations.

9. That the Department of Education shall elevate the position of parent ombudsman for special education to report to the Superintendent of Public Instruction. The parent ombudsman for special education shall systematically track and report questions and concerns raised by parents to the Superintendent of Public Instruction. The Department of Education shall develop a one-page comprehensive summary of the roles and responsibilities of the parent ombudsman for special education, the specific supports the parent ombudsman for special education can provide to parents, and how to contact the parent ombudsman for special education. The Department of Education shall make the summary available in multiple languages on its website.

10. That the Department of Education shall develop and implement a process for systematically auditing and verifying school divisions' self-determinations of compliance with all Individuals with Disabilities Education Act (P.L. 101-476) performance indicators. The verification process shall include a random sample of school divisions each year and ensure that all school divisions' self-determinations are reviewed and verified no less frequently than once every five years.

11. That the Department of Education shall develop and implement a clear and comprehensive plan to improve its approach to monitoring Virginia's special education system on an ongoing basis. The plan shall describe the Department of Education's procedures for effectively determining whether school divisions are complying with state and federal requirements pertaining to (i) identification and eligibility determination processes, (ii) individualized education program development and implementation, (iii) post-secondary transition planning, (iv) inclusion in academic and non-academic experiences and the use of discipline, and (v) special education staffing. The plan shall propose actions to increase monitoring capacity and onsite visits with existing resources and by leveraging available federal funding. The Department of Education shall present its plan to the Senate Committee on Education and Health, the House Committee on Education, and the Joint Legislative Audit and Review Commission no later than November 1, 2021.

12. That the Department of Education shall amend its Individualized Education Program (IEP) Prior Notice and Parent Consent form to include an option for partial parental consent to initial implementation of the IEP.

13. That the requirement that every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students, as set out in § 22.1-298.1 of the Code of Virginia, as amended by the act, shall have a delayed effective date of July 1, 2022.

[ 14. That the Board of Education shall amend its Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81-10 et seq.) to include a provision requiring that, if a school division develops a draft individualized education program (IEP) prior to a scheduled IEP meeting, it shall provide such draft IEP to the parents at least two business days in advance of such IEP meeting. ]