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SENATE BILL NO. 434

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 22.1-2.1, 22.1-200.2, 22.1-207.8, 22.1-212.28, 22.1-212.29, and 23.1-905.1 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 22.1-200.3 and by adding in Article 1.5 of Chapter 13 of Title 22.1 a section numbered 22.1-212.33; and to repeal §§ 22.1-212.30, 22.1-212.31, and 22.1-212.32 of the Code of Virginia, relating to public schools; instructional time.

Patron—Suetterlein

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-2.1, 22.1-200.2, 22.1-207.8, 22.1-212.28, 22.1-212.29, and 23.1-905.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-200.3 and by adding in Article 1.5 of Chapter 13 of Title 22.1 a section numbered 22.1-212.33 as follows:

§ 22.1-2.1. Provision of in-person instruction.

A. As used in this section, ~~"in-person:~~

"In-person instruction" means instructional interaction between teachers and students that occurs in person ~~and in real time or through remote synchronous instruction.~~ "In-person instruction" does not include the act of ~~proctoring remote online learning in a classroom~~ any asynchronous online learning.

"Instructional hour" means a period at school or in another aligned learning environment during which students receive instruction aligned to academic content and performance standards. "Instructional hour" includes any period during which students participate in or receive, as the case may be, (i) a school program required pursuant to this title; (ii) advanced learning opportunities focused on problem-solving, critical thinking, creative thinking, communication, collaboration, and citizenship skills; (iii) content that provides technical knowledge, skills, and competency-based applied learning; (iv) direct instruction aligned to the Standards of Quality; (v) research-based or evidence-based mental health or academic interventions; (vi) instruction that occurs at the same time breakfast is served or consumed in accordance with the Breakfast After the Bell Program or federal requirements; and (vii) any of the time and hour requirements prescribed in subsection B or in any manner prescribed in a School Division of Innovation's instructional time model adopted pursuant to § 22.1-212.33.

B. Except as otherwise permitted in subdivision C 4 of § 22.1-98 or Article 3 (§ 22.1-276.01 et seq.) of Chapter 14, each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required annual instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program.

C. Notwithstanding any other provision of law or any regulation, rule, or policy implemented by a school board, school division, school official, or other state or local authority, the parent of any child enrolled in a public elementary or secondary school, or in any school-based early childhood care and education program, may elect for such child to not wear a mask while on school property. A parent making such an election shall not be required to provide a reason or any certification of the child's health or education status. No student shall suffer any adverse disciplinary or academic consequences as a result of this parental election. Nothing in this section shall be construed to affect the Governor's authority under Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 to accomplish the purposes of such chapter with regard to a communicable disease of public health threat as defined in § 44-146.16.

§ 22.1-200.2. Minimum instructional time; school year beginning and end date.

A. Local school boards shall provide (i) a minimum of 680 hours of instructional time to students in elementary school, except for students in half-day kindergarten, in the four academic disciplines of English, mathematics, science, and history and social science and (ii) a minimum of 375 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science.

B. Local school boards may include and the Board of Education shall accept, for elementary school, unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time or teaching hours, provided that such unstructured

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59 recreational time does not exceed 15 percent of total instructional time or teaching hours. Except as may
60 be otherwise authorized by the Board pursuant to a waiver for good cause, as that term is defined in
61 subsection B of § 22.1-79.1, or as otherwise prescribed pursuant to an instructional time model adopted
62 pursuant to § 22.1-212.33, the school year begins August 1 and ends July 31.

63 **§ 22.1-200.3. Part-time student enrollment.**

64 A. As used in this section, "part-time student" means any student who is enrolled in a public
65 elementary or secondary school for fewer than the total instructional hours provided to each student
66 who is enrolled in such school full time. "Part-time student" includes any student who is enrolled in a
67 course or courses or receiving ancillary services in a school division part time.

68 B. Except as otherwise provided in subsection C, each public elementary or secondary school
69 principal shall, upon request, permit a child, including a child who is also enrolled at another public
70 school, a public charter school, or a private school or who receives home instruction, to enroll as a
71 part-time student in the public school.

