

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 902

An Act to amend and reenact §§ 22.1-199.1, 22.1-199.2, 22.1-209.1:4, 22.1-253.13:1, 22.1-253.13:3, 22.1-254.01, and 22.1-278 of the Code of Virginia, relating to excellence in the public schools of the Commonwealth.

[H 431]

Approved May 20, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-199.1, 22.1-199.2, 22.1-209.1:4, 22.1-253.13:1, 22.1-253.13:3, 22.1-254.01, and 22.1-278 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-199.1. Programs designed to promote educational opportunities.

A. The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil-teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil-teacher ratios and class sizes for grades K through 3 in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

Effective July 1, 1996, and with such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil-teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil-teacher ratio and class size reductions for grades K through 3 in schools with high or moderate concentrations of at-risk students, consistent with the provisions first provided during the 1994-1995 school year.

In order to facilitate these primary grade ratio and class size reductions, the Department of Education shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to pay. School divisions shall notify the Department of Education of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil-teacher ratio.

In developing the proposed 1996-1998 biennium budget for public education, the Board of Education shall include funding for these ratios and class sizes. Effective July 1, 1996, the ratios and class sizes shall be included in the annual budget for public education.

B. The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. *Therefore, the Board of Education shall strive to incorporate technological studies within the teaching of all disciplines.* Further, the General Assembly notes that education technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established. With such funds as are appropriated for this purpose, the Board of Education shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act, including funds for providing a technology resource assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998. Any local school board accepting these funds to hire such technology resource assistants shall commit to providing the required matching funds, based on the composite index of local ability to pay. Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent of Public Instruction, for integrating technology into the classroom and into schoolwide instructional programs. The grants shall be prioritized as follows:

1. In the 1994 biennium, the first priority for these funds shall be to automate the library media centers and provide network capabilities in Virginia's elementary, middle and high schools, or combination thereof, in order to ensure access to the statewide library and other information networks. If any elementary, middle or high school has already met this priority, the 1994 biennium grant shall be used to provide other educational technologies identified in the relevant division's approved technology plan, such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan programs, vocational technology laboratories or other electronic techniques designed to enhance public education and to facilitate teacher training in and implementation of effective instructional technology. The Board shall also distribute, as provided in the appropriation act, funds to support the purchase of electronic reference materials for use in the statewide automated reference system.

2. In the 1996 biennium, the first priority for funding shall be consistent with those components of the Board of Education's revised six-year technology plan which focus on (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the Standards of Learning, and (d) training and professional development on available technologies and software to all levels and positions; and (iii) assisting school divisions in developing integrated voice, video, and data-connectivity to local, national and international resources. This funding may be used to implement a local school division's long-range technology plan, at the discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the Board's revised six-year technology plan and has been approved by the Superintendent of Public Instruction.

3. The Departments of Education, Information Technology, and General Services shall coordinate master contracts for the purchase by local school boards of the aforementioned educational technologies and reference materials.

4. Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be appropriated for this purpose, implemented to replace obsolete educational hardware and software. As provided in § 22.1-129 D, school boards may donate obsolete educational technology hardware and software which is being replaced. Any such donations shall be offered to other school divisions and to preschool programs in the Commonwealth.

5. *Consistent with school board policies designed to improve school-community communications and guidelines for providing instructional assistance in the home, each school division shall strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by the year 2000.*

C. The General Assembly finds that effective prevention programs designed to assist children at risk of school failure and dropout are practical mechanisms for reducing violent and criminal activity and for ensuring that Virginia's children will reach adulthood with the skills necessary to succeed in the twenty-first century; to this end, the following program is hereby established. With such funds as are appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are unserved by another such program. The grants shall be used to provide full-day and at least school-year programs for at-risk four-year-old children that include quality preschool education, health services, social services, parental involvement including activities to promote family literacy, and transportation. The Department of Education, in cooperation with such other state agencies which may coordinate child day care and early childhood programs, shall establish guidelines for quality preschool education and criteria for the service components, consistent with the findings of the November 1993 study by the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs. During the 1995-96 fiscal year, the Board of Education shall, with such funds as are appropriated for this purpose, distribute grants, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for thirty percent of the unserved at-risk four-year-olds in the Commonwealth pursuant to the funding provided in the appropriation act. During the 1996-97 fiscal year, grants shall be distributed, with such funds as are appropriated for this purpose, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for sixty percent of the unserved at-risk four-year-olds in the Commonwealth, such sixty percent to be calculated by adding services for thirty percent more of the unserved at-risk children to the thirty percent of unserved at-risk children in each locality provided funding in the appropriation act.

