

# Virginia Board of Education Agenda Item



**Agenda Item:** C

**Date:** January 16, 2014

<b>Title</b>	Final Review of Guidance Related to Maximum Class Size Requirements in the Standards of Quality for Grades K-6		
<b>Presenter</b>	Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications		
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**Purpose of Presentation:**

Other initiative or requirement. Specify below:  
Guidance about interpreting the Standards of Quality

**Previous Review or Action:**

Previous review and action. Specify date and action taken below:  
Date: November 21, 2013  
Action: First review

**Action Requested:**

Final review: Action requested at this meeting.

**Alignment with Board of Education Goals: Please indicate (X) all that apply:**

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners
	Goal 5: Highly Qualified and Effective Educators
	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
X	Other Priority or Initiative. Specify: Guidance about the interpretation of maximum class size provisions of § 22.1-253.13:2 (C) of the <i>Code of Virginia</i>

**Background Information and Statutory Authority:**

Other Priority or Initiative: This document will provide guidance to local school boards about how the Board of Education interprets the provisions of § 22.1-253.13:2 (C) of the *Code of Virginia* related to the student-teacher ratios and maximum class size requirements in grades K-6.

The Standards of Quality (SOQ) are prescribed by the Board and approved by the General Assembly, in accordance with the Virginia Constitution, in Article VIII, § 2, which says:

Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly. The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds.

Standard 2 of the Standards of Quality, § 22.1-253.13:2 of the *Code of Virginia*, outlines the staffing requirements for local school divisions. Subsection C prescribes the divisionwide student-teacher ratios and maximum class sizes for grades K-6, and the divisionwide student-teacher ratios for English classes in grades 6-12. It says:

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, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12.

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

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

There are several provisions in the *Code of Virginia* that address the requirement for licensure. Standard 2 of the Standards of Quality, in § 22.1-253.13:2 (B) says:

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

Section § 22.1-299 says, in part:

No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education....

Standard 8 of the Standards of Quality, § 22.1-253.13:8 of the *Code of Virginia*, addresses compliance with the Standards of Quality. It says, in part:

... Each local school board shall report its compliance with the Standards of Quality to the Board of Education annually. The report of compliance shall be submitted to the Board of Education by the chairman of the local school board and the division superintendent.

Noncompliance with the Standards of Quality shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

As required by § 22.1-18, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed Standards of Quality.

The Board of Education shall have authority to seek school division compliance with the foregoing Standards of Quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such Standard, the Board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.

### **Summary of Important Issues:**

During the 2012-2013 school year, it was brought to the Board's attention that an elementary school had several "pull-out" classes for gifted students that exceeded the maximum class size requirements in the Standards of Quality. The situation was resolved when an additional teacher was hired, but it raised questions about the definition of a class, whether students receiving special education services are included in determining the maximum class size, and when divisions calculate class size for purposes of the Standards of Quality.

**Definition of class:** The term "class" is not defined in Virginia statute or Board of Education regulation. Therefore, at this time, there is no official description of what constitutes a "class" in Virginia public schools. Because the Board does not presently define or describe "class," it is unclear how the term is interpreted by local school divisions.

The *Merriam-Webster Online Dictionary* provides numerous definitions for "class," including the following: a group of students who meet regularly to be taught a subject or activity; a series of meetings in which students are taught a particular subject or activity; a course of instruction; and one of the meetings in which students are taught a particular subject or activity.

**The Standards of Quality:** The Standards of Quality are the basis for most of the state funds appropriated to local school divisions. Funding for the Standards of Quality is based on the provisions in Standard 2, as well as language in the Appropriation Act.

As required by Standard 2 of the Standards of Quality and to ensure appropriate instructional staffing levels, local school divisions must employ a minimum number of licensed, full-time instructional personnel as specified in the Appropriation Act for each 1,000 pupils in average daily membership (ADM). The 2013 Appropriation Act requires the following positions per 1,000 pupils in March 31 ADM:

- **Basic Aid:** 51 professional instructional positions and aide positions
- **Gifted Education:** 1.0 professional instructional position
- **Occupational-Vocational and Special Education:** 6.0 professional instructional positions and aide positions

In addition, Standard 2 sets forth divisionwide ratios of students in ADM to full-time equivalent (FTE) teaching positions, and it establishes maximum class sizes. The divisionwide ratios do not include special education teachers, principals, assistant principals, counselors, and librarians.

