

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 377

An Act to amend and reenact § 22.1-254.1 of the Code of Virginia, relating to notification of students in home instruction regarding certain examinations.

[H 1767]

Approved March 21, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-254.1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.

A. When the requirements of this section have been satisfied, instruction of children by their parents is an acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent 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 may elect to provide home instruction in lieu of school attendance if he (i) holds a baccalaureate degree in any subject from an accredited institution of higher education; or (ii) is a teacher of qualifications prescribed by the Board of Education; or (iii) has enrolled the child or children in a correspondence course approved by the Superintendent of Public Instruction; or (iv) provides a program of study or curriculum which, in the judgment of the division superintendent, includes the standards of learning objectives adopted by the Board of Education for language arts and mathematics and provides evidence that the parent is able to provide an adequate education for the child.

B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the division superintendent in August of his intention to so instruct the child and provide a description of the curriculum to be followed for the coming year and evidence of having met one of the criteria for providing home instruction as required by subsection A of this section. Effective July 1, 2000, parents electing to provide home instruction shall provide such annual notice no later than August 15. Any parent who moves into a school division or begins home instruction after the school year has begun shall notify the division superintendent of his intention to provide home instruction as soon as practicable and shall comply with the requirements of this section within ~~thirty~~ 30 days of such notice. The division superintendent shall notify the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

C. The parent who elects to provide home instruction shall provide the division superintendent by August 1 following the school year in which the child has received home instruction with either (i) evidence that the child has attained a composite score in or above the fourth stanine on a battery of achievement tests which have been approved by the Board of Education for use in the public schools or (ii) an evaluation or assessment which, in the judgment of the division superintendent, indicates that the child is achieving an adequate level of educational growth and progress.

In the event that evidence of progress as required in this subsection is not provided by the parent, the home instruction program for that child may be placed on probation for one year. Parents shall file with the division superintendent evidence of their ability to provide an adequate education for their child in compliance with subsection A of this section and a remediation plan for the probationary year which indicates their program is designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division superintendent, the home instruction may continue for one probationary year. If the remediation plan and evidence are not accepted or the required evidence of progress is not provided by August 1 following the probationary year, home instruction shall cease and the parent shall make other arrangements for the education of the child which comply with § 22.1-254. The requirements of subsection C shall not apply to children who are under the age of six as of September 30 of the school year.

D. ~~For purposes of this section, "parent" means the biological parent or adoptive parent, guardian or other person having control or charge of a child.~~

Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school attendance by reason of bona fide religious training or belief pursuant to *subdivision B 1 of § 22.1-254 B 1*.

E. Any party aggrieved by a decision of the division superintendent may appeal his decision within ~~thirty~~ 30 days to an independent hearing officer. The independent hearing officer shall be chosen from the list maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing officer in a manner consistent with his findings.

F. *School boards shall implement a plan to notify students receiving home instruction pursuant to this section and their parents of the availability of Advanced Placement (AP) and Preliminary Scholastic*

Aptitude Test (PSAT) examinations and the availability of financial assistance to low-income and needy students to take these examinations.