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## SENATE BILL NO. 1132

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 2, 2001)

(Patron Prior to Substitute—Senator Marsh)

A BILL to amend and reenact § 23-9.6:1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 22.1-16.2 and 22.1-86.2, and in Chapter 1 of Title 23 a section numbered 23-9.2:7, and a section numbered 23-218.1, relating to the diversity of employees of local school boards and institutions of higher education.

Be it enacted by the General Assembly of Virginia:

1. That § 23-9.6:1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 22.1-16.2 and 22.1-86.2, and in Chapter 1 of Title 23 a section numbered 23-9.2:7, and a section numbered 23-218.1 as follows:

§ 22.1-16.2. Board of Education promotion of racial, ethnic, and cultural diversity of employees of local school boards; establishment of guidelines for cultural diversity policies.

A. The Board of Education shall promote racial, ethnic, and cultural diversity of employees of local school boards to prepare students to live and participate effectively in a global community and an increasingly pluralistic society, facilitate racial harmony and tolerance, reduce barriers among individuals of different races and cultures through meaningful interaction, improve the academic performance of students, contribute to the robust exchange of ideas, reinforce the principle of the worth and value of all human beings, and increase the representation of minority teachers, administrators, and other employees in the public schools, particularly in positions in which minority persons have been traditionally underrepresented.

B. The Board of Education shall establish guidelines for cultural diversity policies to aid local school boards in the implementation of such policies, pursuant to 22.1-86.2. The guidelines shall (i) urge local school boards to inform students and school board employees of the availability of information, materials, and resources concerning the history, culture, and contributions and achievements of racial and ethnic groups, nationalities, and language minority persons represented in the school division and the community; (ii) share potential criteria for developing divisionwide cultural diversity training programs, at the discretion of the school board; (iii) identify experts and other persons with demonstrated qualifications from among whom the school board may select to provide or assist in such training programs, if implemented by the board; and (iv) support the development of processes by which the effectiveness of cultural diversity policies and training may be evaluated.

C. To assist local school boards in increasing the representation of minority teachers, administrators, and other employees in the public schools, particularly in positions in which minority persons have been traditionally underrepresented, the Board of Education shall identify best practices within and outside of the Commonwealth that may be used by local school boards for enhancing the cultural diversity of school board employees.

D. For the purposes of this section, "cultural diversity policies" shall not be construed to require mandatory training of students or school board employees concerning cultural diversity, or to require hiring quotas or the employment of persons on the basis of race or ethnicity.

§ 22.1-86.2. School board promotion of racial, ethnic, and cultural diversity of employees; enhancement of cultural diversity policies.

A. A school board shall promote racial, ethnic, and cultural diversity among its employees to prepare students to live and participate effectively in a global community and an increasingly pluralistic society, facilitate racial harmony and tolerance, reduce barriers among individuals of different races and cultures through meaningful interaction, improve the academic performance of students, contribute to the robust exchange of ideas, reinforce the principle of the worth and value of all human beings, and increase the representation of minority teachers, administrators, and other employees in the public schools, particularly in positions in which minority persons have been traditionally underrepresented.

B. A school board shall establish cultural diversity policies that are consistent with guidelines established by the Board of Education, as provided in 22.1-16.2. Further, a school board may use best practices identified by the Board of Education, or other lawful strategies, to assist it in increasing the representation of minority teachers, principals, and other employees in the public schools, particularly in positions in which minority persons have been traditionally underrepresented.

C. For the purposes of this section, "cultural diversity policies" shall not be construed to require mandatory training of students or school board employees concerning cultural diversity, or to require hiring quotas or the employment of persons on the basis of race or ethnicity.

§ 23-9.2:7. Promotion of racial, ethnic, and cultural diversity of employees in public four-year

60 *institutions of higher education; enhancement of institutional cultural diversity policies.*

61 *A. The boards of visitors of public four-year institutions of higher education shall promote racial,*  
62 *ethnic, and cultural diversity among the employees of the institution to prepare students to live and*  
63 *participate effectively in a global community and an increasingly pluralistic society, facilitate racial*  
64 *harmony and tolerance, reduce barriers among individuals of different races and cultures through*  
65 *meaningful interaction, improve campus climate, student retention, and the academic performance of*  
66 *students, contribute to the robust exchange of ideas, reinforce the principle of the worth and value of all*  
67 *human beings, and increase the representation of minority faculty, administrators, and staff, particularly*  
68 *in positions in which minority persons have been traditionally underrepresented.*

69 *B. The boards of visitors of four-year institutions of higher education shall establish cultural*  
70 *diversity policies that are consistent with guidelines established by the State Council of Higher*  
71 *Education, as provided in 23-9.6:1. Further, the institutions may use the best practices identified by the*  
72 *State Council of Higher Education, or other lawful strategies, to assist them in increasing the*  
73 *representation of minority faculty, administrators, and staff, particularly in positions in which minority*  
74 *persons have been traditionally underrepresented.*

75 *C. For the purposes of this section, "cultural diversity policies" shall not be construed to require*  
76 *mandatory training of students or employees of four-year institutions of higher education concerning*  
77 *cultural diversity, or to require hiring quotas or the employment of persons on the basis of race or*  
78 *ethnicity.*

79 § 23-9.6:1. Duties of Council generally.