Grade	Maximum Class Size	Student-Teacher Ratio (Divisionwide Ratio)
Kindergarten	29 (if more than 24, a teacher's aide is required)	24 to 1
1-3	30	24 to 1
4-6	35	25 to 1
English class, 6-12	None	24 to 1
Middle and High Schools	None	21 to 1

**Special Education:** It should also be noted that the Board's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, in 8 VAC 20-81-340, include the following special education caseload maximums as funded by the Appropriation Act. 8 VAC 20-81-10 defines Level I and Level II services:

“Level I services’ means the provision of special education to children with disabilities for less than 50% of their instructional school day (excluding intermission for meals). The time that a child receives special education services is calculated on the basis of special education services described in the individualized education program, rather than the location of services.”

“Level II services’ means the provision of special education to children with disabilities for 50% or more of the instructional school day (excluding intermission for meals). The time that a child receives special education services is calculated on the basis of special education services described in the individualized education program, rather than the location of services.”

Figure 1: Local school division caseload maximums as funded by the Virginia Appropriation Act.

Disability Category	Level II		Level I
	With Paraprofessional 100% of the time	Without Paraprofessional 100% of the Time	
Autism 8		6	24
Deaf-blindness 8		6	
Developmental Delay: age 5-6	10	8	
Developmental Delay: age 2-5	8 Center-based 10 Combined	12 Home-based and/or Itinerant	
Emotional Disability	10	8	24
Hearing Impairment/Deaf	10	8	24
Intellectual Disability	10	8	24
Learning Disability	10	8	24
Multiple Disabilities	8	6	

Orthopedic Impairment	10	8	24
Other Health Impairment	10	8	24
Speech or Language Impairment	NA NA		68 (Itinerant)
Traumatic Brain Injury	May be placed in any program, according to the IEP.		
Combined group of students needing Level I and Level II services	20 Points (see Figure 2)		

Figure 2: Values for students receiving Level I services when combined with students receiving Level II services.			
Disability Category	Level II Values		Level I Values
	With Paraprofessional 100% of the time	Without Paraprofessional 100% of the time	
Autism	2.5	3.3	1
Deaf-blindness	2.5	3.3	1
Developmental Delay: age 5-6	2.0	2.5	1
Emotional Disability	2.0	2.5	1
Hearing Impairment/Deaf	2.0	2.5	1
Intellectual Disability	2.0	2.5	1
Learning Disability	2.0	2.5	1
Multiple Disabilities	2.5	3.3	1
Orthopedic Impairment	2.0	2.5	1
Other Health Impairment	2.0	2.5	1
Traumatic Brain Injury	2.0	2.5	1

**Career and Technical Education:** The Board's *Regulations Governing Career and Technical Education* address maximum class size, in 8 VAC 20-120-150, which say:

Enrollments in career and technical education courses shall not exceed the number of individual work stations.

1. Career and technical education laboratory classes that use equipment that has been identified by the U.S. Department of Labor for hazardous occupations shall be limited to a maximum of 20 students per laboratory. The career and technical education courses that have this restriction are published annually by the Virginia Department of Education.
2. Career and technical education courses designed specifically and approved for students who are disadvantaged shall be limited to an average of 15 students per instructor per class period with no class being more than 18.
3. Career and technical education courses designed specifically and approved for students with

disabilities shall be limited to an average of 10 students per instructor per class period with no class being more than 12 or up to an average of 12 students per class period with no class being more than 15 where an instructional aide is provided.<sup>1</sup>

4. Career and technical education programs offering classes that require the cooperative education method of instruction shall:
  - a. Be limited to an average of 20 students per instructor per class period with no class being more than 24; and
  - b. Have a class period assigned to the instructor for on-the-job coordination for each 20 students participating in the on-the-job training.

**Compliance with the Standards of Quality:** Each year, as a part of the annual report to the General Assembly on the condition and needs of public education in Virginia, the Board of Education is required to report the level of compliance by local school boards with the requirements of the Standards of Quality (SOQ). In order to accomplish this requirement, on an annual basis, the Virginia Department of Education (VDOE) collects data from local school divisions relative to compliance with the SOQ.