Local school boards may elect to serve more than sixty percent of the at-risk four-year-olds and may use federal funds or local funds for this expansion or may seek funding through this grant program for such purposes. Grants may be awarded, if funds are available in excess of the funding for the sixty percent allocation, to expand services to at-risk four-year-olds beyond the sixty percent goal.

In order for a locality to qualify for these grants, the local governing body shall commit to providing the required matching funds, based on the composite index of local ability to pay. Localities may use, for the purposes of meeting the local match, local expenditures for existing qualifying programs and shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program shall be used to supplement, not supplant, any funds currently provided for preschool programs within the locality.

D. The General Assembly finds that local autonomy in making decisions on local educational needs and priorities results in effective grass-roots efforts to improve education in the Commonwealth's public schools only when coupled with sufficient state funding; to this end, the following block grant program is hereby established. With such funds as are provided in the appropriation act, the Department of Education shall distribute block grants to localities to enable compliance with the Commonwealth's requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act for the covered programs, including the at-risk add-on program; dropout

prevention, specifically Project YES; Project Discovery; English as a second language programs, including programs for overage, nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds shall not be used to pay any college expenses of participating students; Reading Recovery; and school/community health centers. Each school board may use any funds received through the block grant to implement the covered programs and other programs designed to save the Commonwealth's children from educational failure.

§ 22.1-199.2. Standards for remediation programs established; reporting required.

A. The Board of Education shall establish standards for ~~remedial summer school~~ *remediation* programs, which shall be designed to strengthen and improve the effectiveness of such programs in increasing the scholastic achievement of students with academic deficiencies. Such standards shall require (i) an evaluation of the ~~remedial summer school~~ *remediation* program offered by the school division to assess such students' educational needs and program effectiveness, and (ii) that school divisions report, on such forms as may be required by the Board for such purpose, data pertaining to the demographic and educational characteristics of students who have been identified for remediation pursuant to subsection C of § 22.1-253.13:1, or subsection E of § 22.1-254, and § 22.1-254.01. Data submitted to the Board shall include, but not be limited to, the number of students failing the Literacy Passport Test, any or all components, for each administration of the test; *the number of students failing any Standards of Learning assessments for grades three, five, and eight*; a demographic profile of the students attending such programs; the academic status of each such student; the types of instruction offered, the length of the program, and the local costs of the program; the number of ungraded and disabled students, and those with limited English proficiency (ESL); and the number of students failing the literacy tests *or the Standards of Learning assessments for grades three, five, and eight* who attend ~~remedial summer school~~ *remediation programs*.

B. The Board of Education shall cause the collection, compilation, and analysis of the data required to be reported by local school divisions in subsection A of this section to accomplish a statewide review and evaluation of ~~remedial summer school~~ *remediation* programs. The Board shall report its analysis of the data submitted by school divisions and a statewide assessment of ~~remedial summer school~~ *remediation* programs, and any recommendations, to the Governor and the General Assembly annually, beginning on December 1, ~~1997~~ 1998.

§ 22.1-209.1:4. Virginia Innovative Remedial Education Pilot Program created.

