

062343748

**SENATE BILL NO. 443**

Offered January 11, 2006

Prefiled January 11, 2006

*A BILL to amend and reenact §§ 2.2-3705.4, 2.2-3711, 30-231.1, 30-231.2, 30-231.3, and 30-231.8 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 30-231.01, and to repeal the second and third enactments of Chapter 753 and Chapter 834 of the Acts of Assembly of 2005, relating to Brown v. Board of Education Scholarship Program and Fund; penalty.*

Patron—Lambert

Referred to Committee on Rules

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.4, 2.2-3711, 30-231.1, 30-231.2, 30-231.3, and 30-231.8 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 30-231.01 as follows:**

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

3. *Scholastic records, personally identifiable information, data, scholarship applications, confidential letters and statements, records and other information pertaining to any applicant or recipient of a scholarship awarded by the Brown v. Board of Education Scholarship Awards Committee, and information related to the application, admission, and matriculation of any such scholarship recipient to any educational agency, as defined in § 30-231.01, accepting recipients of the Brown v. Board of Education Scholarship Program.*

34. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

45. All records of the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

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56. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

10. Discussion or consideration of honorary degrees or special awards.

11. Discussion or consideration of tests, examinations or other records excluded from this chapter pursuant to subdivision 4 of § 2.2-3705.1.

12. Discussion, consideration or review by the appropriate House or Senate committees of possible

disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.5.

16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding the placement in community diversion programs of individuals previously sentenced to state correctional facilities.

19. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

20. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety.

21. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or provided to the retirement system under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system or the Rector and Visitors of the University of Virginia. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

22. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

23. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

24. In the case of the Virginia Commonwealth University Health System Authority, discussion or

182 consideration of any of the following: the acquisition or disposition of real or personal property where  
183 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;  
184 operational plans that could affect the value of such property, real or personal, owned or desirable for  
185 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and  
186 contracts for services or work to be performed by the Authority; marketing or operational strategies  
187 where disclosure of such strategies would adversely affect the competitive position of the Authority;  
188 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications  
189 or evaluations of other employees.

190 25. Those portions of the meetings of the Intervention Program Committee within the Department of  
191 Health Professions to the extent such discussions identify any practitioner who may be, or who actually  
192 is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

193 26. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
194 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees  
195 by or on behalf of individuals who have requested information about, applied for, or entered into  
196 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.)  
197 of Title 23 is discussed.

198 27. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created  
199 pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et  
200 seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless  
201 E-911 service.

202 28. Those portions of disciplinary proceedings by any regulatory board within the Department of  
203 Professional and Occupational Regulation, Department of Health Professions, or the Board of  
204 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach  
205 a decision or meetings of health regulatory boards or conference committees of such boards to consider  
206 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as  
207 requested by either of the parties.

208 29. Discussion or consideration by a responsible public entity or an affected local jurisdiction, as  
209 those terms are defined in § 56-557, of confidential proprietary records excluded from this chapter  
210 pursuant to subdivision 11 of § 2.2-3705.6.

211 30. Discussion of the award of a public contract involving the expenditure of public funds, including  
212 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where  
213 discussion in an open session would adversely affect the bargaining position or negotiating strategy of  
214 the public body.

215 31. Discussion or consideration by the Commonwealth Health Research Board of grant application  
216 records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6.

217 32. Discussion or consideration by the Commitment Review Committee of records excluded from  
218 this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as  
219 sexually violent predators under Article 1.1 (§ 37.1-70.1 et seq.) of Chapter 2 of Title 37.1.

220 33. (Expires July 1, 2006) Discussion or consideration by the Virginia Commission on Military Bases  
221 of records excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2.

222 34. Discussion or consideration of confidential proprietary records and trade secrets excluded from  
223 this chapter pursuant to subdivision 18 of § 2.2-3705.6.

224 35. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
225 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets  
226 excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

227 36. Discussion or consideration by the State Board of Elections or local electoral boards of voting  
228 security matters made confidential pursuant to § 24.2-625.1.

229 37. *Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards*  
230 *Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of*  
231 *§ 2.2-3705.4, and meetings of the Committee to set the annual maximum scholarship award, review and*  
232 *consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or*  
233 *recover scholarship awards.*

234 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
235 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
236 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation or  
237 motion that shall have its substance reasonably identified in the open meeting.

238 C. Public officers improperly selected due to the failure of the public body to comply with the other  
239 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
240 obtain notice of the legal defect in their election.

241 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
242 more public bodies, or their representatives, but these conferences shall be subject to the same  
243 procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Intervention Program Committee within the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 30-231.01. Definitions.

As used in this chapter, unless the context indicates otherwise:

"Accredited career and technical education postsecondary school" means a privately owned and managed, academic-vocational school, noncollege degree school, postsecondary school, or a vocational school, as defined in § 23-276.1; (ii) formed, incorporated, or chartered within the Commonwealth and whose administrative office and principal campus is located in Virginia; (iii) accredited by a national or regional organization or agency recognized by the United States Secretary of Education for accrediting purposes; and (iv) certified by the State Council of Higher Education to award certificates and diplomas or to confer degrees, pursuant to § 23-276.4.

"Approved education program" means an educational agency or transition program or services accepted for participation in the Program by the Brown v. Board of Education Awards Committee.

