Superintendent’s Memo #003-21

  
**COMMONWEALTH of VIRGINIA   
Department of Education**

DATE: January 8, 2021

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

## SUBJECT: Waiver of Standards of Quality Class Size Maximums Under Certain Conditions

*This memorandum was originally distributed as a Superintendent’s Email on December 7, 2020. The body of this memorandum has not changed.*

Because of the ongoing impacts of the pandemic, many schools have had to reorganize their staff and student rosters to accommodate instruction in both remote and in-person settings. Teachers are often assigned to either a remote or in-person classroom in order to mitigate challenges of simultaneously managing two types of classrooms. However, in their effort to promote health and safety as well as support their staff, schools cannot always divide classes in ways consistent with the Standards of Quality (SOQ) class maximums and therefore, some schools are unable to fully comply with the SOQ.

Per authority provided to him in [Item 143.I](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/143/) of Chapter 1289 (or the Appropriation Act), the Superintendent of Public Instruction has issued, and Secretary of Education has approved, a waiver related to the class size maximums provided in the SOQ in response to the dilemma that many schools face in balancing class sizes with the need to staff both in-person and remote classrooms. For those schools offering in-person and an option for remote instruction, the waiver below offers limited flexibility to exceed class size maximums within a certain limit but still maintains other staffing, ratio, and reporting requirements of the SOQ. The waiver also allows students to remain with their teacher of record after a transition to/from remote learning to ensure these working relationships can be sustained. In other words, once a school has become eligible for flexibility, it will extend throughout the school year. The waiver language is as follows:

A waiver of the class size maximum in § [22.1-253.13:2](https://law.lis.virginia.gov/vacode/title22.1/chapter13.2/section22.1-253.13:2/) of the Standards of Quality only for those schools with in-person instruction for at least one grade band of students and that are also educating students who have elected to be virtual. The waiver would allow the following flexibility for class sizes in Standard Two of the Standards of Quality:

*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, and librarians, that are not greater than the following ratios:*

*(i) 24 to one in kindergarten with no class being larger than ~~29~~ 34 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 threewith no class being larger than ~~30~~ 35 students;*

*(iii) 25 to one in grades four through six with no class being larger than ~~35~~ 36 students; and*

*(iv) 24 to one in English classes in grades six through 12.*

A division may submit a waiver request for additional flexibility related to class maximums to the State Superintendent of Public Instruction for consideration on a case-by-case basis.

Once a school is eligible to implement the above waiver, or a waiver is approved by the Superintendent, a school may continue with the flexibility regardless of instructional modality through the end of the 2020-2021 school year.

Although flexibility is being provided to support schools with unique staffing demands during the pandemic, schools should still seek to ensure that class sizes remain as small as is practical and conducive to learning for all students. Please also note that all other components of Standard Two remain intact, including, but not limited to: (1) the 21:1 schoolwide ratio in middle and high school; and (2) parents must be notified if class sizes go over the *Code of Virginia* requirements. Divisions would still have access to ratio flexibility provided in [Item 145.A.18](https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/145/) of the Appropriation Act.

While we know that low class sizes are important to ensure students have access to the highest quality education, this is an extraordinary year, and school divisions need increased flexibility to effectively serve students while maintaining the safety of their school communities. With divisions employing many different modalities of instruction, including hybrid or alternating schedules, this waiver increases the logistical feasibility of offering in-person instruction to students with willing educators.

This waiver is [documented on the VDOE website](https://www.doe.virginia.gov/support/health_medical/covid-19/waivers-and-flexibilities.docx). For more information on the length of school term waiver, you may contact the Office of Policy at (804)225-2092 or [policy@doe.virginia.gov](mailto:policy@doe.virginia.gov).

JFL/lms/jgh