

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 753

An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 23-9.8:1, by adding in Title 30 a chapter numbered 34.1, consisting of sections numbered 30-231.1 through 30-231.10, and to repeal Chapter 4.4:5 (§§ 23-38.53:21 through 23-38.53:24) of Title 23 and Chapter 34 (§§ 30-226 through 30-231) of Title 30 of the Code of Virginia, relating to the Brown v. Board of Education Scholarship Program and Fund.

[S 1034]

Approved March 26, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23-9.8:1 and by adding in Title 30 a chapter numbered 34.1, consisting of sections numbered 30-231.1 through 30-231.10, as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards and evaluation.

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board shall review annually the accreditation status of all schools in the Commonwealth.

Each local school board shall maintain schools that are fully accredited pursuant to the standards of accreditation as prescribed by the Board of Education. Each local school board shall review the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.

When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the Board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board a corrective action plan, consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's six-year improvement plan pursuant to § 22.1-253.13:6.

With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt and implement an academic review process, to be conducted by the Department of Education, to assist schools that are accredited with warning. The Department shall forward a report of each academic review to the relevant local school board, and such school board shall make the results of such review available to the public.

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board of Education shall prescribe

assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall (i) in consultation with the chairpersons of the eight regional superintendents' study groups, establish a timetable for administering the Standards of Learning assessments to ensure genuine end-of-course and end-of-grade testing and (ii) with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments.

In prescribing such Standards of Learning assessments, the Board shall provide local school boards the option of administering tests for United States History to 1877, United States History: 1877 to the Present, and Civics and Economics. The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests.

The Board shall include in the student outcome measures that are required by the Standards of Accreditation end-of-course or end-of-grade tests for various grade levels and classes, as determined by the Board, in accordance with the Standards of Learning. These Standards of Learning assessments shall include, but need not be limited to, end-of-course or end-of-grade tests for English, mathematics, science, and history and social science.

In addition, to assess the educational progress of students, the Board of Education shall (i) develop appropriate assessments, which may include criterion-referenced tests and alternative assessment instruments that may be used by classroom teachers and (ii) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels.

The Standard of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for the General Education Development (GED) certificate or in an adult basic education program to obtain the high school diploma.

D. The Board of Education is authorized to pursue all available civil remedies for breaches in test security and unauthorized alteration of test materials or test results. Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board of Education may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the administration of appropriate assessments, which may include criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the Standards of Learning Assessments and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, and the Standards of Learning Assessments to the public.

The Board of Education shall not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction pursuant to § 22.1-254.1.

The Board shall include requirements for the reporting of the Standards of Learning assessment scores and averages for each year as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by gender and by race or ethnicity, and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department of Education's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

§ 23-9.8:1. State Council of Higher Education to advise the Brown v. Board of Education Scholarship Awards Committee.

Consistent with its statutory responsibilities for higher education in the Commonwealth, the Council shall advise and provide technical assistance to the Brown v. Board of Education Scholarship Awards Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program, pursuant to Chapter 34.1 (§ 30-231.1 et seq.) of Title 30.

CHAPTER 34.1.

BROWN v. BOARD OF EDUCATION SCHOLARSHIP PROGRAM AND FUND.

§ 30-231.1. Brown v. Board of Education Scholarship Program created; purpose.

There is hereby created, from such funds made available for this purpose, the Brown v. Board of Education Scholarship Program, hereinafter referred to as the "Program." The Program shall be established for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which the public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from an accredited public or private two-year or four-year institution of higher education in Virginia.

§ 30-231.2. Criteria for awarding scholarships; awards made by the Brown v. Board of Education Scholarship Awards Committee; eligible students; Standards of Learning requirements and assessments waived for eligible students.