72 C. Any school board may prohibit part-time student enrollment in any case in which such enrollment
73 would (i) be denied regardless of the part-time or full-time enrollment status of the student or (ii) result
74 in an expenditure of public funds for the direct benefit of a private educational institution.

75 D. No school board shall discriminate between part-time and full-time students or require that
76 part-time students wait to enroll until after full-time student enrollment is completed.

77 E. Each school board shall adopt a policy regulating student participation in curricular courses and
78 cocurricular programs, provided that no such policy shall be more restrictive for non-public school
79 students or public charter school students or students who receive home instruction than it is for public
80 school students.

81 F. The Department shall reimburse each school division for the costs or a portion thereof that are
82 occasioned by the enrollment of or provision of ancillary services to part-time students.

83 G. Nothing in this section shall be construed to apply to interscholastic or extracurricular student
84 activities.

85 H. The Board may adopt rules and regulations to carry out the purposes of this section.

86 **§ 22.1-207.8. Course credit for alternative programs; Board rules.**

87 The Board (i) shall develop guidelines and policies for permitting any high school student in grades
88 11 and 12 to earn one-half standard unit of credit per semester for employment in certain fields or
89 industries or participation in certain fine arts programs in which such student works or participates a
90 certain minimum number of hours per week for each week of the semester, as determined by the Board.
91 Such guidelines and policies shall include:

92 1. Standards and requirements for determining the eligibility of employment and fine arts programs
93 for awarding academic credit, including eligibility criteria and approval procedures for specific
94 employers and programs;

95 2. Standards for how the one-half unit of credit is to be awarded and policies for monitoring and
96 evaluating student participation in and completion of approved employment or fine arts programs; and

97 3. ~~Any~~ adopt rules for approving alternative programs, including dual and concurrent enrollment
98 courses, for which course credit may be granted for the purpose of satisfying high school graduation
99 requirements to any student who completes such course and masters the course content by
100 demonstrating at least 80 percent of the competencies required by course standards, regardless of time,
101 place, or pace and (ii) may adopt such other related policies ~~that the Board~~ as it deems appropriate.

102 **§ 22.1-212.28. Definitions.**

103 As used in this article, unless the context requires a different meaning:

104 "Innovation" means a new, creative alternative to existing instructional or administrative practices,
105 personalized or competency-based learning models, or school structures that evidence-based practice
106 suggests will be effective in improving student learning and educational performance.

107 "Instructional time model" means a model adopted to meet instructional hour requirements through a
108 variety of learning modalities such as project-based learning, mastery-based learning, weekend courses,
109 evening courses, and other remote synchronous activities to allow a student to use flexible time options
110 to accelerate demonstration of mastery.

111 "Mastery-based learning" means a system of learning in which students accelerate to deeper levels of
112 learning when they master the course content by demonstrating at least 80 percent of the competencies
113 required by course standards, regardless of time, place, or pace.

114 "School Division of Innovation" or "SDI" means a school division in which the local school board
115 has developed and for which the Board has approved pursuant to regulations as set forth in this article
116 an instructional time model and a plan of innovation to improve student learning; educational
117 performance; and college, career, and citizenship readiness skills in each school in the local school
118 division.

119 "Innovation" means a new or creative alternative to existing instructional or administrative practices
120 or school structures that evidence-based practice suggests will be effective in improving student learning

and educational performance.

§ 22.1-212.29. Purpose; Board regulations.

A. The purpose of this article is to enable school boards to advance, pursuant to policy, innovative learning models that allow students to personalize the pace of learning and accelerate their learning based on the mastery of course content by demonstrating at least 80 percent of the competencies required by course standards, regardless of time, place, or pace.

B. The Board shall promulgate regulations for the designation of School Divisions of Innovation in which the local school board in the local school division so designated shall, pursuant to a plan of innovation, be exempted from selected regulatory provisions and be permitted to adopt alternative policies for school administrators, teachers, and staff to meet the diverse needs of students.

§ 22.1-212.33. Instructional time models; requirements.

