

Virginia Board of Education Agenda Item



Agenda Item: J

Date: September 18, 2014

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| Title | Report on Options for Increasing Student-to-Teacher Ratios or other Cost Savings in Local or Regional Detention Center Education Programs | | |
| Presenter | Mr. John Eisenberg, Assistant Superintendent for Special Education and Student Services | | |
| E-mail | John.Eisenberg@doe.virginia.gov | Phone | (804) 225-2711 |

Purpose of Presentation:

For information only. No action required.

Previous Review or Action:

No previous review or action.

Action Requested:

No action requested.

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

| | |
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| X | 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 |
| X | Goal 5: Highly Qualified and Effective Educators |
| X | Goal 6: Sound Policies for Student Success |
| | Goal 7: Safe and Secure Schools |
| | Other Priority or Initiative. Specify: |

Background Information and Statutory Authority:

The General Assembly included language in the 2014 Appropriation Act directing the Department of Education to present, by October 15, 2014, options to the Board of Education for increasing student-to-teacher ratios or other savings in the state operated education programs in local and regional juvenile detention centers. The Department was also directed to present the report to the Chairmen of the Senate Finance and House Appropriations Committees by October 31, 2014. The General Assembly specifically directed the Department in Item 136 C.19.d. of the 2014 Appropriation Act to:

By October 15, 2014, the Department of Education shall present to the Virginia Board of Education, options for increasing student to teacher ratios or other savings, including requesting the State Board of Education or federal government to consider waiving certain teacher staffing requirements given the uniqueness of the setting, prorating funding if localities choose to operate based on unnecessary gender separation, whether there may be options for achieving efficiencies in the 23 centers based on regional groupings based on proximity, working with the Department of Juvenile

Justice and Department of Correctional Education if appropriate, and a review of how other states handle education in juvenile detention centers. The Department shall also submit the report to the Chairmen of the Senate Finance and House Appropriations Committees by October 31, 2014.

Section 22.1-209.2 of the *Code of Virginia* requires the Board of Education to ensure that an education program in local and regional detention centers is implemented from state funds as provided in the appropriation act and that such programs are supervised. The Department of Education contracts with school divisions where the detention centers are located to provide the education services. The school divisions hire the teachers assigned to these education programs and compensate them according to the division's teacher salary schedule and fringe benefits. Department staff are assigned to provide state-level supervision and compliance monitoring.

Two sections in the *Code of Virginia* relate to the Board of Education's responsibility for the education programs provided in the local and regional detention centers:

§ 22.1-7. Responsibility of each state board, agency and institution having children in residence or in custody.

Each state board, state agency and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system...

§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and state agencies and institutions.

The Board of Education shall prepare and supervise the implementation in the regional detention homes and those local detention homes having teachers whose salaries were being funded by the Commonwealth on January 1, 1984, a program designed to educate and train the children detained in the homes. In addition, the Board shall supervise those programs of evaluation, education and training provided to school-age children by the Department of Health, the Department of Behavioral Health and Developmental Services, the children's teaching hospital associated with the Eastern Virginia Medical School, the Virginia Commonwealth University Health System Authority, the children's teaching hospital associated with the Virginia Commonwealth University Health System Authority, and the University of Virginia Hospitals pursuant to the Board's standards and regulations as required by § [22.1-7](#).

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including, but not limited to, teacher/student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board and the Board shall prepare a budget for these educational programs which shall be solely supported by such general funds as are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be based on a ratio of one teacher for every twelve beds based on the capacity of the facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average daily attendance at the facility as calculated by the Department of Education from the previous school year.

The Board of Education shall enter into contracts with the relevant state agency or institution or detention facility or the local school divisions in which the state agencies or institutions or the regional detention homes and the relevant local detention homes are located for the hiring and supervision of teachers.

In any case in which the Board enters into a contract with the relevant state agency or institution, the Department of Human Resource Management shall establish salary schedules for the teachers which are competitive with those in effect for the school divisions in which the agency or institution is located.

In addition to the study requirement, the General Assembly reduced state funding for the juvenile detention center education programs in the 2014 Appropriation Act by \$250,000 each year of the 2014-2016 biennium.

