

23103682D

HOUSE BILL NO. 2145

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to Standards of Learning assessments; English language learner students; parental opt out; parental notification; translation; report.

Patrons—Guzman, Clark, Kory, Maldonado and Rasoul

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

A. The Board shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include (i) student outcome and growth measures, (ii) requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, (iii) administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, (iv) student services, (v) auxiliary education programs such as library and media services, (vi) requirements for graduation from high school, (vii) community relations, and (viii) the philosophy, goals, and objectives of public education in the Commonwealth.

The Board shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board. Each local school board shall report the accreditation status of all schools in the local school division annually in public session.

The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.

The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (a) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (b) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.

When the Board determines through its review process that the failure of schools within a division to meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board, each school board shall enter into a memorandum of understanding with the Board and shall subsequently submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school

INTRODUCED

HB2145

59 division meet the standards established by the Board. If the Board determines that the proposed
60 corrective action plan is not sufficient to enable all schools within the division to meet the standards
61 established by the Board, the Board may return the plan to the local school board with directions to
62 submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the
63 relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

64 B. The Superintendent shall develop, subject to revision by the Board, criteria for determining and
65 recognizing educational performance in the Commonwealth's local school divisions and public schools.
66 The portion of such criteria that measures individual student growth shall become an integral part of the
67 accreditation process for schools in which any grade level in the grade three through eight range is
68 taught. The Superintendent shall annually report to the Board on the accreditation status of all school
69 divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public
70 education programs in the various school divisions in Virginia and recommendations to the General
71 Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing
72 educational performance and individual student growth in the school divisions, the Board shall include
73 consideration of special school division accomplishments, such as numbers of dual enrollments and
74 students in Advanced Placement and International Baccalaureate courses, and participation in academic
75 year Governor's Schools.

76 The Superintendent shall assist local school boards in the implementation of action plans for
77 increasing educational performance and individual student growth in those school divisions and schools
78 that are identified as not meeting the approved criteria. The Superintendent shall monitor the
79 implementation of and report to the Board on the effectiveness of the corrective actions taken to
80 improve the educational performance in such school divisions and schools.

81 C. With such funds as are available for this purpose, the Board shall prescribe assessment methods to
82 determine the level of achievement of the Standards of Learning objectives by all students. Such
83 assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to
84 the Standards of Learning being assessed. The Board shall, with the assistance of independent testing
85 experts, conduct a regular analysis and validation process for these assessments. In lieu of a one-time
86 end-of-year assessment, the Board shall establish, for the purpose of providing measures of individual
87 student growth over the course of the school year, a through-year growth assessment system, aligned
88 with the Standards of Learning, for the administration of reading and mathematics assessments in grades
89 three through eight. Such through-year growth assessment system shall include at least one
90 beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student
91 growth scores over the course of the school year, but the total time scheduled for taking all such
92 assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year
93 proficiency assessment. The Department shall ensure adequate training for teachers and principals on
94 how to interpret and use student growth data from such assessments to improve reading and mathematics
95 instruction in grades three through eight throughout the school year. With such funds and content as are
96 available for such purpose, such through-year growth assessment system shall provide accurate
97 measurement of a student's performance, through computer adaptive technology, using test items at,
98 below, and above the student's grade level as necessary.

99 The Board shall also provide the option of industry certification and state licensure examinations as a
100 student-selected credit.

101 The Department shall make available to school divisions Standards of Learning assessments typically
102 administered by high schools by December 1 of the school year in which such assessments are to be
103 administered or when newly developed assessments are available, whichever is later.

104 The Board shall make publicly available such assessments in a timely manner and as soon as
105 practicable following the administration of such tests, so long as the release of such assessments does
106 not compromise test security or deplete the bank of assessment questions necessary to construct
107 subsequent tests, or limit the ability to test students on demand and provide immediate results in the
108 web-based assessment system.

109 The Board shall prescribe alternative methods of Standards of Learning assessment administration for
110 children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the
111 Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual
112 Education Program team shall make the final determination as to whether an alternative method of
113 administration is appropriate for the student.

114 The Board shall include in the student outcome and growth measures that are required by the
115 standards of accreditation the required assessments for various grade levels and classes, including the
116 completion of the alternative assessments implemented by each local school board, in accordance with
117 the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for
118 English, mathematics, science, and history and social science and may be integrated to include multiple
119 subject areas.

120 The Standards of Learning assessments administered to students in grades three through eight shall

not exceed (i) reading and mathematics in grades three and four; (ii) reading, mathematics, and science in grade five; (iii) reading and mathematics in grades six and seven; (iv) reading, writing, and mathematics in grade eight; (v) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (vi) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board. The reading and mathematics assessments administered to students in grades three through eight shall be through-year growth assessments.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (a) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (b) permit and encourage integrated assessments that include multiple subject areas; and (c) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department shall award recovery credit to any student in grades three through eight who performs below grade level on a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and performs at or above grade level on such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board shall (1) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (2) select appropriate industry certification and state licensure examinations; and (3) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board shall provide notice to local school boards regarding such special provisions.

