# 2023 SESSION

**ENROLLED** 

1

6 7

## VIRGINIA ACTS OF ASSEMBLY - CHAPTER

An Act to amend and reenact §§ 22.1-253.13:2, as it is currently effective and as it shall become 2 3 effective, and 22.1-291.1:1 of the Code of Virginia and to amend the Code of Virginia by adding a 4 section numbered 22.1-272.2, relating to public education; student mental health and counseling; 5 definitions; licensure requirements.

[S 1043]

#### Approved

Be it enacted by the General Assembly of Virginia: 8

9 1. That §§ 22.1-253.13:2, as it is currently effective and as it shall become effective, and 10 22.1-291.1:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-272.2 as follows: 11

§ 22.1-253.13:2. (For Expiration Date, see 2022 Acts, cc. 549, 550, cl. 2) Standard 2. 12 13 Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, 14 15 and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

16 17 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, 18 19 excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the 20 21 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 22 23 assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 24 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 25 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime 26 the number of students in a class exceeds the class size limit established by this subsection, the local 27 school division shall notify the parent of each student in such class of such fact no later than 10 days 28 after the date on which the class exceeded the class size limit. Such notification shall state the reason 29 that the class size exceeds the class size limit and describe the measures that the local school division 30 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 31 32 ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained 33 classes for pupils with specific learning disabilities.

34 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 35 middle schools and high schools. School divisions shall provide all middle and high school teachers with 36 37 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

38 D. Each local school board shall employ with state and local basic, special education, gifted, and 39 career and technical education funds a minimum number of licensed, full-time equivalent instructional 40 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation 41 act.

42 E. In addition to the positions supported by basic aid and in support of regular school year programs 43 of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be 44 provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K 45 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 46 47 the appropriation act may be used to support programs for educationally at-risk students as identified by 48 the local school boards.

49 To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may 50 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 51 shall only employ instructional personnel licensed by the Board of Education. 52

53 F. In addition to the positions supported by basic aid and those in support of regular school year 54 programs of prevention, intervention, and remediation, state funding, pursuant to the general 55 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 56 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii)

**SB1043ER** 

57 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000
58 students identified as having limited English proficiency, which positions may include dual language
59 teachers who provide instruction in English and in a second language.

60 To provide flexibility in the instruction of English language learners who have limited English 61 proficiency and who are at risk of not meeting state accountability standards, school divisions may use 62 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to 63 identified limited English proficiency students. Using these funds in this manner is intended to 64 65 supplement the instructional services provided in this section. School divisions using the SOO 66 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel 67 licensed by the Board of Education.

68 G. In addition to the full-time equivalent positions required elsewhere in this section, each local 69 school board shall employ the following reading specialists in elementary schools, one full-time in each 70 elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the 71 72 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a 73 related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist 74 shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to 75 help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at 76 different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, 77 explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, 78 and assistive technology supports for students with dyslexia.

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

83 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions84 for any school that reports fall membership, according to student enrollment:

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

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

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

4. School counselors, one full-time equivalent position per 325 students in grades kindergartenthrough 12.

102 However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with 103 104 an allowance for an additional two-year extension with the approval of the division superintendent, any 105 professional licensed by the Board of Counseling, clinical social worker licensed by the Board of Social 106 Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing 107 108 the requirements for full licensure as a school counselor during such period of employment or (ii) in the 109 event that the school board does not receive any application from a licensed school counselor, 110 professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may 111 112 enter into an annual contract with another entity for the provision of school counseling services by a 113 licensed professional counselor, clinical social worker, or psychologist or another licensed counseling 114 professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such 115 individuals to schools within the division according to the area of greatest need, regardless of whether 116 such schools are elementary, middle, or high schools. 117

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

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades
 kindergarten through 12, one to provide technology support and one to serve as an instructional
 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 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. 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 or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. 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. School boards shall, however, annually, on or before December 31, report to the public (i) the 139 140 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 141 142 school division by school for the current school year. Actual pupil/teacher ratios shall include only the 143 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School 144 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any 145 classes funded through the voluntary kindergarten through third grade class size reduction program shall 146 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection 147 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to 148 ensure the confidentiality of all teacher and pupil identities.