A. Within the funds made available from gifts, grants, donations, bequests, and other funds as may be received for such purpose, scholarships shall be awarded annually and may be renewed upon evidence of satisfactory academic achievement. Awards may be granted for part-time or full-time attendance for (i) no more than one year of study for students enrolled in adult education programs for the high school diploma and preparation programs for the General Education Development certificate, (ii) no more than two years of study for students enrolled in two-year undergraduate comprehensive community college programs, (iii) no more than four years of study for students enrolled in four-year undergraduate degree programs, and (iv) no more than five years of study for students enrolled in recognized five-year undergraduate degree programs. Awards granted may also be used for transition and dual enrollment programs as may be approved by the Committee, in accordance with § 30-233.

B. The Standard of Learning requirements and all related assessments shall be waived for any student awarded a scholarship under this Program and enrolled in a preparation program for the General Education Development certificate or in an adult basic education program to obtain the high school diploma.

C. No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive scholarship awards.

D. Only students who are domiciled residents of Virginia as defined by § 23-7.4 shall be eligible to receive such awards. However, to facilitate the purposes of this Program only, the Committee may establish a list of acceptable documents from among those included in regulations promulgated by the Department of Motor Vehicles governing legal presence in the Commonwealth to obtain a driver's license or identification card, and regulations promulgated by the State Health Department governing requests for and access to vital records.

E. Scholarships shall be awarded to eligible students by the Brown v. Board of Education Scholarship Awards Committee.

F. For the purpose of this chapter, "eligible student" means a person who resided in a jurisdiction in Virginia between 1954 and 1964 in which the public schools were closed to avoid desegregation, and who (i) was unable during such years to (a) begin, continue, or complete his education in the public schools of the Commonwealth, (b) ineligible to attend a private academy or foundation, whether in state or out of state, established to circumvent desegregation, or (c) pursue postsecondary education opportunities or training because of the inability to obtain a high school diploma; or (ii) was required to relocate within or outside of the Commonwealth to begin, continue, or complete his public education during such years because public schools were closed to avoid desegregation.

§ 30-231.3. Amount of scholarships; use of scholarships; terms and conditions.

A. Scholarships shall be awarded from gifts, grants, donations, bequests, or other funds made available to the Program. No scholarship awarded under this Program shall exceed the annual cost of the specific program in which the student is enrolled.

B. The full amount of each scholarship awarded to each recipient shall be used solely for the payment of tuition.

C. This chapter shall not be construed as creating any legally enforceable right or entitlement on the part of any person or any right or entitlement to participation in the Program. Scholarships shall be awarded to the extent funds are made available to the Program through gifts, grants, donations, bequests, or other funds.

§ 30-231.4. Brown v. Board of Education Scholarship Program Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Brown v. Board of Education Scholarship Program Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Brown v. Board of Education Scholarship Program or the Brown v. Board of Education Scholarship Awards Committee on behalf of the Program. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of awarding scholarships to eligible

students, pursuant to §§ 30-231.2 and 30-231.3. Expenditures and disbursements for scholarships to eligible students from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chairman of the State Council of Higher Education as directed by the Brown v. Board of Education Scholarship Awards Committee.

§ 30-231.5. Brown v. Board of Education Scholarship Awards Committee established; membership; terms; vacancies; chairman and vice chairman.

A. There is hereby established in the legislative branch of state government the Brown v. Board of Education Scholarship Awards Committee, hereinafter referred to as the "Committee," to evaluate applications for and select recipients of the Brown v. Board of Education scholarships, in accordance with the provisions of this chapter.

B. The Committee shall consist of 11 members that include six legislative members and five nonlegislative citizen members. Members shall be appointed as follows: (i) four members of the House of Delegates and two members of the Senate to be appointed by the Joint Rules Committee and (ii) five nonlegislative citizen members of whom one shall represent college admissions personnel, one shall have expertise in academic and career counseling, and three shall represent residents of the affected jurisdictions, to be appointed by the Governor. Nonlegislative citizen members of the Committee shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Committee and the Joint Rules Committee, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

C. Legislative members of the Committee shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative and nonlegislative citizen members may be reappointed. However, no House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a nonlegislative citizen member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Committee shall elect a chairman and vice chairman from among its membership, who shall be members of the General Assembly.