The Board shall not include in its calculation of the passage rate for a Standards of Learning assessment or the level of achievement of the Standards of Learning objectives for an individual student growth assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate. *Each local school board shall ensure that the parent of each English language learner student is notified of the option to not have his child take any such Standards of Learning assessment. Such notification shall be made in the parent's preferred language and, in the case of the parent of a high school student, shall include a detailed explanation of the implications of such a decision on the student's ability to satisfy high school graduation requirements.*

D. The Board may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review

182 or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall
183 not prohibit the disclosure of records to (i) a local school board or division superintendent for the
184 purpose of permitting such board or superintendent to consider or to take personnel action with regard to
185 an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a)
186 does not reveal the identity of any person making a complaint or supplying information to the Board on
187 a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any
188 local school board or division superintendent receiving such records or other information shall, upon
189 taking personnel action against a relevant employee, place copies of such records or information relating
190 to the specific employee in such person's personnel file.

191 Notwithstanding any other provision of state law, no test or examination authorized by this section,
192 including the Standards of Learning assessments, shall be released or required to be released as
193 minimum competency tests, if, in the judgment of the Board, such release would breach the security of
194 such test or examination or deplete the bank of questions necessary to construct future secure tests.

195 E. With such funds as may be appropriated, the Board may provide, through an agreement with
196 vendors having the technical capacity and expertise to provide computerized tests and assessments, and
197 test construction, analysis, and security, for (i) web-based computerized tests and assessments, including
198 computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and
199 after remediation and (ii) the development of a remediation item bank directly related to the Standards
200 of Learning.

201 F. To assess the educational progress of students as individuals and as groups, each local school
202 board shall require the use of Standards of Learning assessments, alternative assessments, and other
203 relevant data, such as industry certification and state licensure examinations, to evaluate student progress
204 and to determine educational performance. Each local school shall require the administration of
205 appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests
206 and shall include the Standards of Learning assessments, the local school board's alternative assessments,
207 and the National Assessment of Educational Progress state-by-state assessment. Each school board shall
208 analyze and report annually, in compliance with any criteria that may be established by the Board, the
209 results from industry certification examinations and the Standards of Learning Assessments to the public.

210 The Board shall include requirements for the reporting of the Standards of Learning assessment data,
211 regardless of accreditation frequency, as part of the Board's requirements relating to the School
212 Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on
213 the Virginia assessment program as appropriate and shall be reported to the public within three months
214 of their receipt. These reports (i) shall be posted on the portion of the Department's website relating to
215 the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons,
216 and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

217 G. Each local school division superintendent shall regularly review the division's submission of data
218 and reports required by state and federal law and regulations to ensure that all information is accurate
219 and submitted in a timely fashion. The Superintendent shall provide a list of the required reports and
220 data to division superintendents annually. The status of compliance with this requirement shall be
221 included in the Board's annual report to the Governor and the General Assembly as required by
222 § 22.1-18.

223 H. Any school board may request the Board for release from state regulations or, on behalf of one or
224 more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the
225 performance of one or more of its schools as authorized for certain other schools by the Standards for
226 Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of
227 regulatory requirements may be granted by the Board based on submission of a request from the
228 division superintendent and chairman of the local school board. The Board may grant, for a period up to
229 five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii)
230 designed to promote health or safety. The school board shall provide in its waiver request a description
231 of how the releases from state regulations are designed to increase the quality of instruction and improve
232 the achievement of students in the affected school or schools. The Department shall provide (a) guidance
233 to any local school division that requests releases from state regulations and (b) information about
234 opportunities to form partnerships with other agencies or entities to any local school division in which
235 the school or schools granted releases from state regulations have demonstrated improvement in the
236 quality of instruction and the achievement of students.

237 The Board may also grant local school boards waivers of specific requirements in § 22.1-253.13:2,
238 based on submission of a request from the division superintendent and chairman of the local school
239 board, permitting the local school board to assign instructional personnel to the schools with the greatest
240 needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the
241 total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth
242 in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description
243 of how the waivers from specific Standards of Quality staffing standards are designed to increase the

quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

2. That to further the effort to close achievement gaps and address deficiencies and inequities in public education as described in the Superintendent of Public Instruction's May 2022 report, *Our Commitment to Virginians: High Expectations and Excellence for All Students*, the Department of Education (*the Department*) shall review and make recommendations on the feasibility of translating certain Standards of Learning assessments into native languages predominantly spoken by English language learner students in the Commonwealth and administering such translated assessments to certain English language learner students in lieu of the associated Standards of Learning assessments written in the English language. In conducting such review, the Department shall analyze similar efforts in other states in order to estimate costs and make recommendations on appropriate processes and procedures for translated assessment development, validation, administration, and scoring. The Department shall submit to the Governor, the Board of Education, and the General Assembly no later than November 1, 2023, a report containing the findings of its review and its recommendations.