

SENATE BILL NO. 1043

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health
on January 26, 2023)

(Patrons Prior to Substitute--Senators McPike and Favola [SBs 1257 and 1268])

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.

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

27 one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English
28 classes in grades six through 12. After September 30 of any school year, anytime the number of students
29 in a class exceeds the class size limit established by this subsection, the local school division shall notify
30 the parent of each student in such class of such fact no later than 10 days after the date on which the class
31 exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class
32 size limit and describe the measures that the local school division will take to reduce the class size to
33 comply with this subsection.

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

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

41 D. Each local school board shall employ with state and local basic, special education, gifted, and
42 career and technical education funds a minimum number of licensed, full-time equivalent instructional
43 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
44 act.

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

52 To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions
53 may employ mathematics teacher specialists to provide the required algebra readiness intervention

54 services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this
55 manner shall only employ instructional personnel licensed by the Board of Education.

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

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

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

80 systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and
81 assistive technology supports for students with dyslexia.

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

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

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

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

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

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

105 However, in order to meet the staffing requirements set forth in this subdivision, any local school
106 board (i) may employ, under a provisional license issued by the Department for three school years with

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

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

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

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

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

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

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

152 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in
153 the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving
154 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time
155 basis in any mathematics, science, English, history, social science, career and technical education, fine
156 arts, foreign language, or health education or physical education course shall be counted in the ADM in
157 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course
158 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home

159 school student shall be counted as more than one-half a student for purposes of such pro rata calculation.
160 Such calculation shall not include enrollments of such students in any other public school courses.

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

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

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

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

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

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

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

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

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

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

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

191 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time
192 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
193 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
194 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
195 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
196 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
197 schools within the division according to the area of greatest need, regardless of whether such schools are
198 elementary, middle, or secondary.

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

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

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

205 **§ 22.1-253.13:2. (For Effective Date, see 2022 Acts, cc. 549, 550, cl. 2) Standard 2.**
206 **Instructional, administrative, and support personnel.**

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

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

211 C. Each school board shall assign licensed instructional personnel in a manner that produces
212 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,

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

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

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

232 D. Each local school board shall employ with state and local basic, special education, gifted, and
233 career and technical education funds a minimum number of licensed, full-time equivalent instructional
234 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
235 act.

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

240 for prevention, intervention, and remediation programs provided pursuant to this subsection and the
241 appropriation act may be used to support programs for educationally at-risk students as identified by the
242 local school boards.

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

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

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

262 G. In addition to the full-time equivalent positions required elsewhere in this section, each local
263 school board shall employ one reading specialist for each 550 students in kindergarten through grade
264 three. Each such reading specialist shall have training in science-based reading research and evidence-
265 based literacy instruction practices. In addition, each such reading specialist shall have training in the
266 identification of and the appropriate interventions, accommodations, and teaching techniques for students

267 with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such
268 reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of
269 (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that
270 may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including
271 multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions,
272 accommodations, and assistive technology supports for students with dyslexia.

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

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

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

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

288 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
289 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at
290 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two
291 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet
292 this staffing requirement may assign librarians to schools within the division according to the area of
293 greatest need, regardless of whether such schools are elementary, middle, or secondary; and

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

296 However, in order to meet the staffing requirements set forth in this subdivision, any local school
297 board (i) may employ, under a provisional license issued by the Department for three school years with
298 an allowance for an additional two-year extension with the approval of the division superintendent, any
299 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board
300 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling
301 professional with appropriate experience and training, provided that any such individual makes progress
302 toward completing the requirements for full licensure as a school counselor during such period of
303 employment or (ii) in the event that the school board does not receive any application from a licensed
304 school counselor, professional counselor, clinical social worker, or psychologist or another licensed
305 counseling professional with appropriate experience and training to fill a school counselor vacancy in the
306 school division, may enter into an annual contract with another entity for the provision of school
307 counseling services by a licensed professional counselor, clinical social worker, or psychologist or another
308 licensed counseling professional with appropriate experience and training. Local school boards that
309 employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision
310 may assign such individuals to schools within the division according to the area of greatest need,
311 regardless of whether such schools are elementary, middle, or high schools.

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

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

317 To provide flexibility, school divisions may use the state and local funds for instructional
318 technology resource teachers to employ a data coordinator position, an instructional technology resource
319 teacher position, or a data coordinator/instructional resource teacher blended position. The data
320 coordinator position is intended to serve as a resource to principals and classroom teachers in the area of

321 data analysis and interpretation for instructional and school improvement purposes, as well as for overall
322 data management and administration of state assessments. School divisions using these funds in this
323 manner shall employ only instructional personnel licensed by the Board of Education.

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

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

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

343 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in
344 the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving
345 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time
346 basis in any mathematics, science, English, history, social science, career and technical education, fine
347 arts, foreign language, or health education or physical education course shall be counted in the ADM in

348 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course
349 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home
350 school student shall be counted as more than one-half a student for purposes of such pro rata calculation.
351 Such calculation shall not include enrollments of such students in any other public school courses.