149 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 150 relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving 151 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time 152 basis in any mathematics, science, English, history, social science, career and technical education, fine 153 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 154 155 156 school student shall be counted as more than one-half a student for purposes of such pro rata 157 calculation. Such calculation shall not include enrollments of such students in any other public school 158 courses.

O. Each school board shall provide at least three specialized student support positions per 1,000
students. For purposes of this subsection, specialized student support positions include school social
workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior
analysts, and other licensed health and behavioral positions, which may either be employed by the
school board or provided through contracted services.

164 In order to fill vacant school psychologist positions, any local school board may employ, under a 165 provisional license issued by the Department for three school years with an allowance for an additional 166 two-year extension with the approval of the division superintendent, clinical psychologists licensed by 167 the Board of Psychology, provided that any such individual makes progress toward completing the 168 requirements for full licensure as a school psychologist during such period of employment.

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.

171 For the purposes of this title, unless the context otherwise requires, "support services positions" shall172 include the following:

173 1. Executive policy and leadership positions, including school board members, superintendents and174 assistant superintendents;

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

176 3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to

179 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in 180 subsection O;

4. Instructional personnel support, including professional development positions and library and 181 182 media positions not included in subdivision H 3;

183 5. Technology professional positions not included in subsection J;

184 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions; 185

186 7. Technical and clerical positions for fiscal and human resources, student support, instructional 187 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 188 189 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 190 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in 191 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and 192 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 193 194 schools within the division according to the area of greatest need, regardless of whether such schools are 195 elementary, middle, or secondary.

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

197 School divisions may use the state and local funds for support services to provide additional 198 instructional services.

199 O. Notwithstanding the provisions of this section, when determining the assignment of instructional 200 and other licensed personnel in subsections C through J, a local school board shall not be required to 201 include full-time students of approved virtual school programs.

202 § 22.1-253.13:2. (For Effective Date, see 2022 Acts, cc. 549, 550, cl. 2) Standard 2. Instructional, 203 administrative, and support personnel.

204 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, 205 and other professional personnel. 206

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

207 C. Each school board shall assign licensed instructional personnel in a manner that produces 208 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, 209 excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the 210 following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average 211 212 daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be 213 assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 214 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 215 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime 216 the number of students in a class exceeds the class size limit established by this subsection, the local 217 school division shall notify the parent of each student in such class of such fact no later than 10 days 218 after the date on which the class exceeded the class size limit. Such notification shall state the reason 219 that the class size exceeds the class size limit and describe the measures that the local school division 220 will take to reduce the class size to comply with this subsection.

221 Within its regulations governing special education programs, the Board shall seek to set pupil/teacher 222 ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained 223 classes for pupils with specific learning disabilities.

224 Further, school boards shall assign instructional personnel in a manner that produces schoolwide 225 ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in 226 middle schools and high schools. School divisions shall provide all middle and high school teachers with 227 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

228 D. Each local school board shall employ with state and local basic, special education, gifted, and 229 career and technical education funds a minimum number of licensed, full-time equivalent instructional 230 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation 231 act.

232 E. In addition to the positions supported by basic aid and in support of regular school year programs 233 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 234 through 12 who are identified as needing prevention, intervention, and remediation services. State 235 236 funding for prevention, intervention, and remediation programs provided pursuant to this subsection and 237 the appropriation act may be used to support programs for educationally at-risk students as identified by 238 the local school boards.

239 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 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language 24 teachers who provide instruction in English and in a second language.