Summary of Important Issues:

The cost of providing an education to children who are detained “*which is at least comparable to that which would be provided to such children in the public school system*” (§ 22.1-7 of the *Code of Virginia*) has increased in recent years, particularly due to the increased cost of teacher contributions to the Virginia Retirement System and health care premium costs. Virginia’s *Standards of Learning* (SOL) and *Code of Virginia* requirements for school boards to “*employ licensed instructional personnel qualified in the relevant subject areas*” (§ 22.1-253.13:2) and to “*fill positions with licensed instructional personnel qualified in the relevant subject areas*” (§ 22.1-95) impacts the number of teachers needed to fulfill these requirements. In addition, graduation requirements have become more stringent as well as the curriculum based on the more rigorous SOL standards.

The majority of students served in the detention center education programs return to their home school upon release, and a goal of the programs is to provide as much continuity as possible in the instruction the student was receiving in their home division. Because licensed teachers provide instruction in accordance with the *Standards of Learning*, credit for classes attended can be awarded by the home school division. Students in these programs also take the SOL assessments as needed in order to earn verified credits required for graduation. The programs serve significant numbers of students with disabilities who require special education services, as well as minority students and English language learners. The reading and mathematics achievement of many of these students is below grade level.

In addition, teacher staffing levels are affected by the specific security requirements of the individual juvenile detention centers, and the education programs must adhere to the security protocols directed by the detention center staff.

The attached report further details the study requirement and discusses areas for consideration and possible options to increase student-teacher ratios or other cost savings. Areas considered include waivers of teacher staffing requirements, prorating funding due to unnecessary gender separation, use of online instruction, staffing with dually certified teachers, sharing of positions across facilities, and savings from managing vacant positions.

Impact on Fiscal and Human Resources:

Requesting a waiver from state licensure and endorsement requirements does not appear to be feasible, as there are no provisions for requesting such a waiver from the federal government. A appropriate

licensure and endorsement of public school teachers is required under the Highly Qualified Teacher requirement and could affect Virginia's Individuals with Disabilities Education Act (IDEA) Part B and federal Title I funding.

The majority of students attending the detention center education programs are behind in achievement and diploma requirements and require significant teacher support for success. A reduction in the teaching force in local and regional detention centers would impact a student's education because required classes for graduation may not be staffed with a teacher endorsed in the subject they are teaching. Achievement and graduation rates may further decrease for this at-risk population.

Timetable for Further Review/Action:

No further action required.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education receive this report.



**Report on Options for Increasing Student-
to-Teacher Ratios or other Cost Savings in
Local or Regional Detention Center
Education Programs**

**Presented to the Board of Education
on September 18, 2014**

DIVISION OF SPECIAL EDUCATION AND STUDENT SERVICES



BACKGROUND

The General Assembly included language in the 2014 Appropriation Act directing the Department of Education to present, by October 15, 2014, options to the Board of Education for increasing student-to-teacher ratios or other savings in the state operated education programs in local and regional juvenile detention centers. The Department was also directed to present the report to the Chairmen of the Senate Finance and House Appropriations Committees by October 31, 2014. The General Assembly specifically directed the Department in Item 136 C.19.d. of the 2014 Appropriation Act to:

By October 15, 2014, the Department of Education shall present to the Virginia Board of Education, options for increasing student to teacher ratios or other savings, including requesting the State Board of Education or federal government to consider waiving certain teacher staffing requirements given the uniqueness of the setting, prorating funding if localities choose to operate based on unnecessary gender separation, whether there may be options for achieving efficiencies in the 23 centers based on regional groupings based on proximity, working with the Department of Juvenile Justice and Department of Correctional Education if appropriate, and a review of how other states handle education in juvenile detention centers. The Department shall also submit the report to the Chairmen of the Senate Finance and House Appropriations Committees by October 31, 2014.

Section 22.1-209.2 of the *Code of Virginia* requires the Board of Education to ensure that an education program in local and regional detention centers is implemented from state funds as provided in the appropriation act and that such programs are supervised. The Department of Education contracts with school divisions where the detention centers are located to provide the education services. The school divisions hire the teachers assigned to these education programs and compensate them (reimbursed by the state) according to the division's teacher salary schedule and fringe benefits, including Virginia Retirement System contributions. The Department of Education assigns staff to provide state-level supervision and compliance monitoring of the programs. The student enrollment in the state operated education programs located in the 23 local and regional detention centers was approximately 600 students statewide on September 10, 2014.

