

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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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

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

58 taken to improve the educational performance in such school divisions and schools.

59 C. With such funds as are available for this purpose, the Board of Education shall prescribe
60 assessment methods to determine the level of achievement of the Standards of Learning objectives by all
61 students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and
62 skills related to the Standards of Learning being assessed. The Board shall (i) in consultation with the
63 chairpersons of the eight regional superintendents' study groups, establish a timetable for administering
64 the Standards of Learning assessments to ensure genuine end-of-course and end-of-grade testing and (ii)
65 with the assistance of independent testing experts, conduct a regular analysis and validation process for
66 these assessments.

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

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

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

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

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

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

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

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

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

116 § 23-9.8:1. *State Council of Higher Education to advise the Brown v. Board of Education*
117 *Scholarship Awards Committee.*

118 *Consistent with its statutory responsibilities for higher education in the Commonwealth, the Council*

119 shall advise and provide technical assistance to the Brown v. Board of Education Scholarship Awards
120 Committee in the implementation and administration of the Brown v. Board of Education Scholarship
121 Program, pursuant to Chapter 34.1 (§ 30-231.1 et seq.) of Title 30.

122 CHAPTER 34.1.

123 BROWN v. BOARD OF EDUCATION SCHOLARSHIP PROGRAM AND FUND.

124 § 30-231.1. Brown v. Board of Education Scholarship Program created; purpose.

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

132 § 30-231.2. Criteria for awarding scholarships; awards made by the Brown v. Board of Education
133 Scholarship Awards Committee; eligible students; Standards of Learning requirements and assessments
134 waived for eligible students.

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

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

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

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

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

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

168 § 30-231.3. Amount of scholarships; use of scholarships; terms and conditions.

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

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

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

178 § 30-231.4. Brown v. Board of Education Scholarship Program Fund established.

179 There is hereby created in the state treasury a special nonreverting fund to be known as the Brown

180 v. Board of Education Scholarship Program Fund, hereafter referred to as the "Fund." The Fund shall
 181 be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or
 182 other funds from any source as may be received by the Brown v. Board of Education Scholarship
 183 Program or the Brown v. Board of Education Scholarship Awards Committee on behalf of the Program.
 184 Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the
 185 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
 186 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
 187 the Fund. Moneys in the Fund shall be used solely for the purpose of awarding scholarships to eligible
 188 students, pursuant to §§ 30-231.2 and 30-231.3. Expenditures and disbursements for scholarships to
 189 eligible students from the Fund shall be made by the State Treasurer on warrants issued by the
 190 Comptroller upon written request signed by the Chairman of the State Council of Higher Education as
 191 directed by the Brown v. Board of Education Scholarship Awards Committee.

192 § 30-231.5. Brown v. Board of Education Scholarship Awards Committee established; membership;
 193 terms; vacancies; chairman and vice chairman.

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

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

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

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

219 § 30-231.6. Quorum; meetings; voting on recommendations.

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

226 § 30-231.7. Compensation; expenses.

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

233 § 30-231.8. Powers and duties of the Committee.

234 The Committee shall have the following powers and duties:

235 1. Establish criteria for the awarding of scholarships, including, but not limited to, eligibility for and
 236 the renewal of scholarships, including evidence of satisfactory academic achievement in accordance with
 237 § 30-231.2, terms and conditions of scholarships awarded pursuant to § 30-231.3, and the conditions for
 238 which repayment of scholarships, or any part thereof, may be required;

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

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

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

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

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

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

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

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

261 § 30-231.9. Staff support; State Council of Higher Education to advise and assist Committee.

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

269 § 30-231.10. Chairman's executive summary of activity and work of the Committee.

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

277 **2. That in order to permit a student who is enrolled in an approved education program on July 1,
278 2008, to complete his course of study after the expiration of the Brown v. Board of Education
279 Scholarship Program and Fund on July 1, 2008, the scholarship awarded such student shall be
280 renewed each year upon evidence of satisfactory academic achievement, pursuant to subsection A
281 of § 30-231.2. However, no scholarship award shall be renewed in a manner to exceed the
282 maximum number of years allowed for approved education programs set out in subsection A of
283 § 30-231.2.**

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

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

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