With respect to § 22.1-253.13:2(C) of the *Code of Virginia*, local school divisions are required to respond either “yes” or “no” to the following statements:

1. The school division has a divisionwide ratio of pupils in average daily membership to full-time equivalent teaching positions (excluding special education teachers, principals, assistant principals, counselors, and librarians) no greater than the following ratios:
  - a. Twenty-four to one in kindergarten, with no class larger than twenty-nine; twenty-four to one in grades one, two and three with no class larger than thirty at any of these levels.
  - b. A full-time teacher's aide is assigned to any kindergarten class where the average daily membership exceeds twenty-four pupils.
  - c. Twenty-five to one in grades four through six with no class larger than thirty-five pupils.
  - d. Twenty-four to one in English classes in grades six through twelve.
2. The school division assigns instructional personnel in a manner that produces schoolwide ratios of students in average daily membership to full-time equivalent positions of twenty-one to one in middle and high schools.
3. The school division provides all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

If a school division responds “no” to any statement, then the division is required to submit information regarding corrective action that is being taken or will be taken by the division to ensure compliance with the specific requirement of the SOQ. Once the data submission is complete, a verification report is generated asserting compliance with the SOQ and other miscellaneous reporting requirements. The signature page of the report must be signed by the local school board chairman and the division superintendent (or authorized designee) and submitted to VDOE. It is important to note that, while the

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<sup>1</sup> CTE courses for students with disabilities have a limited enrollment capacity because these students typically require individualized instruction as prescribed by their Individualized Education Program (IEP) as well as compliance with state and federal safety and health regulations.

annual SOQ compliance data collection pertains to the current school year and typically takes place during the spring, local school divisions are not instructed to provide responses tied to a specific date or time frame during the school year.

**Other States:** Finally, a number of other states have adopted legislation that defines “class-size” or “class.” A compendium prepared by the Education Commission of the States is attached.

**Proposed Changes:** Following the November 21 meeting, VDOE staff e-mailed the proposed guidance to the superintendents of every local school division and all of the major education organizations for comments and recommendations, especially as related to any fiscal impact or any unintended consequences. Representatives of eight school divisions and one teacher responded. Most of the commenters said that the guidance would have no fiscal impact and no unintended consequences. However, there were three recommendations for the Board’s consideration:

- One school division fiscal officer recommended revising the compliance section to eliminate what could be seen as an additional reporting requirement, as compliance with the Standards of Quality is self-reported by school divisions and signed by the superintendent and school board chair. In response to the comment, language would be changed to clarify that the school divisions would have to determine compliance, based on student enrollment on September 30 and March 31, but would not have to make an additional report.
- A superintendent recommended including the language in the Standards of Quality about exemption from the staffing requirements for approved virtual school programs. Section 22.1-253.13:2 (P) of the *Code of Virginia* says: “Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.” In response to the comment, language would be added to the guidelines to reference this section of the *Code*. This provision of the statute was part of the legislation that established multidivision online providers. The term “approved virtual school programs” references those programs in which the school division contracts with an approved multidivision online provider.
- A teacher recommended lowering the maximum class size requirements, which would require a legislative change and a budget amendment to support the cost of the additional teachers. The Board will have an opportunity to consider this recommendation when it conducts its biennial review of the Standards of Quality in 2014.

Finally, in response to the discussion at the November 21 Board meeting, language would be added to state that student teachers or teachers who observe, rather than instruct, classes are not counted towards meeting SOQ student-teacher ratios or maximum class size requirements.

**Impact on Fiscal and Human Resources:**

Based on the comments received from school divisions, it is not expected that this guidance would have an impact on fiscal and human resources at the local school division level.

**Timetable for Further Review/Action:**

Upon approval by the Board, VDOE staff will disseminate the guidance to all school divisions and post it on the department’s Web site.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education approve the proposed *Guidance Related to Maximum Class Size Requirements in the Standards of Quality for Grades K-6*.