§ 30-231.6. Quorum; meetings; voting on recommendations.

A majority of the voting members shall constitute a quorum. The Committee shall meet not more than four times each year. The meetings of the Committee shall be held at the call of the chairman or whenever the majority of the voting members so request. No recommendation of the Committee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Committee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Committee.

§ 30-231.7. Compensation; expenses.

Legislative members of the Committee shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such compensation and expenses shall be paid from existing appropriations to the Committee, or if unfunded, shall be approved by the Joint Rules Committee.

§ 30-231.8. Powers and duties of the Committee.

The Committee shall have the following powers and duties:

1. Establish criteria for the awarding of scholarships, including, but not limited to, eligibility for and the renewal of scholarships, including evidence of satisfactory academic achievement in accordance with § 30-231.2, terms and conditions of scholarships awarded pursuant to § 30-231.3, and the conditions for which repayment of scholarships, or any part thereof, may be required;

2. Evaluate applications for and select recipients of the Brown v. Board of Education scholarships, in accordance with the provisions of this chapter;

3. Establish standards to ensure that the Program is implemented and administered in a manner that preserves the purpose for which it was created;

4. Confer with the Board of Education, Virginia Community College System, State Council of Higher Education, and Private College Advisory Board to the State Council of Higher Education to establish a protocol to facilitate the dual enrollment of eligible students in adult basic education programs and two-year and four-year degree programs, and the conventional enrollment of such students in public and private two-year and four-year institutions of higher education;

5. Develop and implement a system to provide individualized transition programs and services, including, but not limited to, remediation, acceleration, and fundamental basic life skills, designed to prepare eligible students for academic success in preparation programs for the General Education Development certificate, and adult basic education and two-year and four-year degree programs;

6. Determine annually the sum of any gifts, grants, donations, bequests, or other funds in the Brown v. Board of Education Scholarship Program Fund, and set the maximum number of scholarships that may be awarded each year;

7. Seek, receive, and expend gifts, grants, donations, bequests, or other funds from any source on behalf of the Program for its support and to facilitate its purpose;

8. Make the first awards of the Brown v. Board of Education Scholarship Program to eligible students between July 1, 2004, and July 1, 2006, but no later than July 1, 2006; and

9. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of this chapter.

§ 30-231.9. Staff support; State Council of Higher Education to advise and assist Committee.

The Office of the Clerk of the chairman of the Committee shall provide administrative staff support. The Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Committee. The State Council of Higher Education, consistent with its statutory responsibilities for higher education in the Commonwealth, shall advise and provide technical assistance to the Committee in the implementation and administration of the Program, in accordance with the provisions of this chapter and in the manner as may be requested by the Committee. All agencies of the Commonwealth shall provide assistance to the Committee, upon request.

§ 30-231.10. Chairman's executive summary of activity and work of the Committee.

The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Committee no later than the first day of each regular session of the General Assembly. The executive summary shall state whether the Committee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a state document. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

2. That in order to permit a student who is enrolled in an approved education program on July 1, 2008, to complete his course of study after the expiration of the Brown v. Board of Education Scholarship Program and Fund on July 1, 2008, the scholarship awarded such student shall be renewed each year upon evidence of satisfactory academic achievement, pursuant to subsection A of § 30-231.2. However, no scholarship award shall be renewed in a manner to exceed the maximum number of years allowed for approved education programs set out in subsection A of § 30-231.2.

3. That after the expiration of the Brown v. Board of Education Scholarship Program and Fund on July 1, 2008, the State Council of Higher Education shall review and approve the application for renewal of scholarship awards of students who were enrolled in approved education programs on July 1, 2008.

4. That Chapter 4.4:5 (§§ 23-38.53:21 through 23-38.53:24) of Title 23 and Chapter 34 (§§ 30-226 through 30-231) of Title 30 of the Code of Virginia are repealed.

5. That an emergency exists and this act is in force from its passage.