Notwithstanding any other provision of law, any school board that governs an SDI may, after holding two public hearings in the school division on its proposed instructional time model and submitting such proposed instructional time model to the Department, adopt any instructional time model for one or more schools in the SDI for the purposes of meeting the instructional time and instructional hours requirements prescribed in §§ 22.1-2.1, 22.1-79.1, 22.1-200.2, and 22.1-253.13:4 and Board regulations; determining average daily membership, daily attendance, or student count; or for any other purpose relating to instructional time or instructional hours, provided that:

1. Students receive the minimum instructional time or instructional hours required under §§ 22.1-2.1, 22.1-79.1, 22.1-200.2, and 22.1-253.13:4 and Board regulations, as applicable, for the full school year in any day, week, and course length increments adopted by the school board;

2. The SDI may deliver the annual required instructional time or instructional hours to students through any combination of direct instruction; project-based learning; independent or experiential learning; or mastery-based learning that is delivered in a blended classroom or learning environment in which multiple grade levels or age bands are served or blended grade-level content is provided;

3. The SDI may define instructional time and instructional hours to include a combination of attendance-validated programs, including both in-person instruction and remote synchronous instruction;

4. The SDI or a school therein may accelerate a student's course sequence based on the student's ability to demonstrate competencies at the student's own pace;

5. The SDI may stagger learning times and schedules for students and may offer courses and other instructional time options on the weekend or in the evenings so that all students are not expected to attend or complete their school day or instructional time at the same time;

6. The SDI shall align its attendance policies to reflect the instructional time and instructional hours policies prescribed under the instructional time model;

7. The SDI may waive specific course requirements based on the individual student mastery of course content by demonstrating at least 80 percent of the competencies required by course standards, regardless of time, place, or pace;

8. The SDI may grant course credit to a student who has demonstrated proficiency relating to course content through alternative means, such as dual enrollment or concurrent enrollment; and

9. The SDI may expand partnerships with work-based learning partners and grant equivalent course credit for time spent by a student participating in on-the-job experiences with such a work-based learning partner.

§ 23.1-905.1. Course credit; dual enrollment courses.

A. The Council, in consultation with each public institution of higher education, shall establish a policy for granting undergraduate course credit to any entering student who has successfully completed a dual enrollment course. The policy shall:

1. Outline the conditions necessary for each public institution of higher education to grant course credit for the successful completion of a dual enrollment course;

2. Identify whether each dual enrollment course offered in the Commonwealth is transferrable to a public institution of higher education as (i) a Uniform Certificate of General Studies Program or Passport Program course credit, (ii) a general elective course credit, or (iii) a course credit meeting other academic requirements of a public institution of higher education, or if such course is not likely to transfer for course credit. The policy shall also require that each school division and comprehensive community college offering a dual enrollment course clearly specify such transfer information on any website, literature, or other materials describing or advertising the course;

3. Require each public institution of higher education offering a dual enrollment course to identify the equivalent non-dual enrollment course;

4. Ensure that the grant of high school bearing course credit is consistent across each public institution of higher education and each such dual enrollment course or any other credit-bearing course completed by a student in grades six through 12; and

5. Require that the following information be made available on the online portal maintained by the

182 System pursuant to subsection C of § 23.1-908: (i) a description of each dual enrollment course offered
183 in the Commonwealth; (ii) the specific academic, career, or technical programs in the System that will
184 accept the course credit and which specific comprehensive community colleges offer such programs; and
185 (iii) if available, the pathway maps in which the dual enrollment course is included.

186 B. The Council and each public institution of higher education shall make the policy available to the
187 public on their websites. The Council shall also forward the policy to the System for inclusion in the
188 online portal maintained by the System pursuant to § 23.1-908.

189 C. The Council shall annually report to the House Committee on Education and the Senate
190 Committee on Education and Health on the implementation of the course credit policy by each public
191 institution of higher education.

192 **2. That §§ 22.1-212.30, 22.1-212.31, and 22.1-212.32 of the Code of Virginia are repealed.**