

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 210

An Act to amend and reenact §§ 2.2-208, 2.2-2101, as it is currently effective and as it shall become effective, 22.1-346, 22.1-348, and 22.1-349 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 22.1-346.2, and to repeal §§ 22.1-346.1 and 22.1-347 of the Code of Virginia, relating to the Virginia School for the Deaf and the Blind.

[H 2353]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-208, 2.2-2101, as it is currently effective and as it shall become effective, 22.1-346, 22.1-348, and 22.1-349 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-346.2 as follows:

§ 2.2-208. Position established; agencies for which responsible; powers and duties.

The position of Secretary of Education (the "Secretary") is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Education, State Council of Higher Education, Virginia Museum of Fine Arts, The Science Museum of Virginia, Frontier Culture Museum of Virginia, The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, ~~and the Commission for the Arts, and the Board of Visitors of the Virginia School for the Deaf and the Blind.~~ The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

Unless the Governor expressly reserves such a power to himself, the Secretary is empowered to resolve administrative, jurisdictional or policy conflicts between any agencies or officers for which he is responsible and to provide policy direction for programs involving more than a single agency. He is authorized to direct the preparation of alternative policies, plans and budgets for education for the Governor and, to that end, may require the assistance of the agencies for which he is responsible. He shall direct the formulation of a comprehensive program budget for cultural affairs encompassing the programs and activities of the agencies involved in cultural affairs.

§ 2.2-2101. (Effective until July 1, 2013) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the ~~Advisory Commission on Board of Visitors of the Virginia Schools~~ *School for the Deaf and the Blind*, who shall be appointed as provided for in ~~§ 22.1-346.1~~ § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Commission on Civics Education, who shall be appointed as provided for in § 22.1-212.18; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who

shall be appointed as provided for in § 2.2-306; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to members of the Southwest Virginia Cultural Heritage Commission, who shall be appointed as provided in § 2.2-2533.

§ 2.2-2101. (Effective July 1, 2013) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the ~~Advisory Commission on Board of Visitors of the Virginia Schools~~ *School for the Deaf and the Blind*, who shall be appointed as provided for in ~~§ 22.1-346.1~~ § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Commission on Civics Education, who shall be appointed as provided for in § 22.1-212.18; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-306; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to members of the Southwest Virginia Cultural Heritage Commission, who shall be appointed as provided in § 2.2-2533.

CHAPTER 19.

THE VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND AT STAUNTON AND THE VIRGINIA SCHOOL FOR THE DEAF, BLIND AND MULTI-DISABLED AT HAMPTON.

§ 22.1-346. Transfer of property; rights and duties of the Board of Visitors of the Virginia School for the Deaf and the Blind; supervision of school; appointment and removal of officers and faculty; certain funding initiatives.

A. All of the real estate and personal property now existing *at the Virginia School for the Deaf and the Blind at Staunton* and standing in the name of the ~~board of visitors of the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton~~ *Board of Education* shall be transferred to and be under the control of the Board of ~~Education~~ *Visitors of the Virginia School for the Deaf and the Blind*. The Department of General Services shall cooperate with the Board in supervising the maintenance and repair of the real and personal property of the ~~schools~~ *school*.

B. Any gift, grant, devise or bequest made prior to July 1, 1984, to the ~~Virginia School for the Deaf, Blind and Multi-Disabled at Hampton~~ or the Virginia School for the Deaf and the Blind at Staunton shall be held by the Board of ~~Education~~ *Visitors of the Virginia School for the Deaf and the Blind* for the school to which made. The Board of ~~Education~~ shall have the power to take, hold, receive and enjoy any gift, grant, devise or bequest made hereafter to the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton. Such gift, grant, devise or bequest shall be held for the school to which made for uses and purposes designated by the donor or if not designated for one of the schools or for a specific purpose, for the general purposes of any programs in either of the schools. *The Board shall provide fiduciary administration of such funds, including investments, disbursements, accounting, and financial reporting.* The Board of ~~Education~~ shall also accept, execute and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