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

258 G. In addition to the full-time equivalent positions required elsewhere in this section, each local 259 school board shall employ one reading specialist for each 550 students in kindergarten through grade 260 three. Each such reading specialist shall have training in science-based reading research and 261 evidence-based literacy instruction practices. In addition, each such reading specialist shall have training 262 in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related 263 264 disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a 265 working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) 266 dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and 267 268 (iv) appropriate interventions, accommodations, and assistive technology supports for students with 269 dyslexia.

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

H. Each local school board shall employ, at a minimum, the following full-time equivalent positionsfor any school that reports fall membership, according to student enrollment:

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

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

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

4. School counselors, one full-time equivalent position per 325 students in grades kindergartenthrough 12.

293 However, in order to meet the staffing requirements set forth in this subdivision, any local school 294 board (i) may employ, under a provisional license issued by the Department for three school years with 295 an allowance for an additional two-year extension with the approval of the division superintendent, any 296 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board 297 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling 298 professional with appropriate experience and training, provided that any such individual makes progress 299 toward completing the requirements for full licensure as a school counselor during such period of 300 employment or (ii) in the event that the school board does not receive any application from a licensed

301 school counselor, professional counselor, clinical social worker, or psychologist or another licensed 302 counseling professional with appropriate experience and training to fill a school counselor vacancy in the 303 school division, may enter into an annual contract with another entity for the provision of school 304 counseling services by a licensed professional counselor, clinical social worker, or psychologist or 305 another licensed counseling professional with appropriate experience and training. Local school boards 306 that employ a sufficient number of individuals to meet the staffing requirements set forth in this 307 subdivision may assign such individuals to schools within the division according to the area of greatest 308 need, regardless of whether such schools are elementary, middle, or high schools.

309 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades310 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades
 kindergarten through 12, one to provide technology support and one to serve as an instructional
 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 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. 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 or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. 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.

330 M. School boards shall, however, annually, on or before December 31, report to the public (i) the 331 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the 332 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 333 334 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School 335 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any 336 classes funded through the voluntary kindergarten through third grade class size reduction program shall 337 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 338 339 ensure the confidentiality of all teacher and pupil identities.

340 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 341 relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving 342 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time 343 basis in any mathematics, science, English, history, social science, career and technical education, fine 344 arts, foreign language, or health education or physical education course shall be counted in the ADM in 345 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course 346 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home 347 school student shall be counted as more than one-half a student for purposes of such pro rata 348 calculation. Such calculation shall not include enrollments of such students in any other public school 349 courses.

O. Each school board shall provide at least three specialized student support positions per 1,000
students. For purposes of this subsection, specialized student support positions include school social
workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior
analysts, and other licensed health and behavioral positions, which may either be employed by the
school board or provided through contracted services.

In order to fill vacant school psychologist positions, any local school board may employ, under a
provisional license issued by the Department for three school years with an allowance for an additional
two-year extension with the approval of the division superintendent, clinical psychologists licensed by
the Board of Psychology, provided that any such individual makes progress toward completing the
requirements for full licensure as a school psychologist during such period of employment.

360 P. Each local school board shall provide those support services that are necessary for the efficient361 and cost-effective operation and maintenance of its public schools.

## 7 of 14

362 For the purposes of this title, unless the context otherwise requires, "support services positions" shall 363 include the following:

364 1. Executive policy and leadership positions, including school board members, superintendents and 365 assistant superintendents:

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

367 3. Student support positions, including (i) social work administrative positions not included in 368 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) 369 homebound administrative positions supporting instruction; (iv) attendance support positions related to 370 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in 371 subsection O;

372 4. Instructional personnel support, including professional development positions and library and 373 media positions not included in subdivision H 3;

374 5. Technology professional positions not included in subsection J;

375 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation 376 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 377 378 personnel support, operation and maintenance, administration, and technology; and

379 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 380 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 381 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in 382 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and 383 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of 384 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to 385 schools within the division according to the area of greatest need, regardless of whether such schools are 386 elementary, middle, or secondary.

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

388 School divisions may use the state and local funds for support services to provide additional 389 instructional services.

