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SENATE BILL NO. 1199

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact §§ 22.1-79.3 and 22.1-253.13:7 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 22.1-1.1 and 22.1-16.9, relating to public education; parental rights to educational transparency.*

Patron—Reeves

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-79.3 and 22.1-253.13:7 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 22.1-1.1 and 22.1-16.9 as follows:

§ 22.1-1.1. Parental rights to educational transparency.

A. As used in this section, unless the context requires a different meaning:

"Instructional materials" means any instructional content that is distributed, displayed, exhibited, or otherwise provided to a student, whether in print, audiovisual, electronic, or digital format. "Instructional materials" includes any teacher's manuals, films, tapes, or other supplementary materials used in connection with or as a part of any program or course of instruction, survey, analysis, or evaluation.

"Printed or audiovisual material" means any material purchased by, donated to, or otherwise made available to a public elementary or secondary school that is available in a print format, including books, periodicals, newspapers, and documents, or available in a nonprint format, including recordings of sound or images and other multimedia or digital sources.

"Textbooks" means print or electronic media for student use that serve as the primary curriculum basis for a grade-level subject or course.

B. In accordance with the fundamental right of any parent to direct the care, upbringing, and education of his child set forth in § 1-240.1 and protected under the United States Constitution, the parent of any student enrolled in a public school in the Commonwealth shall have the right to a reasonable expectation of transparency in his child's education, including the right to:

1. Access, assess, and exercise discretionary authority over any educational curricula and instructional materials to which his child may be exposed, pursuant to 8VAC20-720-160 and §§ 22.1-16.9 and 22.1-79.3, including the right to (i) access a full list of and, upon request, fully inspect and review any printed or audiovisual instructional materials used as a part of the educational curriculum or available in any class or course in which his child is enrolled and (ii) opt his child out of any class or course activity, lesson, assignment, or use of any printed or audiovisual instructional material to which the parent objects;

2. Participate in the textbook approval and selection process, in accordance with 8VAC20-720-170 and § 22.1-253.13:7, including the right to (i) receive notice when textbooks under consideration for approval will be listed on the school division's website and be made available at designated locations for review; (ii) access a list of criteria the local school board uses to evaluate textbooks under consideration for approval; (iii) review any textbooks under consideration for approval and have the opportunity to present his comments, if any, to the local school board; and (iv) request that the local school board reconsider the selection of any such textbook pursuant to § 22.1-16.9;

3. Awareness and informed consent relating to any counseling or guidance program offered to his child by the school in which his child is enrolled, in accordance with 8VAC20-620-10, including the right to (i) receive annual notice about any counseling or guidance program available to his child, including a general description of the program, an explanation of its purpose, information on how the parent can review any materials to be used in such program, and procedures by which the parent may limit his child's participation in such program, and (ii) opt his child out of participation in any counseling program to which the parent objects;

4. Easily access his child's education records pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232(g)) and § 22.1-287;

5. Receive written notice of any school-sponsored field trip, activity, school assembly, school-sponsored presentation by a guest lecturer or outside speaker, or any other school or school-sponsored event at which his child's attendance or the attendance of a class in which his child is enrolled is invited, including a clear opt-out provision, no less than 30 days prior to such

59 school-sponsored field trip, activity, assembly, presentation, or event, pursuant to 8VAC20-110-50;

60 6. In accordance with subsections B, C, and D of § 22.1-79.3, receive notice of any questionnaire or
61 survey to be administered to his child during the regular school day or at a school-sponsored event no
62 less than 30 days in advance of the administration of such questionnaire or survey and (i) give
63 informed, written consent to his child's participation in such questionnaire or survey if such
64 participation may subsequently result in the sale for commercial purposes of personal information
65 regarding the individual student; (ii) review the questionnaire or survey and exempt his child from
66 participation if such questionnaire or survey requests any student to provide any information relating to
67 student medical or health details, student health risk behaviors, controlled substance use, or any other
68 information that the school board deems to be sensitive in nature; or (iii) review, upon request, any
69 such questionnaire or survey to ensure that it does not require his child to reveal any of the information
70 prohibited by subsection D of § 22.1-79.3;

71 7. Receive advance notice of and attend any public meeting of the local school board pursuant to
72 § 2.2-3707;

73 8. In accordance with §§ 22.1-90 and 22.1-92, review the annual school division budget and
74 expenditures; and

75 9. Petition the circuit court having jurisdiction over the local school division to review an action of
76 the school board if the parent is aggrieved by an action of the school board, pursuant to § 22.1-87.