"College-Level Examination Program (CLEP)" means a program consisting of a series of general and subject examinations in undergraduate college courses that measures an individual's college level knowledge gained through course work, independent study, cultural pursuits, travel, special interests, military service, and professional development, for the purpose of earning college credit.

"Dual enrollment" means the concurrent enrollment of a scholarship recipient in a General Education Development (GED) program, or an adult education program for the high school diploma, or a transition program or services, and a public or private accredited two-year or four-year Virginia institution of higher education.

"Educational agency" means any public school, public or private accredited two-year or four-year Virginia institution of higher education, General Education Development (GED) preparation program, College-Level Examination Program (CLEP), or accredited career and technical education postsecondary school in the Commonwealth that accepts for admission recipients of the Brown v. Board of Education Scholarship Program.

"General Education Development (GED) program" means a program of preparation and instruction for adults who did not complete high school and for youth who have been granted permission by the division superintendent of the school in which they are enrolled to take the test for the general educational development certificate.

"Program" means the Brown v. Board of Education Scholarship Program and Fund.

"Transition program and services" means individualized instruction or a compensatory education program designed to provide remediation, acceleration, or fundamental basic life skills to assist scholarship recipients in overcoming learning problems or to prepare such persons for academic success in an approved education program.

§ 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 the adult high school diploma, the General Education Development certificate, College-Level Examination Program (CLEP) credit, career or technical education or training in an approved program at a Virginia community college or at an accredited career and technical education postsecondary school in the Commonwealth, 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 and renewal of 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 or the College-Level Examination Program (CLEP) credit, (ii) no more than two years of study for students enrolled in an approved career or technical education or training program at a Virginia community

college, or at an accredited career and technical education postsecondary school the Commonwealth, (iii) no more than two years of study for students enrolled in two-year undergraduate comprehensive community college programs, ~~(iii)~~ (iv) no more than four years of study for students enrolled in four-year undergraduate degree programs, and ~~(iv)~~ (v) no more than five years of study for students enrolled in recognized five-year undergraduate degree programs. Awards granted may also be used for the College-Level Examination Program (CLEP) examinations and costs related to preparation for the tests, transition programs and services, and dual enrollment programs as may be approved by the Committee, in accordance with § 30-231.8. Awards granted to applicants accepted for enrollment at accredited career and technical education postsecondary schools shall be made in accordance with Article VIII, § 11 of the Constitution of Virginia. In addition, no scholarship under this Program shall be used to obtain multiple baccalaureate degrees or a degree beyond the baccalaureate level.

B. The ~~Standard~~ Standards 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. *However, nothing in this section shall be construed to prohibit a student from taking courses of a religious or theological nature to satisfy undergraduate elective requirements for a liberal arts nonreligious degree.*

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. Scholarships may be renewed, upon request, annually if the recipient:

1. Maintains Virginia domicile and residency;
2. Evidences satisfactory academic achievement and progress toward program completion; and
3. Maintains continuous enrollment in an approved education program until graduation or program completion, in accordance with the provisions of this section and § 30-231.1.

For scholarship renewal purposes, the Committee may extend the period in which satisfactory academic achievement shall be demonstrated for no more than two semesters or the equivalent thereof.

FG. 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; disbursement and recovery of scholarship funds; terms and conditions; penalty.

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 ~~costs~~ of tuition and textbooks, excluding fees and expenses assessed or other conditions required by the educational agency, for the specific program in which the student is enrolled, except as provided in subsection B.

B. The full amount of each scholarship awarded to ~~each~~ a recipient shall be used solely for the payment of tuition and textbooks, or for a one-time only payment of the costs of a preparation program, instructional materials, and examination for the General Education Development certificate or the College-Level Examination Program (CLEP) examinations.

C. Awards granted to applicants accepted for enrollment at accredited career and technical education postsecondary schools shall be made in accordance with Article VIII, § 11 of the Constitution of Virginia.

D. No scholarship under this Program shall be used to obtain multiple baccalaureate degrees or a degree beyond the baccalaureate level.

E. Before any scholarship is awarded, the applicant shall sign an acceptance form under the terms of which the applicant affirms the accuracy of the information he has provided and agrees to pursue the approved education program for which the scholarship is awarded until his graduation or the

completion of the program, as appropriate. Following verification of enrollment by the relevant educational agency to the State Council of Higher Education, educational agencies acting as agents for students receiving awards under this chapter shall promptly credit disbursed funds to student accounts. Whenever a student withdraws from an educational agency or otherwise fails, regardless of reason, to complete the program in which he is enrolled, the educational agency shall surrender promptly to the Commonwealth the balance of the scholarship award, in accordance with the tuition refund policy in effect at the time of the student's admission to the educational agency.

F. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a scholarship or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 3 misdemeanor.

EG. 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.

§ 30-231.8. 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 cancellation, rescindment, and recovery of scholarship awards, and 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 *and determine approved education programs* 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 *accredited* 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 *the preparation programs* program for the General Education Development certificate, *earning college credit through the College-Level Examination Program (CLEP) examinations*, 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 *annual* maximum *scholarship award*, and 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.

**2. That the second and third enactments of Chapter 753 and Chapter 834 of the Acts of Assembly of 2005 are repealed.**