390 Q. Notwithstanding the provisions of this section, when determining the assignment of instructional 391 and other licensed personnel in subsections C through J, a local school board shall not be required to 392 include full-time students of approved virtual school programs.

393 § 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for Expiration Date, see Acts 394 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

395 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, 396 and other professional personnel. 397

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

398 C. Each school board shall assign licensed instructional personnel in a manner that produces 399 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, 400 excluding special education teachers, principals, assistant principals, school counselors or certain other 401 licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the 402 following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average 403 daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be 404 assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 405 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 406 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime 407 the number of students in a class exceeds the class size limit established by this subsection, the local 408 school division shall notify the parent of each student in such class of such fact no later than 10 days 409 after the date on which the class exceeded the class size limit. Such notification shall state the reason 410 that the class size exceeds the class size limit and describe the measures that the local school division 411 will take to reduce the class size to comply with this subsection.

412 Within its regulations governing special education programs, the Board shall seek to set pupil/teacher 413 ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained 414 classes for pupils with specific learning disabilities.

415 Further, school boards shall assign instructional personnel in a manner that produces schoolwide 416 ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in 417 middle schools and high schools. School divisions shall provide all middle and high school teachers with 418 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

419 D. Each local school board shall employ with state and local basic, special education, gifted, and 420 career and technical education funds a minimum number of licensed, full-time equivalent instructional 421 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation 422 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 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

441 To provide flexibility in the instruction of English language learners who have limited English 442 proficiency and who are at risk of not meeting state accountability standards, school divisions may use 443 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to 444 employ additional English language learner teachers or dual language teachers to provide instruction to 445 identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ 446 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel 447 448 licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local 449 450 school board shall employ the following reading specialists in elementary schools, one full-time in each 451 elementary school at the discretion of the local school board. One reading specialist employed by each 452 local school board that employs a reading specialist shall have training in the identification of and the 453 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a 454 related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist 455 shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to 456 help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at 457 different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, 458 explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, 459 and assistive technology supports for students with dyslexia.

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

464 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions465 for any school that reports fall membership, according to student enrollment:

466 1. Principals, one full-time in each elementary school, middle school, and high school, to be467 employed on a 12-month basis;

468 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900
469 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals
470 in high schools, one full-time for each 600 students; and school divisions that employ a sufficient
471 number of assistant principals to meet this staffing requirement may assign assistant principals to schools are
473 elementary, middle, or secondary;

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

480 4. School counselors, one full-time equivalent position per 325 students in grades kindergarten481 through 12.

482 However, in order to meet the staffing requirements set forth in this subdivision, any local school483 board (i) may employ, under a provisional license issued by the Department for three school years with

484 an allowance for an additional two-year extension with the approval of the division superintendent, any 485 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling 486 487 professional with appropriate experience and training, provided that any such individual makes progress 488 toward completing the requirements for full licensure as a school counselor during such period of 489 employment or (ii) in the event that the school board does not receive any application from a licensed 490 school counselor, professional counselor, clinical social worker, or psychologist or another licensed 491 counseling professional with appropriate experience and training to fill a school counselor vacancy in the 492 school division, may enter into an annual contract with another entity for the provision of school 493 counseling services by a licensed professional counselor, clinical social worker, or psychologist or 494 another licensed counseling professional with appropriate experience and training. Local school boards 495 that employ a sufficient number of individuals to meet the staffing requirements set forth in this 496 subdivision may assign such individuals to schools within the division according to the area of greatest 497 need, regardless of whether such schools are elementary, middle, or high schools.

498 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades499 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

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

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

L. 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 or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. 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.

519 M. School boards shall, however, annually, on or before December 31, report to the public (i) the 520 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the 521 current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local 522 school division by school for the current school year. Actual pupil/teacher ratios shall include only the 523 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School 524 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any 525 classes funded through the voluntary kindergarten through third grade class size reduction program shall 526 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection 527 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to 528 ensure the confidentiality of all teacher and pupil identities.