77 **§ 22.1-16.9. Instructional material; parental review; policies and procedures.**

78 A. As used in this section, "printed or audiovisual material" means the same as that term is defined
79 in § 22.1-1.1.

80 B. The Department shall develop and make available to each local school board model policies and
81 procedures to ensure compliance with the parental right to review and exempt his child from, upon
82 request, any printed or audiovisual instructional materials used as part of the educational curriculum in
83 any class or course in which his child is enrolled, in accordance with subsection B of § 22.1-1.1. Such
84 model policies shall include model procedures for:

85 1. Providing a parent, upon request, a complete copy and description of any printed or audiovisual
86 materials to be used as a part of the educational curriculum in any class or course in which his child is
87 enrolled;

88 2. Ensuring that audiovisual materials are made available to parents for in-person viewing, upon
89 request, on the same basis as printed materials are made available; and

90 3. Defining the process by which a parent may (i) seek reconsideration of the local school board's
91 selection of any instructional materials, (ii) limit his child's participation in any instruction or lesson
92 using any such instructional materials, and (iii) exempt his child from participating in any instruction or
93 lesson using any such instructional materials.

94 C. Each local school board shall adopt policies that are consistent with but may be more
95 comprehensive than the model policies developed by the Department pursuant to subsection B. Each
96 local school board shall make publicly available on its official website clear descriptions of the
97 procedures developed and implemented pursuant to the policies adopted in accordance with this section.

98 **§ 22.1-79.3. Policies regarding certain activities.**

99 A. Local school boards shall develop and implement policies to ensure that public school students
100 are not required to convey or deliver any materials that (i) advocate the election or defeat of any
101 candidate for elective office, (ii) advocate the passage or defeat of any referendum question, or (iii)
102 advocate the passage or defeat of any matter pending before a local school board, local governing body
103 or the General Assembly of Virginia or the Congress of the United States.

104 Nothing in this subsection shall be construed to prohibit the discussion or use of political or
105 issue-oriented materials as part of classroom discussions or projects or to prohibit the delivery of
106 informational materials.

107 B. Local school boards shall develop and implement policies to prohibit the administration of
108 questionnaires or surveys to public school students during the regular school day or at school-sponsored
109 events without notifying the parent of each student concerning the administration of such questionnaire
110 or survey in writing not less than 30 days prior to its administration and obtaining written, informed
111 parental consent for the student's participation when participation in such questionnaire or survey may
112 subsequently result in the sale for commercial purposes of personal information regarding the individual
113 student.

114 C. In any case in which a questionnaire or survey requesting that students provide ~~sexual~~
115 ~~information, mental health information,~~ medical information, information ~~on~~ relating to student health or
116 student health risk behaviors pursuant to § 32.1-73.8, other information on controlled substance use, or
117 any other information that the school board deems to be sensitive in nature is to be administered, the
118 school board shall notify the parent concerning the administration of such questionnaire or survey in
119 writing not less than 30 days prior to its administration. The notice shall inform the parent regarding the
120 nature and types of questions included in the questionnaire or survey, the purposes and

age-appropriateness of the questionnaire or survey, how information collected by the questionnaire or survey will be used, who will have access to such information, the steps that will be taken to protect student privacy, and whether and how any findings or results will be disclosed. In any case in which a questionnaire or survey is required by state law or is requested by a state agency, the relevant state agency shall provide the school board with all information required to be included in the notice to parents. The parent shall have the right to review the questionnaire or survey in a manner mutually agreed upon by the school and the parent and exempt his child from participating in the questionnaire or survey. Unless required by federal or state law or regulation, school personnel administering any such questionnaire or survey shall not disclose personally identifiable information.

D. No questionnaire or survey ~~requesting that students provide sexual information~~ shall be administered to any student in *any grade level*, kindergarten through grade ~~six~~ 12, *that requests students to provide or reveal any information relating to the following:*

1. *The political affiliations or beliefs of such student or such student's parents;*
2. *Any mental or psychological conditions of such student, such student's parents, or such student's family;*

3. *Such student's sexual behaviors or attitudes;*

4. *Any illegal, antisocial, self-incriminating, or demeaning behavior;*

5. *Critical appraisals of other individuals with whom such student has a close family relationship;*

6. *Legally privileged or protected relationships, such as relationships with lawyers, physicians, or religious clergy or leaders;*

7. *Religious practices, affiliations, or beliefs of such child or such child's family; or*

8. *Income, other than that required by law to determine eligibility or participation in a program or receipt of financial assistance under such program.*

E. Local school boards shall develop and implement policies to advise the parent of each student enrolled in the school division of the availability of information in the Sex Offender and Crimes Against Minors Registry and the location of the website. Local school boards shall also develop protocols governing the release of children to persons who are not their parent.