The detention center education programs are typically staffed with one administrator, one part-time or full-time administrative assistant, and licensed and endorsed teachers to deliver required content area instruction, special education and English Language Learner (ELL) services (where there is a heavy concentration of ELL students), and instruction in elective areas or graduation requirements such as economics and personal finance and career and technical education that allow students to earn necessary credits required for graduation, general educational development (GED) instruction or other longer-term, post-dispositional services to prepare students to return to the home school and community.

SUMMARY OF OPTIONS FOR INCREASING STUDENT-TO-TEACHER RATIOS OR OTHER SAVINGS

- 1. To increase student-to-teacher ratios, request the Board of Education or federal government to consider waiving certain teacher staffing requirements given the uniqueness of the setting.**

Discussion

Teacher staffing in the detention centers is affected by the requirement in § 22.1-7 of the *Code of Virginia* that an education program is provided “*which is at least comparable to that which would be provided to such children in the public school system.*” Also, as the detention center teachers are employed by the local school board, § 22.1-253.13:2 requires school boards to “*employ licensed instructional personnel qualified in the relevant subject areas*” and § 22.1-295 requires school boards to “*fill positions with licensed instructional personnel qualified in the relevant subject areas.*” In addition, graduation requirements have become more stringent and the curriculum is based on the more rigorous *Standards of Learning* (SOL).

The majority of students served in the detention center education programs return to their home school upon release, and a goal of the programs is to provide as much continuity as possible in the instruction the student was previously receiving in their home division. Because licensed teachers provide instruction in accordance with the SOL, credit for classes attended can be awarded by the home school division. Students in these programs also take the SOL assessments as needed in order to earn verified credits required for graduation. The programs serve significant numbers of students with disabilities who require special education services, as well as minority students and English Language Learners. The reading and mathematics achievement of many of these students is below grade level.

In addition, teacher staffing levels are affected by the specific security requirements of the individual juvenile detention centers, and the education programs must adhere to the security protocols directed by the detention center staff.

The majority of students attending the detention center education programs are behind in achievement and diploma requirements and require significant teacher support for success. A reduction in the teaching force in local and regional detention centers would impact a student’s education because, under those circumstances, required classes for graduation may not be staffed with a teacher endorsed in the subject they are teaching. Achievement and graduation rates may further decrease for this at-risk population.

Requesting a waiver from state licensure and endorsement requirements does not appear to be feasible, as there are no provisions for requesting such a waiver from the federal government. Appropriate licensure and endorsement of public school teachers is required under the Highly Qualified Teacher requirement and could affect Virginia’s Individuals with Disabilities Education Act (IDEA) Part B and Title I federal funding.

2. Prorating funding if localities choose to operate based on unnecessary gender separation.**Discussion**

Operating the detention centers based on gender separation is a safety and security issue as determined by the detention center staff and not by the education program staff from the school division. Factors such as building layout, use of security technology in the facility, placement of cameras, and daily staffing levels impact this decision. The detention centers vary as to these factors. The security expertise of staff is paramount when deciding how to manage the daily operations of a detention center in order to ensure the safety of the youth and staff. Tying the level of state funding for the education program to the use of gender separation could impact safety and security in the detention facilities. Decisions impacting the daily operation, safety, and security of the detention centers are the purview of the locality or localities operating the facility. Prorating funding for the education program when the locality has determined that gender separation is necessary for the safety and security of the facility would hamper the ability to provide a quality education program in the facility.

3. Whether there may be options for achieving efficiencies in the 23 centers based on regional groupings based on proximity, working with the Department of Juvenile Justice and Department of Correctional Education if appropriate. [Note: *The Department of Correctional Education, which served both juveniles and adults, was abolished in 2012. Education services are now provided separately by the Department of Juvenile Justice (juveniles) and the Department of Corrections (adults)*].**Discussion**

This option can involve sharing of instructional positions among detention center facilities or among detention centers and Department of Juvenile Justice (DJJ) and Department of Corrections (DOC) facilities, particularly when they are in the same vicinity. This option would be a cost saving measure where feasible and is currently being used where there are two smaller detention facilities in close proximity. The feasibility of sharing more positions would be difficult. This option is limited by the requirement for 5.5 hours a day of instruction for each student, the distance between facilities, and the number of daily contracted hours for teachers. In addition, DJJ and DOC have reduced resources, which may limit sharing of their instructional staff. Further, there may be limited DOC education staff qualified to teach K-12 content based on the *Standards of Learning*.