529 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 530 relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving 531 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time 532 basis in any mathematics, science, English, history, social science, career and technical education, fine 533 arts, foreign language, or health education or physical education course shall be counted in the ADM in 534 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course 535 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home 536 school student shall be counted as more than one-half a student for purposes of such pro rata 537 calculation. Such calculation shall not include enrollments of such students in any other public school 538 courses.

539 O. Each school board shall provide at least three specialized student support positions per 1,000
540 students. For purposes of this subsection, specialized student support positions include school social
541 workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior
542 analysts, and other licensed health and behavioral positions, which may either be employed by the
543 school board or provided through contracted services.

544 In order to fill vacant school psychologist positions, any local school board may employ, under a

545 provisional license issued by the Department for three school years with an allowance for an additional 546 two-year extension with the approval of the division superintendent, clinical psychologists licensed by 547 the Board of Psychology, provided that any such individual makes progress toward completing the 548 requirements for full licensure as a school psychologist during such period of employment.

549 P. Each local school board shall provide those support services that are necessary for the efficient 550 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 551 552 include the following:

553 1. Executive policy and leadership positions, including school board members, superintendents and 554 assistant superintendents; 555

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

556 3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) 557 558 homebound administrative positions supporting instruction; (iv) attendance support positions related to 559 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in 560 subsection O;

4. Instructional personnel support, including professional development positions and library and 561 562 media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

563

564 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation 565 and maintenance professional and service positions; and security service, trade, and laborer positions;

566 7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and 567

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 568 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 569 570 600 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 571 572 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of 573 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to 574 schools within the division according to the area of greatest need, regardless of whether such schools are 575 elementary, middle, or secondary. 576

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

577 School divisions may use the state and local funds for support services to provide additional 578 instructional services.

579 Q. Notwithstanding the provisions of this section, when determining the assignment of instructional 580 and other licensed personnel in subsections C through J, a local school board shall not be required to 581 include full-time students of approved virtual school programs.

§ 22.1-253.13:2. (Effective pursuant to Va. Const, Art. IV, 13; for Effective Date, see Acts 2022, 582 cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel. 583

584 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, 585 and other professional personnel. 586

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

587 C. Each school board shall assign licensed instructional personnel in a manner that produces 588 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, 589 excluding special education teachers, principals, assistant principals, school counselors or certain other 590 licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the 591 following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average 592 daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be 593 assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 594 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 595 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime 596 the number of students in a class exceeds the class size limit established by this subsection, the local 597 school division shall notify the parent of each student in such class of such fact no later than 10 days 598 after the date on which the class exceeded the class size limit. Such notification shall state the reason 599 that the class size exceeds the class size limit and describe the measures that the local school division 600 will take to reduce the class size to comply with this subsection.

601 Within its regulations governing special education programs, the Board shall seek to set pupil/teacher 602 ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained 603 classes for pupils with specific learning disabilities.

604 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 605

## 11 of 14

606 middle schools and high schools. School divisions shall provide all middle and high school teachers with607 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

608 D. Each local school board shall employ with state and local basic, special education, gifted, and
609 career and technical education funds a minimum number of licensed, full-time equivalent instructional
610 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
611 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.

619 To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may
620 employ mathematics teacher specialists to provide the required algebra readiness intervention services.
621 School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner
622 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 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

630 To provide flexibility in the instruction of English language learners who have limited English 631 proficiency and who are at risk of not meeting state accountability standards, school divisions may use 632 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to 633 employ additional English language learner teachers or dual language teachers to provide instruction to 634 identified limited English proficiency students. Using these funds in this manner is intended to 635 supplement the instructional services provided in this section. School divisions using the SOQ 636 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel 637 licensed by the Board of Education.