A. With such funds as may be appropriated for this purpose, the Board of Education shall establish the Virginia Innovative Remedial Education Pilot Program (the "Program") to explore innovative options and instructional approaches for the remediation of students with academic deficiencies. On and after July 1, 1997, the Program shall consist of up to ten pilot projects located in regions throughout the Commonwealth to provide equitable geographical distribution of such projects. Grants for all such projects shall be awarded on a competitive basis to applicants responding to requests for proposals, giving priority to applicant school divisions that propose to explore creative alternatives and new, pedagogically sound instructional methods to address the following: (i) the educational needs of students who are educationally at-risk or who have failed the Literacy Passport Test *or the Standards of Learning assessments for grades three, five, and eight*; (ii) students who have been identified for remediation pursuant to §§ 22.1-253.13:1, 22.1-254, and 22.1-254.01; or (iii) barriers to effective remediation of students with academic deficiencies. The Board of Education shall promulgate regulations for the implementation of the Program. The Board shall promulgate such regulations to be effective in 280 days or less of the enactment of this section.

B. Upon appropriation of funds for the purposes of this section, the Department of Education shall issue a request for proposals for projects to pilot creative alternatives and new, pedagogically sound instructional methods for remediating students. The first such grants shall be awarded by January 1, 1999. Applications for grants shall include the following components:

1. Specific, measurable goals and objectives and an evaluation component to determine the effectiveness of such innovative pilot projects in accelerating the academic achievement of participating students, reducing the need for remediation, increasing the number of students who pass the Literacy Passport Test *or the Standards of Learning assessments for grades three, five, and eight*, and reducing problems associated with poor student academic performance.

2. A plan for the attraction and participation of teachers specially trained to work with at-risk students, and supportive administrators and staff.

3. A current program of staff development and training.

4. A procedure for obtaining the participation in and support for the pilot project by the pupil's parent and his family.

5. A curriculum developed to accommodate new teaching strategies; student-initiated and group learning; intensive, accelerated instruction designed to establish high standards and academic achievement for participating students; mentoring and individual tutoring; and the use of manipulatives and educational technology.

6. A low pupil-teacher ratio to promote a high level of interaction between the students and the

teacher.

7. A procedure for providing pretesting and post-testing and early intervention services at the fourth grade level, and for disseminating the best educational practices resulting from such pilot projects.

8. The identification of and solutions to barriers to remediation, such as transportation, length of the remedial summer school program, and attendant social and economic problems of students and their families.

9. Community outreach to build strong school, business, and community partnerships; to develop joint ventures and linkages between schools and institutions of higher education; to promote family involvement in the educational process; and to emphasize local solutions to local problems.

10. The number of children who may be assigned to the pilot project.

11. A plan for transitioning the participating students into the relevant school division's regular program, or into advanced-level classes.

C. The Board shall require submission of interim evaluation reports of each pilot project biannually and shall compile these reports and other program materials and report the status of such projects on a periodic basis to the relevant standing committees and subcommittees of the General Assembly. The Board shall report the effectiveness of such projects and their components and the Program annually to the Governor and the General Assembly, beginning on October 1, 1999.

§ 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 *to maintain academic rigor*. 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.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for vocational education programs to require the full integration of English, mathematics, science and social studies Standards of Learning. Occupational vocational programs shall be aligned with industry and professional standard certifications, where they exist.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning.

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. *Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board, with the assistance of independent testing experts, shall conduct a regular analysis and validation process for these assessments.*

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 tests prescribed by the Board of Education, or who fail to achieve a passing score on any Standards of Learning assessment in grades three, five, and eight.~~ Such programs ~~shall~~ may include summer school ~~for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board of Education,~~ or other forms of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation which may include attendance in public summer school 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 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 ~~or all Standards of Learning assessments in grades three, five, and eight~~ 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 ~~and for students who do not pass all Standards of Learning assessments in grades three, five, and eight beginning with the 1998-99 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 ~~or the Standards of Learning assessments in grades three, five, and eight.~~ The identified students shall be provided appropriate remediation activities.

~~Effective on July 1, 1998,~~ The Board of Education shall establish standards for full funding of summer remedial programs which shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

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 *or Standards of Learning assessments for grades three, five, and eight* 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.

H. Students enrolled in a public school on a less than full-time basis shall be counted in average daily membership (ADM) in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, vocational education, fine arts, or foreign language course shall be counted in the average daily membership (ADM) in the relevant school division on a pro rata basis as provided in the appropriation act. However, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

§ 22.1-253.13:3. Standard 3. Accreditation, other standards and evaluation.