4. Use of online instruction.**Discussion**

Online instruction could be an option to further explore for cost saving measures. Currently, online instruction is utilized for classes that cannot be offered on-site without hiring an additional teacher and to allow students to continue with credit-bearing courses while detained. These classes include foreign language and higher level mathematics and science courses. Further expanding online learning in the detention centers would mean offering core courses through computerized instruction. Historically, the students in a detention center education program are behind academically, may not read independently, and do not have strong learning skills. With poor academic and reading skills, such students are not likely to be successful in an online learning environment. In addition, the current research suggests this type of student will not be successful unless there are significant on-site staff supports. Online learning does not

assist in lessening the skill gaps that are identified in most detention students and does not promote the connections needed to re-engage students in the education process. There would be a cost involved in each of the centers to improve bandwidth infrastructure to significantly increase student access to online instruction, as well as likely additional teacher training costs. The current infrastructure in detention centers typically allows only a few students at one time to be on the computer network. Detention center facilities would benefit from receiving the \$26,000 educational technology grants that public schools receive annually to support infrastructure and online learning. Also, increased access to Virtual Virginia for students in detention centers could be explored. Reducing teacher staffing by increased use of online instruction would require time and significant resources to establish a program where a significant number of students routinely take core subject area courses online. In addition, as student access to online learning increases, appropriate Internet access safeguards must be implemented.

5. Use of dually certified teachers to cover multiple subject areas.

Discussion

When a teacher can be located with the required multiple endorsements (e.g., mathematics and science), they are hired to fulfill multiple teaching assignments such as teaching two core content areas in one facility or teaching in multiple facilities where feasible. While this option is a cost saving measure, there are limitations to this option. Historically, there have been few teachers with the specific endorsements needed that pursue teaching positions in the detention centers. In addition, only in smaller facilities would this be feasible. The requirement of 5.5 hours a day of instruction prohibits larger facilities from using this model. Currently, detention center teachers already assume multiple roles to meet various federal and state requirements, such as Virginia's SOL assessment program, teaching the required economics and personal finance course, and GED instruction. These functions are typically performed by existing teachers who assume these extra duties without compensation. Providing financial incentives for the use of dually certified teachers when it results in not hiring a second teacher may serve to increase the use of this approach.

6. Managing vacant positions.

Discussion

This option is presented each year as teachers retire or leave for other positions. In several previous fiscal years, budget savings have been captured by maintaining vacant positions in the detention center education programs when feasible and returning the savings to the general fund. Each year, before any position that has been vacated can be filled, the education program leader must prepare a justification for filling the position and submit it to the Department of Education for approval. The facility's census, the number of special education students admitted in the prior year, and any new graduation requirements are considered before a vacated position is filled. While this practice does not ensure recurring cost savings each year in the program, it is used on a year-by-year basis where feasible and where core subject area courses can still be fully covered by a properly endorsed teacher.

7. Use of federal funds in lieu of incurring state costs.

Discussion

Federal Title I funds are currently used to support reading specialists in the detention centers. Federal Individuals with Disabilities Education Act (IDEA) funds are used to support Department of Education administrative costs in supervising and monitoring all state operated programs, including the juvenile detention center education programs. The Title I reading teachers provide pre- and post-testing in basic academic skills for all admitted students and deliver direct instruction to the students who have the most gaps and deficits in their academic skills. If not for the availability of these federal funds, additional state costs might be incurred in the program. While use of federal funds for these purposes does not generate a direct state cost savings, it does provide a cost avoidance if state funds would otherwise be used. The Department of Education will continue to look for opportunities to fund additional instructional needs with federal funds in lieu of increasing state costs.