F. No local school board providing access and opportunity to use school facilities or to distribute literature may deny equal access or fair opportunity to use such school facilities or to distribute literature, or otherwise discriminate against the Boy Scouts of America or the Girl Scouts of the USA.

Nothing in this subsection shall be construed to require any school or school division to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from school board policies governing access to and use of school facilities and distribution of literature.

G. Local school boards shall develop and implement policies to allow a parent of twins or higher order multiples in the same grade level to request that the children be placed in the same classroom or in separate classrooms if they are at the same elementary school. Such policies shall also provide that (i) schools may recommend classroom placement to the parent; (ii) schools must provide the placement requested by the children's parent, unless the division superintendent or his designee makes a classroom placement determination following the school principal's request in accordance with this subsection; (iii) a parent must request the classroom placement no later than three days after the first day of each school year or three days after the first day of attendance of the children during a school year; and (iv) at the end of the initial grading period, if the school principal, in consultation with the children's classroom teacher, determines that the requested classroom placement is disruptive to the school or is harmful to the children's educational progress, the school principal may request that the division superintendent or his designee determine the children's classroom placement.

H. Local school boards may adopt and implement policies pursuant to which electronic records and electronic signatures may be accepted from any parent, guardian, or other person having control or charge of a child enrolled in the relevant school division, provided such policies are consistent with the provisions of Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1.

I. Local school boards ~~may~~ *shall* develop a single, standardized form to obtain parental consent for the release of student data. ~~If developed by the local school board, such~~ *Such* form shall be used by Community Policy and Management Teams and the Departments of Health, Social Services, Juvenile Justice, and Behavioral Health and Developmental Services.

§ 22.1-253.13:7. Standard 7. School board policies.

A. Each local school board shall develop policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee.

B. Each local school board shall maintain and follow up-to-date policies. All school board policies shall be reviewed at least every five years and revised as needed.

C. Each local school board shall ensure that policies are developed giving consideration to the views of teachers, parents, and other concerned citizens and addressing the following:

1. A system of two-way communication between employees and the local school board and its

182 administrative staff whereby matters of concern can be discussed in an orderly and constructive manner;
183 2. The selection and evaluation of all instructional materials purchased by the school division, with
184 clear procedures for handling challenged controversial materials;
185 3. The standards of student conduct and attendance and enforcement procedures designed to provide
186 that public education be conducted in an atmosphere free of disruption and threat to persons or property
187 and supportive of individual rights;
188 4. School-community communications and community involvement;
189 5. Guidelines to encourage parents to provide instructional assistance to their children in the home,
190 which may include voluntary training for the parents of children in grades K through three;
191 6. Information about procedures for addressing concerns with the school division and recourse
192 available to parents pursuant to § 22.1-87;
193 7. A cooperatively developed procedure for personnel evaluation appropriate to tasks performed by
194 those being evaluated; ~~and~~
195 8. Grievances, dismissals, etc., of teachers, and the implementation procedure prescribed by the
196 General Assembly and the Board of Education, as provided in Article 3 (§ 22.1-306 et seq.) of Chapter
197 15, and the maintenance of copies of such procedures; *and*
198 9. *Any moral and character education, as required by §§ 22.1-208 and 22.1-208.01, provided in*
199 *each school division, including providing full disclosure to parents consistent with the federal Protection*
200 *of Pupil Rights Amendment (20 U.S.C. § 1232h) relating to the development of the curriculum and the*
201 *selection of any instructional materials and educational technology used.*
202 D. A current copy of all school division policies and regulations approved by the local school board,
203 including the Student Conduct Policy, shall be posted on the division's website and shall be available to
204 employees and to the public. School boards shall ensure that printed copies of such policies and
205 regulations are available as needed to citizens who do not have online access.
206 E. An annual announcement shall be made in each division at the beginning of the school year and,
207 for parents of students enrolling later in the academic year, at the time of enrollment, advising the public
208 that the policies are available in such places.
209 **2. That the Board of Education shall develop, revise, and adopt any regulations necessary to**
210 **effectuate the provisions of this act.**