A. The General Assembly recognizes the need for the Board of Education to prescribe requirements to ensure that student progress is measured and that school boards and school personnel are accountable.

B. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs, administrative and instructional staffing levels and positions, pupil personnel services, special education program standards, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia. In revising the standards for accreditation, the Board shall seek to set pupil-teacher ratios for educable mentally retarded (EMR) pupils that do not exceed the pupil-teacher ratios for self-contained classes for pupils with specific learning disabilities. The Board shall review annually the accreditation status of all schools in the Commonwealth.

The requirements for a standard or advanced studies high school diploma shall include one credit in fine, performing, or practical arts. The requirements for a standard high school diploma may include a concentration of courses selected from a variety of options. Such concentration may be planned to ensure the completion of a focused sequence of elective courses leading to further education or preparation for employment developed by the school division consistent with Board of Education guidelines and as approved by the local school board.

C. The Board shall also establish requirements for certification of teachers, principals, supervisors and other professional staff and determine eligibility for appointment as a local division superintendent.

D. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. One year following the approval by the Board of such criteria, the Superintendent of Public Instruction shall annually identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. *Such identification shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth.*

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

The Department of Education shall conduct technical assistance visits for local school divisions. Schools accredited with a warning shall be given priority for such assistance, which shall include an analysis of relevant school data and the development and implementation of improvement plans to assist such schools in improving their accreditation status.

E. In order to assess the educational progress of students, the Board of Education shall also (i) develop appropriate assessments which may include criterion-referenced tests and alternative assessment instruments which may be used by classroom teachers; (ii) prescribe and provide measures, which may include nationally normed tests, to be designated as the Virginia State Assessment Program, which shall be used to identify students who score in the bottom quartile at selected grade levels; and (iii) prescribe and provide literacy tests in reading, writing and mathematics which shall be administered to students in grade six and to students who have not successfully passed them in grades seven and eight.

F. Each local school board shall maintain schools which meet the standards of accreditation as prescribed by the Board of Education. The accreditation status of all schools in each local school division shall be reviewed annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the criteria for determining effectiveness as approved by the Board.

G. Each local school board shall also provide teachers and principals with (i) periodic in-service training in preparing tests and other assessment measures and (ii) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests which match locally developed objectives.

H. In order to assess the educational progress of students as individuals and as groups, each local school board shall require the administration of appropriate assessments, which may include criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the Virginia State Assessment Program, the Virginia Literacy Testing Program, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria which may be established by the Board of Education, the results from the Virginia State Assessment Program and the Virginia State Literacy Testing Program to the public.

§ 22.1-254.01. Certain students required to attend summer school or after-school sessions; promotion contingent upon remediation.

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 as provided in subsection C of § 22.1-253.13:1 and in accordance with subsection 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 of a Standards of Learning assessment in grades three, five, or eight*, or promotion is directly related to the student's attendance in such summer school program or participation in another form of remediation, 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.

§ 22.1-278. Guidelines for school board policies; school board regulations governing student conduct; Board standards for compliance with federal law requiring expulsion under certain circumstances by school board.

A. The Board of Education shall establish guidelines and develop model student conduct policies to aid local school boards in the implementation of such policies. The guidelines shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies. In the case of suspension and expulsion, the procedures set forth in § 22.1-277 shall be the minimum procedures that the school board may prescribe.

School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student conduct which are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations governing student conduct, proceedings for suspension, expulsion, and exclusion decisions *and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.*

B. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-"Gun-Free Schools Act of 1994"), in accordance with § 22.1-277.01, to be effective on July 1, 1995.

This subsection shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

2. That the school board of any school division with one or more schools demonstrating passing rates on Standards of Learning assessments below those percentages required for full accreditation pursuant to the Standards of Accreditation shall develop a comprehensive corrective action plan with and for each school in the division for implementation no later than the 1999-2000 academic year. Such corrective action plan shall include specific goals for improvement. The Department of Education shall provide technical assistance in the implementation of such plans. The Board of Education shall provide nonmonetary recognition for schools achieving the specified goals for improvement.