## **Guidance Regarding Maximum Class Size and Student-Teacher Ratios in the Standards of Quality**

### **Statutory Authority**

Standard 2 of the Standards of Quality, in § 22.1-253.13:2(C) of the *Code of Virginia*, says:

*“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, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12.*

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

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

Standard 2 of the Standards of Quality, in § 22.1-253.13:2(P) of the *Code of Virginia*, says:

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

Standard 2 of the Standards of Quality, in § 22.1-253.13:2 (B) says:

*“School boards shall employ licensed instructional personnel qualified in the relevant subject areas.”*

Furthermore, as specified in § 22.1-299:

*“No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education.”*

### **Guidance**

All local school divisions are expected to meet the divisionwide and schoolwide student-teacher ratios specified in the Standards of Quality (SOQ). The calculations for SOQ funding are based in part on the

divisionwide and schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions.

The special education caseload maximums, as prescribed in the Board's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, in 8 VAC 20-81-340, shall apply for students with disabilities. The maximum class size requirements in the Board's *Regulations Governing Career and Technical Education*, in 8 VAC 20-120-150, shall apply to career and technical education classes.

Elementary schools and any other public schools that include grades K-6 shall not exceed the maximum class sizes for all K-6 classes.

For the purpose of this guidance, a *class* is a grouping of students in which they regularly receive instruction in the Standards of Learning by one or more teachers. If more than one teacher is assigned to a class for purposes of instructing students, each teacher shall count towards meeting the student-teacher ratio and any maximum class size requirements.

The student-teacher ratio shall not include special education teachers, principals, assistant principals, counselors, and librarians, as specified by the SOQ. Student teachers or teachers who observe classes are not counted towards meeting SOQ student-teacher ratios or maximum class size requirements.

For the purpose of this guidance, the following would not be considered a class:

- Enrichment programs and independent or collaborative projects conducted by students under the supervision of a licensed teacher
- Groupings of students for remediation or additional instruction unless that is how the students regularly receive primary instruction in the Standards of Learning
- "Homeroom" settings in which primary instruction in the Standards of Learning is not provided

***Student teachers or teachers who observe, rather than instruct, classes are not counted towards meeting SOQ student-teacher ratios or maximum class size requirements.***

***Pursuant to § 22.1-253.13:2 (P) of the Code, the student-teacher ratios and maximum class size provisions are not required for full-time students of approved virtual school programs. This exemption applies only to full-time students of approved virtual school programs. The term "approved virtual school programs" references those programs for which the school division contracts with an approved multi-division online provider.***

## **Certification of Compliance**

Standards of Quality funding for instructional positions is calculated based on the annual September 30<sup>th</sup> report of student enrollment and the March 31<sup>st</sup> report of average daily membership. For purposes of this guidance, school divisions shall determine compliance with required divisionwide and schoolwide student-teacher-ratios and maximum class sizes based on **student enrollment** data **reported effective as of** September 30<sup>th</sup> and March 31<sup>st</sup>.

School divisions should make every effort to be in compliance with the student-teacher ratio and maximum class size requirements by September 30<sup>th</sup> and throughout the year; however, from time to time there may be unpredictable enrollments and unexpected circumstances that cause a school division

to be temporarily out of compliance. When this occurs, the school division should make arrangements to come in to compliance as soon as possible.

For the purpose of these guidelines, compliance with the student-teacher ratio and maximum class size requirements are based on the average daily membership for the class, the school, and the school division, as may be applicable, consistent with the Standards of Quality funding calculations.

Each year, during August and early September, local school divisions must self-certify compliance with the Standards of Quality for the previous school year. The report is made to the Virginia Department of Education (VDOE) through a single sign-on, Web-based data collection instrument. Both the superintendent and the school board chairman must sign the certification of compliance. If a school division is not in compliance with any requirement of the Standards of Quality, it must submit a corrective action plan for that requirement. The corrective action plan is included as a part of the single sign-on Web-based compliance form.

Each year, as a part of the annual report to the General Assembly on the condition and needs of public education in Virginia, the Board of Education is required by § 22.1-18 of the *Code of Virginia* to report the level of compliance by local school boards with the requirements of the Standards of Quality.

Noncompliance with the required divisionwide student-teacher ratios and maximum class size requirements, as well as the other requirements in the Standards of Quality, shall be enforced as prescribed by Standard 8 of the Standards of Quality, § 22.1-253.13:8 of the *Code of Virginia*:

*“As required by § 22.1-18, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed Standards of Quality.*

*“The Board of Education shall have authority to seek school division compliance with the foregoing Standards of Quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such Standard, the Board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.”*