

VIRGINIA ACTS OF ASSEMBLY -- 1997 RECONVENED SESSION

CHAPTER 828

An Act to amend and reenact §§ 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:4, 22.1-254, and 22.1-254.01 of the Code of Virginia, relating to remediation programs.

[H 1859]

Approved April 2, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:1, 22.1-253.13:2, 22.1-253.13:4, 22.1-254, and 22.1-254.01 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:1. Standard 1. Basic skills, selected programs, and instructional personnel.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to develop the skills that are necessary for success in school and preparation for life, and find that the quality of education is dependent upon the provision of the appropriate working environment, benefits, and salaries necessary to ensure the availability of high quality instructional personnel and adequate commitment of other resources.

B. The Board of Education shall establish educational objectives to implement the development of the skills that are necessary for success in school and for preparation for life in the years beyond. The current educational objectives, known as the Standards of Learning, shall not be construed to be regulations as defined in § 9-6.14:4; however, the Board of Education may, from time to time, revise these educational objectives. In order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing new educational objectives. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise these educational objectives in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of these educational objectives.

The Board shall seek to ensure that any revised educational objectives are consistent with the world's highest educational standards. However, no revisions shall be implemented prior to July 1, 1994. These objectives shall include, but not be limited to, basic skills of communication, computation and critical reasoning including problem solving and decision making, and the development of personal qualities such as self-esteem, sociability, self-management, integrity, and honesty. School boards shall implement these objectives or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives utilized by the school division at appropriate age or grade levels. With such funds as are available for this purpose, the Board of Education may prescribe assessment methods to determine the level of achievement of these objectives by all students.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 which emphasizes reading, writing, speaking, mathematical concepts and computations, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of history, economics, government, foreign languages, international cultures, health, environmental issues and geography necessary for responsible participation in American society and in the international community; fine arts and practical arts; knowledge and skills needed to qualify for further education and employment or, in the case of some handicapped children, to qualify for appropriate training; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at-risk including, but not limited to, those whose scores are in the bottom national quartile on Virginia State Assessment Program Tests, or who do not pass the literacy ~~test~~ tests prescribed by the Board of Education. *Such programs shall include summer school or other forms of remediation.* Division superintendents ~~may~~ shall require such students to take special programs of prevention, intervention, or remediation which may include attendance in public summer school ~~sessions~~ programs, in accordance with subsection E of § 22.1-254 and § 22.1-254.01. *The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation which has been selected by his parent and is either (i) conducted by an accredited private school or (ii) a special program which has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the*

student's parent. Students required to attend such summer school sessions programs or to participate in another form of remediation shall not be charged tuition by the local school division. Based on the number of students attending and the Commonwealth's share of the per pupil costs, additional state funds shall be provided for summer and other remediation programs as set forth in the appropriation act. Any student who does not pass the literacy tests shall be required to attend a summer school program or participate in another form of remediation. Such summer school program or other form of remediation shall be chosen by the school division to be appropriate to the academic needs of the student. State funds shall be provided, as set forth in the appropriation act, for the attendance in remediation programs conducted by local school divisions for those students who do not pass the literacy tests beginning with the 1997-1998 fiscal year.

To ensure consistency in program quality, each school board may establish a remediation program standards committee which may include, but need not be limited to, the superintendent or his designee, a teacher, a parent, and one representative of the community at large. The remediation program standards committee shall recommend the program components for the remediation programs and shall evaluate the success of the programs. Such program components may include transition mechanisms for children to ensure the smooth movement between remediation programs and regular programs, pupil/teacher ratios, objectives, and time, site, and duration of the various programs.

Such remediation programs shall include, when applicable, a procedure for early identification of students who are at-risk of failure of the literacy tests. The identified students shall be provided appropriate remediation activities.