REVIEW OF HOW OTHER STATES PROVIDE EDUCATION IN JUVENILE DETENTION CENTERS

The following summary on state approaches and best practices in providing education in juvenile justice facilities involves both local detention and state-level facilities. The literature demonstrates significant variability in the oversight of juvenile education across the United States. According to one study, sixteen states have separate departments of juvenile justice with responsibility for the custody, care, and education of children and youth sent to a state facility; eleven states' social services departments or agencies have the responsibility for juvenile education; seventeen states have juvenile justice schools operated by the state departments of education; and six states give this responsibility to the corrections department. A growing proportion of juveniles in local custody are enrolled in local public school districts, with the percentage rising from 21 percent in 2007 to almost 60 percent in 2011. Studies noted a long-term trend to keep youth in their home community, if at all possible, instead of placing them in correctional institutions often far from their families, support systems, and residences.

Challenges in Juvenile Education

Regardless of the agency or organization responsible, the provision of educational services remains a critical element for juveniles in the system. The literature cites a legal precedent for education claims and/or Department of Justice investigations on denying educational services, yet the importance of education is underscored by other factors beyond legal necessity. Research shows many youth in juvenile justice systems are significantly behind in school, impacted by learning disabilities or delays, and challenged by multiple emotional, psychological, and physical problems.

Educational programs must provide essential services to a vulnerable student population, yet a number of challenges can impact the quality and availability of educational offerings. These include limitations in: assessing student needs and learning levels; coordinating learning and teaching across a student's custody term; curricula; teaching methods; dealing with student mobility; providing technology or resources to individualize learning; offering learning assistance and support services; integrating health and mental health support with academics; offering options other than GED preparation; innovating education delivery and support; supporting a student's transition back to the local school and community; and maintaining high expectations and rigor. Without the

resources and capacity to address these challenges, disadvantaged students are less likely to improve skills and experience sustainable success.

Effective Educational Practices in Juvenile Justice Facilities

Despite the challenges noted above, a number of methods have been proven effective for many high-risk youth. In the words of one expert, “a good school inside a juvenile facility shares many characteristics with good schools on the outside.” These strategies include: a) hiring talented teachers with high energy and expectations; b) building a school culture of trust; c) developing a structured curriculum that is delivered through differing, individualized instruction; d) weaving special education services into all parts of the school; and e) spending time and effort on preparing students to transition into self-sustaining learners.

To make transitions between school divisions and juvenile education centers more efficient, statewide data systems, such as Virginia’s Student Information System, allow students and their educational records to be readily available. Students receive licensure in a variety of career pathways while simultaneously pursuing their GEDs, and partnerships with local community colleges allow students to pursue higher education while detained, when appropriate. In the national literature, two education programs showed promise based upon a large and rigorous study within juvenile correctional settings: *Read 180* for reading improvement and *Florida’s Avon Park Youth Academy* for diploma completion and post-release employment.

Research reflects a growing emphasis on providing Career and Technical Education (CTE) programming that will lead to industry or nationally recognized certifications. Changes in the GED program have produced a more rigorous test, but it will also rely on computer-based testing to replace the old paper-and-pencil exam. Florida law requires a common student assessment instrument and protocol for measuring learning gains while a student is in a juvenile justice education program (i.e., BASI, developed by Pearson Assessments) with common entry and exit assessments in mathematics, reading, and language arts.

Costs of Educating Children in Nationwide Juvenile Justice Facilities

According to the Southern Education Foundation, educational spending in some southern juvenile justice schools range from \$11,136 to \$18,936 per student annually. The American Correctional Association estimates the average cost of youth incarceration at \$240.99 per day. In contrast, the James Madison Institute of Florida highlights a community-based program featuring wraparound supports, individualized services, and efforts to engage the family and connect the youth to neighborhood resources with average costs of \$75 per day. Furthermore, these costs are far outweighed by documented long-term costs. For example, the societal costs of a 14-year-old high-risk juvenile who returns to the justice system are estimated to range from \$3.2 million to \$5.8 million over a lifetime. For every dollar spent on correctional education, some estimate that five dollars is saved on re-incarceration costs.

CONCLUSION

At present, the Virginia Department of Education (VDOE) is employing several cost savings and cost avoidance measures in order to realize efficiencies in the Commonwealth’s 23 juvenile detention center education programs. These actions include, where feasible, sharing of instructional positions among detention facilities located in close proximity; utilizing teachers with the required

endorsements to fulfill multiple teaching assignments; carefully analyzing whether vacant positions should be filled; using federal funds to support reading specialists in the detention centers as well as to fund VDOE administrative costs associated with program oversight; and use of online instruction.