638 G. In addition to the full-time equivalent positions required elsewhere in this section, each local 639 school board shall employ one reading specialist for each 550 students in kindergarten through grade 640 three. Each such reading specialist shall have training in science-based reading research and 641 evidence-based literacy instruction practices. In addition, each such reading specialist shall have training 642 in the identification of and the appropriate interventions, accommodations, and teaching techniques for 643 students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related 644 disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a 645 working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) **646** dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and 647 648 (iv) appropriate interventions, accommodations, and assistive technology supports for students with 649 dyslexia.

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

654 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions 655 for any school that reports fall membership, according to student enrollment:

656 1. Principals, one full-time in each elementary school, middle school, and high school, to be 657 employed on a 12-month basis;

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

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students,

two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to
meet this staffing requirement may assign librarians to schools within the division according to the area
of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

670 4. School counselors, one full-time equivalent position per 325 students in grades kindergarten 671 through 12.

672 However, in order to meet the staffing requirements set forth in this subdivision, any local school 673 board (i) may employ, under a provisional license issued by the Department for three school years with 674 an allowance for an additional two-year extension with the approval of the division superintendent, any 675 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board 676 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling 677 professional with appropriate experience and training, provided that any such individual makes progress 678 toward completing the requirements for full licensure as a school counselor during such period of 679 employment or (ii) in the event that the school board does not receive any application from a licensed **680** school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the 681 682 school division, may enter into an annual contract with another entity for the provision of school 683 counseling services by a licensed professional counselor, clinical social worker, or psychologist or 684 another licensed counseling professional with appropriate experience and training. Local school boards 685 that employ a sufficient number of individuals to meet the staffing requirements set forth in this **686** subdivision may assign such individuals to schools within the division according to the area of greatest **687** need, regardless of whether such schools are elementary, middle, or high schools.

688 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades689 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

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

693 To provide flexibility, school divisions may use the state and local funds for instructional technology 694 resource teachers to employ a data coordinator position, an instructional technology resource teacher 695 position, or a data coordinator/instructional resource teacher blended position. The data coordinator 696 position is intended to serve as a resource to principals and classroom teachers in the area of data 697 analysis and interpretation for instructional and school improvement purposes, as well as for overall data 698 management and administration of state assessments. School divisions using these funds in this manner 699 shall employ only instructional personnel licensed by the Board of Education.

K. 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. 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 or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. 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.

709 M. School boards shall, however, annually, on or before December 31, report to the public (i) the 710 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the 711 current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local 712 school division by school for the current school year. Actual pupil/teacher ratios shall include only the 713 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School 714 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any 715 classes funded through the voluntary kindergarten through third grade class size reduction program shall 716 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection 717 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to 718 ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 719 720 relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving 721 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time 722 basis in any mathematics, science, English, history, social science, career and technical education, fine 723 arts, foreign language, or health education or physical education course shall be counted in the ADM in 724 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course 725 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home 726 school student shall be counted as more than one-half a student for purposes of such pro rata 727 calculation. Such calculation shall not include enrollments of such students in any other public school

## 13 of 14

728 courses.

729 O. Each school board shall provide at least three specialized student support positions per 1,000 730 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior 731 732 analysts, and other licensed health and behavioral positions, which may either be employed by the 733 school board or provided through contracted services.

734 In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional 735 736 two-year extension with the approval of the division superintendent, clinical psychologists licensed by 737 the Board of Psychology, provided that any such individual makes progress toward completing the 738 requirements for full licensure as a school psychologist during such period of employment.

739 P. Each local school board shall provide those support services that are necessary for the efficient 740 and cost-effective operation and maintenance of its public schools.

741 For the purposes of this title, unless the context otherwise requires, "support services positions" shall 742 include the following:

743 1. Executive policy and leadership positions, including school board members, superintendents and 744 assistant superintendents; 745

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

746 3. Student support positions, including (i) social work administrative positions not included in 747 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) 748 homebound administrative positions supporting instruction; (iv) attendance support positions related to 749 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in 750 subsection O;

751 4. Instructional personnel support, including professional development positions and library and 752 media positions not included in subdivision H 3; 753

5. Technology professional positions not included in subsection J;

754 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation 755 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 756 757 personnel support, operation and maintenance, administration, and technology; and

758 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 759 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 760 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in 761 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and 762 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of 763 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 764 765 elementary, middle, or secondary.