D. Local school boards shall also implement the following:

1. Programs in grades K through 3 which emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or retrieval designed to increase the number of students who earn a high school diploma or general education development (GED) certificate. As provided in the appropriation act, state funding, in addition to basic aid, shall be allocated to support programs grounded in sound educational policy to reduce the number of students who drop out of school. From such funds as may be appropriated for this purpose, sufficient funds shall be provided to hold all local school divisions harmless by providing no-loss funding which maintains the level of each school division's funding as allocated for drop out prevention programs on July 1, 1996, if the level of funding for such school division's drop out prevention programs would be less than its level of funding for such programs in fiscal year 1995. Effective on and after July 1, 1996, the Board of Education shall develop and implement a funding mechanism to ensure that no school board is penalized in its state funding for drop out prevention programs for reducing the drop out rate in its school division.

3. Career education programs infused into the K through 12 curricula that promote knowledge of careers and all types of employment opportunities including but not limited to, apprenticeships, the military, and career education schools, and emphasize the advantages of completing school with marketable skills. School boards may include career exploration opportunities in the middle school grades.

4. Competency-based vocational education programs, which integrate academic outcomes, career guidance and job-seeking skills for all secondary students including those identified as handicapped that reflect employment opportunities, labor market needs, applied basic skills, job-seeking skills, and career guidance. Career guidance shall include employment counseling designed to furnish information on available employment opportunities to all students, including those identified as handicapped, and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subsection.

5. Academic and vocational preparation for students who plan to continue their education beyond secondary school or who plan to enter employment.

6. Early identification of handicapped students and enrollment of such students in appropriate instructional programs consistent with state and federal law.

7. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

8. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

9. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

10. A plan to make achievements for students who are educationally at-risk a divisionwide priority which shall include procedures for measuring the progress of such students.

E. Each local school board shall employ with state and local basic, special education, gifted, and vocational education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with

the March 31 report of average daily membership, those school divisions offering half-day kindergarten shall adjust their average daily membership for kindergarten to reflect eighty-five percent of the total kindergarten average daily memberships.

F. In addition to the positions supported by basic aid and in support of regular school year remedial programs, 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 estimated to score in the bottom national quartile on Virginia State Assessment Program Tests and those who fail the literacy tests prescribed by the Board. State funding for remedial 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. The Board of Education shall establish criteria for identification of educationally at-risk students, which shall not be construed to be regulations as defined in § 9-6.14:4; however, the Board of Education may, from time to time, revise these identification criteria. In order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing or revising such identification criteria. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to establish or revise such identification criteria in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any such identification criteria or revisions thereto.

G. Licensed instructional personnel shall be assigned by each school board in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) twenty-five to one in kindergarten with no class being larger than thirty students; if the average daily membership in any kindergarten class exceeds twenty-five pupils, a full-time teacher's aide shall be assigned to the class; (ii) twenty-four to one in grade one with no class being larger than thirty students; (iii) twenty-five to one in grades two and three with no class being larger than thirty students; (iv) twenty-five to one in grades four through six with no class being larger than thirty-five students; and (v) twenty-four to one in English classes in grades six through twelve.

Further, pursuant to the appropriation act, school boards may implement in kindergarten through third grade, within certain schools, lower ratios of students in average daily membership to full-time equivalent teaching positions by assigning instructional personnel in a manner that produces ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, as follows: (i) in schools having high concentrations of at-risk students, eighteen to one; and (ii) in schools having moderate concentrations of at-risk students, twenty to one. For the purposes of this subsection, "schools having high concentrations of at-risk students" and "schools having moderate concentrations of at-risk students" shall be defined in the appropriation act.

In addition, instructional personnel shall be assigned by each school board in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of twenty-five to one in middle schools and high schools.

§ 22.1-253.13:2. Standard 2. Support services.

A. The General Assembly and the Board of Education believe that effective schools must provide and maintain efficient and cost-effective support services to ensure quality education. The General Assembly and the Board of Education further believe that in order to ensure the goal of quality education, local school divisions must have efficient administrative, supervisory, and support services.