80 In addition to such other duties as may be prescribed elsewhere, the State Council of Higher  
81 Education shall have the duty, responsibility and authority:

82 1. To prepare plans under which the several state-supported institutions of higher education of  
83 Virginia shall constitute a coordinating system. In developing such plans, the Council shall consider the  
84 future needs for higher education in Virginia at both the undergraduate and the graduate levels, as well  
85 as the mission, programs, facilities and location of each of the existing institutions of higher education,  
86 and such other matters as the Council deems appropriate. The Council shall revise such plans biennially  
87 in each odd-numbered year and shall submit within the time prescribed by § 2.1-394 the plans as revised  
88 to the Governor and the General Assembly together with such recommendations as are necessary for  
89 their implementation.

90 2. To review and approve or disapprove any proposed change in the statement of mission of any  
91 presently existing public institution of higher education and to define the mission of all public  
92 institutions of higher education created after the effective date of this provision. The Council shall,  
93 within the time prescribed in subdivision 1 of this section, make a report to the Governor and the  
94 General Assembly with respect to its actions hereunder. No such actions shall become effective until  
95 thirty days after adjournment of the session of the General Assembly next following the filing of such a  
96 report. Nothing contained in this provision shall be construed to authorize the Council to modify any  
97 mission statement adopted by the General Assembly, nor to empower the Council to affect, either  
98 directly or indirectly, the selection of faculty or the standards and criteria for admission of any public  
99 institution, whether related to academic standards, residence or other criteria; it being the intention of  
100 this section that faculty selection and student admission policies shall remain a function of the individual  
101 institutions.

102 3. To study any proposed escalation of any public institution to a degree-granting level higher than  
103 that level to which it is presently restricted and to submit a report and recommendation to the Governor  
104 and the General Assembly relating to the proposal. The study shall include the need for and benefits or  
105 detriments to be derived from the escalation. No such institution shall implement any such proposed  
106 escalation until the Council's report and recommendation have been submitted to the General Assembly  
107 and the General Assembly approves the institution's proposal.

108 4. To review and approve or disapprove all enrollment projections proposed by each public  
109 institution of higher education. The Council's projections shall be in numerical terms by level of  
110 enrollment and shall be used for budgetary and fiscal planning purposes only. The student admissions  
111 policies for the institutions and their specific programs shall remain the sole responsibility of the  
112 individual boards of visitors.

113 5. To review and approve or disapprove all new academic programs which any public institution of  
114 higher education proposes. As used herein, "academic programs" include both undergraduate and  
115 graduate programs.

116 6. To review and require the discontinuance of any academic program which is presently offered by  
117 any public institution of higher education when the Council determines that such academic program is  
118 (i) nonproductive in terms of the number of degrees granted, the number of students served by the  
119 program, the program's effectiveness, and budgetary considerations, or (ii) supported by state funds and  
120 is unnecessarily duplicative of academic programs offered at other public institutions of higher education  
121 in the Commonwealth. As used herein, "academic programs" includes both undergraduate and graduate

programs. The Council shall make a report to the Governor and the General Assembly with respect to the discontinuance of any academic program. No such discontinuance shall become effective until thirty days after the adjournment of the session of the General Assembly next following the filing of such report.

7. To review and approve or disapprove the creation and establishment of any department, school, college, branch, division or extension of any public institution of higher education which such institution proposes to create and establish. This duty and responsibility shall be applicable to the proposed creation and establishment of departments, schools, colleges, branches, divisions and extensions, whether located on or off the main campus of the institution in question. If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this provision shall be construed to authorize the Council to disapprove the creation and establishment of any department, school, college, branch, division or extension of any institution which has been created and established by the General Assembly.

