

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 579

An Act to amend and reenact §§ 30-231.01 through 30-231.5 and 30-231.8 of the Code of Virginia, relating to the Brown v. Board of Education Scholarship Program.

[H 1227]

Approved April 11, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-231.01 through 30-231.5 and 30-231.8 of the Code of Virginia are amended and reenacted as follows:

§ 30-231.01. Definitions.

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

"Accredited career and technical education postsecondary school" means (i) 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 Scholarship 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.

"Committee" means the Brown v. Board of Education Scholarship Committee.

"Dual enrollment" means the concurrent enrollment of a scholarship recipient in an adult education program for the high school diploma and a public or private accredited two-year or four-year Virginia institution of higher education.

"Educational agency" means any (i) public school in the Commonwealth, (ii) public or private accredited two-year or four-year Virginia institution of higher education that is in compliance with the Southern Association of Colleges and Schools accreditation standards for institutions and academic programs or other national or regional organization or agency recognized by the United States Secretary of Education for accrediting purposes, (iii) General Education Development (GED) preparation program in compliance with the requirements of the American Council on Education governing GED programs, (iv) College-Level Examination Program (CLEP) in compliance with the requirements of the College Board governing college level examination programs, or (v) 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.

"Graduate degree program" means an accredited academic program of study offered by a Virginia institution of higher education that has been accepted for participation in the Program by the Brown v. Board of Education Awards Scholarship Committee; to which scholarship recipients of the Brown v. Board of Education Scholarship Program are accepted for admission and successful completion of the academic program culminates in the awarding of the masters or doctoral degree. ~~"Graduate degree program" does not include professional schools or other postgraduate level study.~~

"Professional degree program" means an accredited graduate level program of study offered by a Virginia institution of higher education that has been accepted for participation in the Program by the Brown v. Board of Education Scholarship Committee to which scholarship recipients are accepted for admission and successful completion of the academic program culminates in the award of a degree in medicine, dentistry, nursing, law, pharmacy, optometry, engineering, architecture, veterinary medicine, or other discipline approved by the Committee.

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

~~"Required academic fees" means fees assessed by an educational agency as a requirement for admission of nonresidential or off-campus students for academic degree programs offered at the undergraduate and graduate degree levels, or as may be required to satisfy the requirements for certain~~

academic majors or career and technical education programs.

"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: 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; an undergraduate degree from an accredited public or private two-year or four-year institution of higher education; ~~or a graduate degree at the masters or doctoral level; or a professional degree~~ from an accredited public or private 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 Committee; eligible students; Standards of Learning requirements and assessments waived for eligible students.

A. With the funds made available from gifts, grants, donations, bequests, and other funds as may be received for such purpose, scholarships shall be awarded annually. 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) and for no more than two years of study for students enrolled in the minimum number of credit hours required to complete program requirements, except as approved by the Committee for students enrolled in the following approved education programs:~~ (i) an approved career or technical education or training program at a Virginia community college, or at an accredited career and technical education postsecondary school in the Commonwealth; ~~(iii) no more than two years of study for students enrolled in;~~ (ii) a two-year undergraduate comprehensive community college programs program; ~~(iv) no more than four years of study for students enrolled in;~~ (iii) a four-year undergraduate degree programs program; ~~(v) no more than five years of study for students enrolled in;~~ (iv) a recognized five-year undergraduate degree programs program; and ~~(vi) no more than three years of study for students enrolled in;~~ (v) a masters or doctoral level degree programs program; and (vi) a professional degree program. 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, section 11 of the Constitution of Virginia. In addition, no scholarship under this Program shall be used to obtain multiple baccalaureate, masters, ~~or~~ doctoral, *or professional* degrees.

B. The Standards of Learning requirements and all related assessments shall be waived for any student awarded a scholarship under this Program and enrolled 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 and graduate 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 to verify United States citizenship and legal presence in the Commonwealth 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.

G. For the purpose of this chapter, "eligible student" means a person currently domiciled and residing in the Commonwealth, 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 total annual costs of tuition, ~~textbooks~~ *a book allowance*, and ~~required academic~~ fees assessed by the educational agency for the specific program in which the student is enrolled, as determined by the ~~Brown v. Board of Education Scholarship Awards~~ Committee.

B. The full amount of each scholarship awarded to a recipient shall be used solely for the payment of tuition, ~~textbooks~~ *a book allowance*, and ~~required academic~~ fees, 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, section 11 of the Constitution of Virginia.

D. No scholarship under this Program shall be used to obtain multiple baccalaureate, masters, ~~or~~ doctoral ~~level~~, or *professional* degrees.

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. A scholarship award made in accordance with the provisions of this chapter shall not be reduced by the educational agency upon receipt of any other financial assistance on behalf of the student. However, the scholarship award may be reduced by the Committee to ensure that, when such award is added to other financial assistance, the award does not produce a total of financial assistance that exceeds the annual total costs of tuition, ~~textbooks~~ *a book allowance*, and ~~required academic~~ fees, pursuant to this section. Beginning on July 1, 2008, every educational agency acting as an agent for students receiving awards under this chapter shall notify the Committee and the State Council of Higher Education upon request concerning the type and total of other financial assistance received by such students. In addition, every educational agency accepting for admission persons awarded a Brown v. Board of Education scholarship shall, upon request, provide the Committee information concerning the accreditation status of the school and academic programs offered, and other relevant information as the Committee may require to evaluate the person's eligibility for the scholarship and to determine the eligibility of the educational agency for participation in the Program. 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.

G. 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 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.

§ 30-231.8. 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, evidence of satisfactory academic achievement in accordance with § 30-231.2, terms and conditions of scholarships awarded pursuant to § 30-231.3, 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. Establish, revise as necessary, and implement policies and standards to govern all aspects of the Program;

5. 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 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;

6. 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 program for the General Education Development certificate, earning college credit through the College-Level Examination Program (CLEP) examinations, adult basic education programs, ~~and~~ two-year, four-year, ~~and~~ graduate, *and professional* degree programs;

7. 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;

8. 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;

9. 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

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