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SENATE BILL NO. 1043

Offered January 11, 2023

Prefiled January 8, 2023

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

Patrons—McPike and Favola

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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

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

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general

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59 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the
60 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii)
61 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000
62 students identified as having limited English proficiency, which positions may include dual language
63 teachers who provide instruction in English and in a second language.

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

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

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

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

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

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

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

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

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

such schools are elementary, middle, or high schools.

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

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

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

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

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

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

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 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, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home 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.

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

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

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

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

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

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

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii)

homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

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

5. Technology professional positions not included in subsection J;

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

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

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

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

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

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

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

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

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

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

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

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

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may

employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

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

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 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, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home 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.

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

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

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

For the purposes of this title, unless the context otherwise requires, "support services positions" shall

include the following:

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

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

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

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

5. Technology professional positions not included in subsection J;

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

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

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

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

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

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

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

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

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

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

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

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

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs

of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

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

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

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

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

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

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

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

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

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board

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

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

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

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

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

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

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

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the 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, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home 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.

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

In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by

551 *the Board of Psychology, provided that any such individual makes progress toward completing the*
552 *requirements for full licensure as a school psychologist during such period of employment.*

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

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

557 1. Executive policy and leadership positions, including school board members, superintendents and
558 assistant superintendents;

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

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

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

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

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

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

572 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at
573 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
574 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
575 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
576 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
577 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
578 schools within the division according to the area of greatest need, regardless of whether such schools are
579 elementary, middle, or secondary.

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

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

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

586 **§ 22.1-253.13:2. (Effective pursuant to Va. Const, Art. IV, 13; for Effective Date, see Acts 2022,**
587 **cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.**

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

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

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

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

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

612 D. Each local school board shall employ with state and local basic, special education, gifted, and

career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

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

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

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

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

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

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

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

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

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

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

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

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

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

707 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing
708 requirements for the highest grade level in that school; this requirement shall apply to all staff, except
709 for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be
710 based on the school's total enrollment. The Board of Education may grant waivers from these staffing
711 levels upon request from local school boards seeking to implement experimental or innovative programs
712 that are not consistent with these staffing levels.

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

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

733 O. Each school board shall provide at least three specialized student support positions per 1,000
734 students. For purposes of this subsection, specialized student support positions include school social
735 workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior

analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

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

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

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

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

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

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

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

5. Technology professional positions not included in subsection J;

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

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

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

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

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

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

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

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

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

A. As used in this section:

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

"Consultation, collaboration, and referrals" means the act of (i) providing information to and receiving information from individuals or teams to support a student's needs; (ii) working and communicating with parents, teachers, administrators, other school staff, and community stakeholders to (a) promote achievement for a specific student or (b) promote systemic change to address the needs of groups of underserved or underrepresented groups of students; and (iii) referring students to outside providers and resources as necessary.

"Crisis counseling" means the act of providing counseling to individual students or small groups of

797 *students to help such students navigate critical situations such as emergencies and crises.*

798 *"Direct counseling" means counseling programs and activities aimed at supporting students in mental*
799 *health and wellness, academic achievement, and college and career planning, and includes school*
800 *counseling curriculum lessons and activities, individual counseling, small group counseling, crisis*
801 *counseling, appraisal and advisement, and consultation, collaboration, and referrals. "Direct counseling"*
802 *does not include program planning and school support.*

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

806 *"Program planning and school support" means the act of defining, planning, managing, and*
807 *assessing school counseling activities and contributing to fair-share responsibilities. Fair-share*
808 *responsibilities include coordinating and administering testing, supervising lunch or recess, and other*
809 *administrative duties, and serving as a substitute teacher. "Program planning and school support"*
810 *includes the act of reviewing data, creating annual student outcome goals, creating action plans and*
811 *results reports, holding annual administrative conferences, monitoring use-of-time, creating annual and*
812 *weekly calendars, and facilitating school counseling advisory councils.*

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

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

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

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