However, state and federal requirements as well as security considerations limit VDOE's ability to implement additional cost savings measures. For example, the federal Individuals with Disabilities Education Act (IDEA) and Title I program mandate the use of highly qualified teachers in the detention center education programs, and there is no provision for a waiver from this requirement. Neglecting to adhere to this mandate could jeopardize Virginia's IDEA Part B and Title I federal funding. In addition, security configurations unique to each juvenile detention facility dictate gender separation policies, and these decisions are necessarily left to the individual detention facility security staff. While some online instruction is currently provided in the detention center education programs, expansion of its use should be considered as a cost savings measure where appropriate. In evaluating the efficacy of expanding the use of online programs, VDOE should take into account the up-front costs associated with improving computer network access, appropriate Internet access safeguards, and the instructional needs of students in the programs.

Appendix

Code of Virginia Sections and Board of Education Regulations Related to State Operated Education Programs in Local and Regional Detention Centers

§ 22.1-7. Responsibility of each state board, agency and institution having children in residence or in custody.

Each state board, state agency and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonreligious school, agency or institution. The Board of Education shall supervise the education and training provided to school-age individuals in state training centers, and shall provide for and direct the education for school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services. The Board shall prescribe standards and regulations for all such education and training provided directly by a state board, state agency or state institution. Each state board, state agency or state institution providing such education and training shall submit annually its program therefore to the Board of Education for approval in accordance with regulations of the Board. If any child in the custody of any state board, state agency or state institution is a child with disabilities as defined in § 22.1-213 and such board, agency or institution must contract with a private nonreligious school to provide special education as defined in § 22.1-213 for such child, the state board, state agency or state institution may proceed as a guardian pursuant to the provisions of subsection A of § 22.1-218.

§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and state agencies and institutions.

The Board of Education shall prepare and supervise the implementation in the regional detention homes and those local detention homes having teachers whose salaries were being funded by the Commonwealth on January 1, 1984, a program designed to educate and train the children detained in the homes. In addition, the Board shall supervise those programs of evaluation, education and training provided to school-age children by the Department of Health, the Department of Behavioral Health and Developmental Services, the children's teaching hospital associated with the Eastern Virginia Medical School, the Virginia Commonwealth University Health System Authority, the children's teaching hospital associated with the Virginia Commonwealth University Health System Authority, and the University of Virginia Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including, but not limited to, teacher/student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board and the Board shall prepare a budget for these educational programs which shall be solely supported by such general funds as are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be based on a ratio of one teacher for every twelve beds based on the capacity of the facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average daily

attendance at the facility as calculated by the Department of Education from the previous school year.

The Board of Education shall enter into contracts with the relevant state agency or institution or detention facility or the local school divisions in which the state agencies or institutions or the regional detention homes and the relevant local detention homes are located for the hiring and supervision of teachers.

In any case in which the Board enters into a contract with the relevant state agency or institution, the Department of Human Resource Management shall establish salary schedules for the teachers which are competitive with those in effect for the school divisions in which the agency or institution is located.

§ 22.1-253.13:2. A. and B. 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.

§ 22.1-254. A. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.

A. Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational, or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

Instruction in the home of a child or children by the parent, guardian, or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01.

The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing the achievement of a passing score on a high school equivalency examination approved by the Board of Education but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing score on a high school equivalency examination approved by the Board of Education, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

§ 22.1-295. A. and B. Employment of teachers.

A. The teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel qualified in the relevant subject areas.

B. School boards shall adopt employment policies and practices designed to promote the employment and retention of highly qualified teachers and to effectively serve the educational needs of students. Such policies shall include, but need not be limited to, incentives for excellence in teaching, including financial support for teachers attending professional development seminars or those seeking and obtaining national certification.

8VAC20-81-20. 1. and 5. Functions of the Virginia Department of Education.