C. The Board of *Visitors of the Virginia School for the Deaf and the Blind* shall be charged with the operational control of the ~~Virginia School for the Deaf, Blind and Multi-Disabled at Hampton~~ and the

Virginia School for the Deaf and the Blind at Staunton. In exercising this operational control, the Board shall include, in any budget recommendations to the Governor for state funding for the several school divisions which may be related to educational technology or other programs appropriate for implementation within the ~~two schools~~ school, state funding for such programs to be provided to the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton. However, the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton shall not be defined as a school divisions division for constitutional purposes. Supervision of the contracts and agreements of the ~~board~~ of visitors of the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton are hereby transferred to the Superintendent of Public Instruction Board of Visitors of the Virginia School for the Deaf and the Blind.

The Board shall provide rules and regulations for the governance of the ~~schools~~ school. The Superintendent of Public Instruction Board shall administer, supervise and direct the activities and programs of the ~~schools~~ school pursuant to the rules and regulations of the Board. The Superintendent of Public Instruction Board shall appoint the officers and employees of ~~each~~ the school subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

§ 22.1-346.2. Board of Visitors of the Virginia School for the Deaf and the Blind established.

A. There is hereby established the Board of Visitors of the Virginia School for the Deaf and the Blind (Board), as a policy agency in the executive branch of state government under the name of the "Virginia School for the Deaf and the Blind," for the purpose of governing the educational programs and services to deaf, blind, and multi-disabled students enrolled at the Virginia School for the Deaf and the Blind.

B. The Board shall have a total membership of 11 members that shall consist of four legislative members, and seven nonlegislative citizen members. Members shall be appointed as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules; and seven nonlegislative citizen members, of whom one shall be a parent representative from the Eastern region of the Commonwealth, one shall be a parent representative from the Western region of the Commonwealth, and one shall be a representative of the Virginia School for the Deaf and the Blind Alumni Association, to be appointed by the Governor, subject to confirmation by the General Assembly. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. Legislative members of the Board shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative members appointed shall serve for four-year terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All 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 member appointed by the Governor shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

The Board shall elect a chairman and vice-chairman from among its membership. The Board shall elect a secretary, who shall keep an accurate record of the proceedings of the Board and of the executive committee if one is created by the Board, and such other officers as the Board deems appropriate. A majority of the members shall constitute a quorum. The Board shall meet no more than four times each year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

C. Legislative members of the Board 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 all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided from such funds as may be appropriated to the Board of Visitors of the Virginia School for the Deaf and the Blind, in accordance with the appropriations act.

D. The Superintendent of Public Instruction shall designate a member of the staff of the Department of Education to serve as a consultant to the Board of Visitors of the Virginia School for the Deaf and the Blind on matters pertaining to instruction, federal and state special education requirements, and school accreditation, and to provide technical assistance to assist the Board in meeting specific instructional and school accreditation needs.

E. The Board shall have the following powers and duties:

1. Establish such rules, policies, and regulations for the governance of the Virginia School for the Deaf and the Blind.

2. Prescribe the criteria and procedures governing admissions to the school, and the review of student placement, to ensure the appropriateness of the placement and instructional program of each student admitted to the school, pursuant to § 22.1-348 and in accordance with federal and state special

education laws and regulations.

3. Establish a policy governing the transportation of students at the school to permit frequent home visits by students, and to provide to each student transportation to and from the school and the place of residence of such student's parent or guardian whenever the school is officially closed.

4. Prescribe and approve the education programs of the Virginia School for the Deaf and the Blind, in consultation with the Department of Education, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind and Visually Impaired.

5. Appoint the superintendent, other officers, and the faculty of the school. The superintendent shall be appointed every two years and the other officers and faculty annually. However, the superintendent, with the approval of the chairman of the Board, shall be authorized to fill vacancies in positions appointed by the Board occurring between meetings of the Board. The Board may remove at any time the superintendent, other officers, faculty and employees for cause, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

6. Establish the qualifications, duties, and compensation of the superintendent, other officers, faculty, and employees of the school.