8. *To establish guidelines for cultural diversity policies to aid public two-year and four-year institutions of higher education in the implementation of such policies, as required in § 23-9.2:7 and § 23-218.1. The guidelines shall (i) urge higher education institutions to inform faculty, staff, and students of the availability of information, materials, and resources concerning the history, culture, and the contributions and achievements of racial and ethnic groups, nationalities, and language minority students, faculty, and staff represented at the institution or the community college; (ii) share potential criteria for developing institution-wide cultural diversity training programs, at the discretion of the board of visitors or the Board for Community Colleges; (iii) identify experts and other persons with demonstrated qualifications, affiliated with or external to the institution, who may be requested to provide or assist in such training programs, if implemented; and (iv) support the development of processes by which the effectiveness of cultural diversity policies and training may be evaluated. Further, to assist institutions and community colleges in increasing the representation of minority faculty, administrators, and staff, particularly in positions in which minority persons have been traditionally underrepresented, the State Council of Higher Education shall identify best practices within and outside of the Commonwealth that may be used by institutions and community colleges for enhancing the cultural diversity of the institution. For the purposes of this subdivision, "cultural diversity policies" shall not be construed to require mandatory training of students or employees of public or private institutions of higher education concerning cultural diversity, or to require hiring quotas or the employment of persons on the basis of race or ethnicity.*

8. 9. To develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties. The system shall include information on admissions, enrollments, self-identified students with documented disabilities, personnel, programs, financing, space inventory, facilities and such other areas as the Council deems appropriate.

9. 10. To develop in cooperation with institutions of higher education guidelines for the assessment of student achievement. An institution shall use an approved program which complies with the guidelines of the Council and is consistent with the institution's mission and educational objectives in the development of such assessment. The Council shall report the institutions' assessments of student achievement in the biennial revisions to the state's master plan for higher education.

~~10. 11. To develop in cooperation with the appropriate state financial and accounting officials and to establish uniform standards and systems of accounting, record keeping and statistical reporting for the public institutions of higher education.~~

~~11. 12. To review biennially and approve or disapprove all changes in the inventory of educational and general space which any public institution of higher education may propose, and to make a report to the Governor and the General Assembly with respect thereto. No such change shall be made until thirty days after the adjournment of the session of the General Assembly next following the filing of such report.~~

~~12. 13. To visit and study the operations of each of the public institutions of higher education at such times as the Council shall deem appropriate and to conduct such other studies in the field of higher education as the Council deems appropriate or as may be requested by the Governor or the General Assembly.~~

~~13. 14. To provide advisory services on academic, administrative, financial and space utilization matters, and cultural diversity policies to private, accredited and nonprofit institutions of higher education, whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education; on academic, administrative, financial and space utilization matters.~~ The Council may also review and advise on joint activities, including contracts for services between such public and private institutions of higher education or between such private institutions and any agency of the Commonwealth or political subdivision thereof.

183 14. 15. To adopt such rules and regulations as the Council believes necessary to implement all of the  
184 Council's duties and responsibilities as set forth in this Code. The various public institutions of higher  
185 education shall comply with such rules and regulations.

186 ~~15. 16. To issue guidelines consistent with the provisions of the federal Family Education Rights and~~  
187 ~~Privacy Act (FERPA), 20 U.S.C. § 1232q requiring public institutions of higher education to release a~~  
188 ~~student's academic and disciplinary record to a student's parent.~~

189 In carrying out its duties and responsibilities, the Council, insofar as practicable, shall preserve the  
190 individuality, traditions and sense of responsibility of the respective institutions. The Council, insofar as  
191 practicable, shall seek the assistance and advice of the respective institutions in fulfilling all of its duties  
192 and responsibilities.

193 § 23-218.1. *Promotion of racial, ethnic, and cultural diversity of employees in community colleges;*  
194 *enhancement of cultural diversity policy.*

195 A. *The Board for Community Colleges shall promote racial, ethnic, and cultural diversity among the*  
196 *employees of the community colleges to prepare students to live and participate effectively in a global*  
197 *community and an increasingly pluralistic society, facilitate racial harmony and tolerance, reduce*  
198 *barriers among individuals of different races and cultures through meaningful interaction, improve*  
199 *campus climate, student retention, and the academic performance of students, contribute to the robust*  
200 *exchange of ideas, reinforce the principle of the worth and value of all human beings, and increase the*  
201 *representation of minority faculty, administrators, and staff, particularly in positions in which minority*  
202 *persons have been traditionally underrepresented.*

203 B. *The Board for Community Colleges shall establish a cultural diversity policy that is consistent*  
204 *with guidelines established by the State Council of Higher Education, as provided in 23-9.6:1. Further,*  
205 *the Board and community colleges may use the best practices identified by the State Council of Higher*  
206 *Education, or other lawful strategies, to assist them in increasing the representation of minority faculty,*  
207 *administrators, and staff, particularly in positions in which minority persons have been traditionally*  
208 *underrepresented.*

209 C. *For the purposes of this section, "cultural diversity policies" shall not be construed to require*  
210 *mandatory training of students or employees of the community colleges concerning cultural diversity, or*  
211 *to require hiring quotas or the employment of persons on the basis of race or ethnicity.*