Part II. Responsibilities of the State Department of Education

The Virginia Department of Education (state educational agency) shall perform the following functions:

1. Ensure that all children with disabilities, aged two to 21, inclusive, residing in Virginia have a right to a free appropriate public education, including, but not limited to, children with disabilities who: (34 CFR 300.2 and 34 CFR 300.101)
 - a. Are migrant;
 - b. Are homeless;
 - c. Have been suspended or expelled from school, in accordance with this chapter;
 - d. Are incarcerated in a state, regional, or local adult or juvenile correctional facility, with the exception of those provisions identified in 8VAC20-81-110 I;
 - e. Are receiving special education and related services, even though they have not failed or been retained in a course or grade, and are advancing from grade to grade;
 - f. Are in state-operated programs; or
 - g. Are in public charter schools in accordance with the Code of Virginia.

5. Ensure that each local educational agency takes steps for its children with disabilities to have available to them the variety of educational programs and services available to nondisabled

children in the areas served by the local educational agency, including art, music, industrial arts, consumer and homemaking education, and career and technical education. (34 CFR 300.110)

8VAC20-81-30. A., B., and H. Responsibility of Local School Divisions and State-Operated Programs.

Part III. Responsibilities of Local School Divisions and State-Operated Programs

A. The requirements set forth in this chapter are applicable to local school divisions and state-operated programs providing education and related services for children with disabilities and are developed in accordance with state and federal laws and regulations.

B. Each local school division shall ensure that all children with disabilities aged two to 21, inclusive, residing in that school division have a right to a free appropriate public education. (§ 22.1-214 of the Code of Virginia; 34 CFR 300.2, 34 CFR 300.101, 34 CFR 300.124 and 34 CFR 300.209)

The children include:

1. Children with disabilities who are migrant;
2. Children with disabilities who are homeless, in accordance with the provisions of the McKinney-Vento Homeless Assistance Act (42 USC § 11431 et seq.);
3. Children with disabilities who are in need of special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade;
4. Children with disabilities who are served in a public nonprofit charter school;
5. Children with disabilities who have been suspended or expelled from school;
6. Children with disabilities who are incarcerated for 10 or more days in a regional or local jail in its jurisdiction, with the exception of those additional provisions identified in 8VAC20-81-110 I;
7. Children with disabilities who are residents of the school division and who are on house arrest, as ordered by a court of competent jurisdiction;
8. Children with disabilities who are in foster care and residents of Virginia;
9. Children with disabilities who are placed for noneducational reasons; and
10. Children with disabilities regardless of citizenship or immigration status.

H. Each state-operated program shall ensure that the requirements in this chapter are applied to children with disabilities, aged two to 21, inclusive, in that institution. (§ 22.1-7 of the Code of Virginia)

1. For children with disabilities who are placed in a state-operated program as a long-term placement, the local educational agency of the parent's residence remains responsible for ensuring that the child receives a free appropriate public education.

2. The state-operated program shall ensure that the local educational agency of the parent's residence is advised of the child's admission, status, and meetings associated with the child receiving a free appropriate public education.

8VAC20-131-150. Standard School Year and School Day.

A. The standard school year shall be 180 instructional days. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 instructional hours, excluding breaks for meals and recess, and a minimum of three hours for kindergarten.

B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5-1/2 hours), unless a waiver is granted in accordance with policies defined by the local school board.

8VAC20-81-320. A. Additional Responsibilities of State Boards, Agencies, and Institutions for Education and Training of Children with Disabilities in Residence or Custody.

Part V. Additional Responsibilities of State Boards, Agencies, and Institutions for Education and Training of Children with Disabilities in Residence or Custody

A. Provision of education to children with disabilities in residence or custody.

1. Each state board, agency, and institution having children with disabilities in residence or custody shall provide education pursuant to standards, policies and procedures established by the Virginia Board of Education that is comparable to that provided to children with disabilities in the public school system. ...

8VAC20-81-330. A. Compliance with § 504 of the Rehabilitation Act of 1973, As Amended.

Part VI. Compliance with § 504 of the Rehabilitation Act of 1973, as Amended

A. Each state-operated program providing educational services to persons of school age and the Virginia School for the Deaf and the Blind at Staunton shall provide a free appropriate public education to each qualified person with a disability of school age and provide procedural safeguards in accordance with the Virginia Department of Education's 504 plan. (34 CFR 104.33). ...