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

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

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

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

- 366 1. Executive policy and leadership positions, including school board members, superintendents
367 and assistant superintendents;
- 368 2. Fiscal and human resources positions, including fiscal and audit operations;
- 369 3. Student support positions, including (i) social work administrative positions not included in
370 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii)
371 homebound administrative positions supporting instruction; (iv) attendance support positions related to
372 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in
373 subsection O;

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

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

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

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

382 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time
383 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
384 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
385 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
386 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
387 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
388 schools within the division according to the area of greatest need, regardless of whether such schools are
389 elementary, middle, or secondary.

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

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

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

396 § 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for Expiration Date, see Acts
397 2022, cc. 549, 550, cl. 2) **Standard 2. Instructional, administrative, and support personnel.**

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

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

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

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

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

423 D. Each local school board shall employ with state and local basic, special education, gifted, and
424 career and technical education funds a minimum number of licensed, full-time equivalent instructional
425 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
426 act.

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

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

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

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

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

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

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

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

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

478 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
479 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at

480 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two
481 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet
482 this staffing requirement may assign librarians to schools within the division according to the area of
483 greatest need, regardless of whether such schools are elementary, middle, or secondary; and

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

486 However, in order to meet the staffing requirements set forth in this subdivision, any local school
487 board (i) may employ, under a provisional license issued by the Department for three school years with
488 an allowance for an additional two-year extension with the approval of the division superintendent, any
489 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board
490 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling
491 professional with appropriate experience and training, provided that any such individual makes progress
492 toward completing the requirements for full licensure as a school counselor during such period of
493 employment or (ii) in the event that the school board does not receive any application from a licensed
494 school counselor, professional counselor, clinical social worker, or psychologist or another licensed
495 counseling professional with appropriate experience and training to fill a school counselor vacancy in the
496 school division, may enter into an annual contract with another entity for the provision of school
497 counseling services by a licensed professional counselor, clinical social worker, or psychologist or another
498 licensed counseling professional with appropriate experience and training. Local school boards that
499 employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision
500 may assign such individuals to schools within the division according to the area of greatest need,
501 regardless of whether such schools are elementary, middle, or high schools.

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

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

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

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

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

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

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

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

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

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

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

- 556 1. Executive policy and leadership positions, including school board members, superintendents
557 and assistant superintendents;
- 558 2. Fiscal and human resources positions, including fiscal and audit operations;

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

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

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

567 6. Operation and maintenance positions, including facilities; pupil transportation positions;
568 operation and maintenance professional and service positions; and security service, trade, and laborer
569 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
573 at 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
584 instructional and other licensed personnel in subsections C through J, a local school board shall not be
585 required to 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
587 2022, 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
591 areas.

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

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

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

613 D. Each local school board shall employ with state and local basic, special education, gifted, and
614 career and technical education funds a minimum number of licensed, full-time equivalent instructional
615 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
616 act.

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

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

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

635 To provide flexibility in the instruction of English language learners who have limited English
636 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
637 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to
638 employ additional English language learner teachers or dual language teachers to provide instruction to
639 identified limited English proficiency students. Using these funds in this manner is intended to supplement

640 the instructional services provided in this section. School divisions using the SOQ Prevention,
641 Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by
642 the Board of Education.

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

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

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

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

662 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900
663 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in
664 high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of
665 assistant principals to meet this staffing requirement may assign assistant principals to schools within the

666 division according to the area of greatest need, regardless of whether such schools are elementary, middle,
667 or secondary;

668 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
669 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at
670 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two
671 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet
672 this staffing requirement may assign librarians to schools within the division according to the area of
673 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 another
688 licensed counseling professional with appropriate experience and training. Local school boards that
689 employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision
690 may assign such individuals to schools within the division according to the area of greatest need,
691 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 technology
696 resource teacher.

697 To provide flexibility, school divisions may use the state and local funds for instructional
698 technology resource teachers to employ a data coordinator position, an instructional technology resource
699 teacher position, or a data coordinator/instructional resource teacher blended position. The data
700 coordinator position is intended to serve as a resource to principals and classroom teachers in the area of
701 data analysis and interpretation for instructional and school improvement purposes, as well as for overall
702 data management and administration of state assessments. School divisions using these funds in this
703 manner 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 for
709 school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based
710 on the school's total enrollment. The Board of Education may grant waivers from these staffing levels
711 upon request from local school boards seeking to implement experimental or innovative programs that are
712 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
724 the 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 calculation.
731 Such calculation shall not include enrollments of such students in any other public school courses.

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

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

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

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

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

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

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

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

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

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

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

762 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time
763 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
764 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
765 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
766 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
767 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
768 schools within the division according to the area of greatest need, regardless of whether such schools are
769 elementary, middle, or secondary.

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

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

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

776 **§ 22.1-272.2. Department; model memorandum of understanding; partnerships with**
777 **community mental health services providers.**

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

786 **§ 22.1-291.1:1. School counselors; staff time.**

787 A. As used in this section:

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

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

797 "Crisis counseling" means the act of providing counseling to individual students or small groups
798 of students to help such students navigate critical situations such as emergencies and crises.

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

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

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

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

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

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

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

827 3. That the Department of Education shall consult the Virginia Academy of School Psychologists,
828 and other stakeholders as necessary, to ensure that the process and criteria for provisionally
829 licensed school psychologists to obtain full licensure as school psychologists appropriately address
830 the challenges that are unique to school psychology training requirements and the school psychology
831 profession generally.

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