B. The Department of Education shall provide to the local school divisions technical assistance in the delivery of those support services which are necessary for the operation and maintenance of the public schools. Such technical assistance services shall include, but not be limited to, in-service training of staff, development of appropriate facility plans, specifications for equipment, technology updates, *design of summer school programs and other forms of remediation*, and inspections of school buses.

C. Each local school board shall provide those support services which are necessary for the efficient and cost-effective operation and maintenance of its public schools including, but not limited to, administration, instructional support, pupil personnel services, student attendance and health, operation and maintenance of the buildings and management information systems.

D. Each local school board shall also provide a program of pupil personnel services for grades K through 12 which shall be designed to aid students in their educational, social and career development.

E. Pursuant to the appropriations act, support services shall be funded from basic school aid on the basis of prevailing statewide costs.

§ 22.1-253.13:4. Standard 4. Literacy Passports, diplomas and certificates.

A. The General Assembly and the Board of Education recognize the need to reduce the illiteracy rate in the Commonwealth and the need to prescribe requirements for completion of high school programs. To this end, the General Assembly and the Board hereby establish the requirement for a Literacy

Passport for all students prior to grade nine and criteria for diplomas and certificates. *All school boards are encouraged to utilize the pretest for fourth graders.*

B. Each local school board shall award Literacy Passports to all students, including students with disabilities, who achieve passing scores on the literacy tests established by the Board of Education. Reasonable accommodation to take the literacy tests shall be provided as needed for students with disabilities. In order to be classified as a ninth grader or above, students shall be required to obtain a Literacy Passport, except for those (i) students who are identified as disabled pursuant to Board regulations governing special education programs for students with disabilities in Virginia and (ii) students for whom English is not the first or native language who have been identified as having limited English proficiency and who have been enrolled in a public school in the Commonwealth for less than three years. To remain classified as a ninth grader or above, such students identified as having limited English proficiency must achieve passing scores on the first literacy tests administered after three years of enrollment in a public school in the Commonwealth.

To meet the goal of this subsection, each school board shall analyze its pass/fail rates and evaluate the needs of students who do not pass the tests required to obtain the Literacy Passport. The analysis and evaluation shall be used to design the remediation programs required in subsection C of § 22.1-253.13:1.

C. Each local school board shall award diplomas to all secondary school students who earn the units of credit prescribed by the Board of Education, pass the prescribed literacy tests and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made for students who transfer between secondary schools as outlined in the standards for accreditation. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

D. Students identified as disabled who complete the requirements of their individualized education programs shall be awarded special diplomas by local school boards.

E. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates by local school boards if they do not qualify for diplomas.

§ 22.1-254. Ages of children required to attend.

A. Every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational or parochial school or by a public or private degree - granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational or parochial educational pre-kindergarten program.

B. Instruction in the home of a child or children by the parent, guardian or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

C. The requirements of this section shall not apply to any child who has obtained a high school diploma, its equivalent, or a certificate of completion, or has otherwise complied with compulsory school attendance requirements as set forth in this article.

D. The requirements of this section shall apply to any child in the custody of the Department of Juvenile Justice, or any child who may have been adjudicated as an adult, and who has not passed his eighteenth birthday.

E. The requirements of this section shall apply to any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation, as provided in subsection C of §§ 22.1-253.13:1 and in § 22.1-254.01.

F. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

§ 22.1-254.01. Certain students required to attend summer school or after-school sessions.

In the event that a student is required to take a special program of prevention, intervention, or remediation in a public summer school *program or to participate in another form of remediation session* as provided in subsection C of § 22.1-253.13:1 and in accordance with subsection F E of § 22.1-254, and the division superintendent determines that remediation of the student's poor academic performance, or passage of the literacy passport test, or promotion is directly related to the student's attendance in such summer school *program or participation in another form of remediation session*, and after a

reasonable effort to seek the student's attendance in such session has failed, including direct notification of the parents or guardians of such student of the attendance requirement and failure of the parents or guardians to secure the student's attendance, the division superintendent may seek immediate compliance with the compulsory school attendance law as set forth in § 22.1-254.