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

767 School divisions may use the state and local funds for support services to provide additional 768 instructional services.

769 Q. Notwithstanding the provisions of this section, when determining the assignment of instructional 770 and other licensed personnel in subsections C through J, a local school board shall not be required to 771 include full-time students of approved virtual school programs.

#### 772 § 22.1-272.2. Department; model memorandum of understanding; partnerships with community 773 mental health services providers.

774 The Department, in consultation with the Department of Behavioral Health and Developmental 775 Services and the Department of Medical Assistance Services, shall develop, adopt, and distribute to each 776 school board a model memorandum of understanding between a school board and a public or private 777 community mental health services provider that sets forth parameters for the provision of mental health 778 services to public school students enrolled in the local school division by such provider, reflects effective 779 practices, and addresses privacy considerations related to the exchange of information between the 780 parties to the memorandum of understanding and relevant laws and regulations. The Department shall 781 maintain and update as necessary the model memorandum of understanding to ensure that it remains 782 current, useful, and relevant.

#### 783 § 22.1-291.1:1. School counselors; staff time.

784 A. As used in this section:

"Appraisal and advisement" means the act of assisting students in exploring their abilities, interests, 785 786 skills, and achievement to make decisions and develop immediate and long-range goals and plans.

787 "Consultation, collaboration, and referrals" means the act of (i) providing information to and receiving information from individuals or teams to support a student's needs; (ii) working and 788

789 communicating with parents, teachers, administrators, other school staff, and community stakeholders to
790 (a) promote achievement for a specific student or (b) promote systemic change to address the needs of
791 groups of underserved or underrepresented groups of students; and (iii) referring students to outside
792 providers and resources as necessary.

793 "Crisis counseling" means the act of providing counseling to individual students or small groups of 794 students to help such students navigate critical situations such as emergencies and crises.

795 "Direct counseling" means school counseling curriculum lessons and activities, individual counseling,
 796 small group counseling, crisis counseling, appraisal and advisement, and consultation, collaboration,
 797 and referrals. "Direct counseling" does not include program planning and school support.

798 "Individual counseling" means the act of providing developmentally appropriate, goal-focused, and
 799 brief counseling sessions to individual students to address issues relating to mental health and wellness,
 800 social and emotional development, academic achievement, and college and career readiness.

801 "Program planning and school support" means the act of defining, planning, managing, and
802 assessing school counseling activities. "Program planning and school support" includes the act of
803 reviewing data, creating annual student outcome goals, creating action plans and results reports,
804 holding annual administrative conferences, monitoring use-of-time, creating annual and weekly
805 calendars, and facilitating school counseling advisory councils.

806 "School counseling curriculum lessons and activities" means the act of providing data-informed
 807 lessons or activities at the classroom level or on a schoolwide basis to provide students with the
 808 knowledge, attitudes, and skills appropriate for their developmental levels.

809 "Small group counseling" means the act of providing counseling to small groups of students with
810 similar developmental or situational challenges with the goal of improving achievement, attendance,
811 mental health or wellness, or behavioral outcomes.

812 B. Each school counselor employed by a school board in a public elementary or secondary school
813 shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of
814 individual students or groups of students and may spend up to 20 percent of his staff time during
815 normal school hours on program planning and school support.

816
2. That the Department of Education shall develop and make available to each local school board
817 the model memorandum of understanding required by § 22.1-272.2 of the Code of Virginia, as
818 created by this act, no later than the beginning of the 2023-2024 school year.

819 3. That the Department of Education shall consult the Virginia Academy of School Psychologists, 820 and other stakeholders as necessary, to ensure that the process and criteria for provisionally 821 licensed school psychologists to obtain full licensure as school psychologists appropriately address 822 the challenges that are unique to school psychology training requirements and the school 823 psychology profession generally.