7. Prepare and submit to the Governor and General Assembly, beginning July 1, 2010, an annual report detailing the curricula and other educational programs and services of the school, including receipts and disbursements pertaining to the operation of the school for each fiscal year ending on June 30.

§ 22.1-348. Persons eligible; fees; educational programs to be provided; admissions procedures.

A. Persons of ages two through twenty-one shall be eligible for educational services provided by the schools school. Until July 1, 1993, there shall be no charge for the education of students, but fees for student activities may be charged at the Board's discretion. Beginning July 1, 1993, the The Department of Education shall be entitled to deduct annually from the locality's share for the education of pupils with disabilities a sum equal to the actual local expenditure per pupil in support of those students placed by the relevant local school division in either the Virginia School for the Deaf and the Blind at Staunton or the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton. The amount of the actual transfers shall be based on data accumulated during the prior school year. Fees for student activities may be charged at the Board's discretion.

B. From such funds as may be appropriated, the Virginia School for the Deaf and the Blind at Staunton shall provide an educational program for children in preschool through grade twelve who are deaf, an educational program for children in preschool through grade twelve who are blind, and an educational program for children in preschool through grade twelve who have visual and sensory disabilities and who are identified as emotionally disturbed pursuant to Board of Education regulations. The Virginia School for the Deaf, Blind and Multi-Disabled at Hampton shall provide an educational program for children in preschool through grade twelve who are deaf, an educational program for children in preschool through grade twelve who are blind, and an educational program for children in preschool through grade twelve with sensory-impaired multiple disabilities blind, or who may have sensory impairments and other disabilities, including intellectual disabilities.

The preschool programs may be residential or nonresidential or both at the discretion of the Board. The Board, from time to time, may approve additional programs as may be appropriate.

"Sensory-impaired multiple disabilities" means, for the purposes of this section and the identification of the program at the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton, concomitant impairments, including at least one significant sensory impairment, the combination of which requires services that cannot be provided in special education programs designed solely for one impairment. The term does not include deaf-blindness.

C. Students with sensory-impaired multiple disabilities shall attend the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton.

The Board shall prescribe procedures and criteria for determining admission to and the appropriate placement in the Virginia School for the Deaf, and the Blind and Multi-Disabled at Hampton and the Virginia School for the Deaf and the Blind at Staunton. The appropriateness of the placement of each student attending either the school shall be reviewed at least annually.

§ 22.1-349. Terms of employment of teachers.

For the purpose of retirement and other statutory benefits, teachers employed as full-time instructional personnel by the Board shall be deemed to be full-time state personnel and shall receive the same benefits as are accorded all other full-time state personnel. The Board of Education shall require the teachers at the Virginia Schools School for the Deaf and the Blind to comply with the provisions of §§ 22.1-298.1, 22.1-299, and 22.1-303. Contracts for the employment of teachers shall be in the form prescribed by the Board of Education school board of the school division in which the school is located. In cases of nonrenewal of contracts of probationary teachers, the decisions shall be appealable to the Superintendent of Public Instruction Board. For all other purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia Schools School for the Deaf and the Blind.

The Department of Human Resource Management Board shall establish salary schedules for all

professional personnel which are competitive with those in effect for the school divisions in which the facility is located.

2. That the initial appointments of nonlegislative citizen members shall be staggered as follows: three nonlegislative citizen members for terms of four years, two nonlegislative citizen members for terms of three years, and two nonlegislative citizen members for terms of two years, to be appointed by the Governor, subject to confirmation by the General Assembly. Thereafter, appointments shall be for terms of four years.

3. The terms to which members have been appointed to serve on the Advisory Commission on the Virginia Schools for the Deaf and the Blind, pursuant to § 22.1-346.1 of the Code of Virginia, shall expire on July 1, 2009.

4. That §§ 22.1-346.1 and 22.1-347 of the Code of Virginia are repealed.