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**SENATE BILL NO. 870**

Offered January 18, 2018

A *BILL to amend and reenact §§ 2.2-208, 2.2-1153, 2.2-1209, 2.2-2101, 2.2-2105, 2.2-2519, 2.2-2801, 2.2-2817.2, 2.2-2905, 2.2-3106, 2.2-3705.7, 2.2-3711, 2.2-4381, 22.1-290.1, 22.1-346, 22.1-346.2, 23.1-100, 23.1-507, 23.1-615, 23.1-800, 23.1-802, 23.1-907, 23.1-1100, 23.1-1300, 23.1-1301, 23.1-1303, 23.1-1309, 23.1-1310, 23.1-1400, 23.1-1500, 23.1-1600, 23.1-1700, 23.1-1800, 23.1-1900, 23.1-1901, 23.1-2000, 23.1-2100, 23.1-2200, 23.1-2300, 23.1-2400, 23.1-2402, 23.1-2403, 23.1-2425, 23.1-2500, 23.1-2600, 23.1-2640, 23.1-2700, 23.1-2800, 23.1-3000, 23.1-3002, 23.1-3136, 23.1-3204, 30-133.1, 30-359, 30-360, 32.1-127.1:05, 46.2-1228, 51.1-126.3, and 51.1-1100 of the Code of Virginia, relating to certain educational institutions; designation of governing boards.*

Patron—DeSteph

Referred to Committee on Education and Health

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

1. That §§ 2.2-208, 2.2-1153, 2.2-1209, 2.2-2101, 2.2-2105, 2.2-2519, 2.2-2801, 2.2-2817.2, 2.2-2905, 2.2-3106, 2.2-3705.7, 2.2-3711, 2.2-4381, 22.1-290.1, 22.1-346, 22.1-346.2, 23.1-100, 23.1-507, 23.1-615, 23.1-800, 23.1-802, 23.1-907, 23.1-1100, 23.1-1300, 23.1-1301, 23.1-1303, 23.1-1309, 23.1-1310, 23.1-1400, 23.1-1500, 23.1-1600, 23.1-1700, 23.1-1800, 23.1-1900, 23.1-1901, 23.1-2000, 23.1-2100, 23.1-2200, 23.1-2300, 23.1-2400, 23.1-2402, 23.1-2403, 23.1-2425, 23.1-2500, 23.1-2600, 23.1-2640, 23.1-2700, 23.1-2800, 23.1-3000, 23.1-3002, 23.1-3136, 23.1-3204, 30-133.1, 30-359, 30-360, 32.1-127.1:05, 46.2-1228, 51.1-126.3, and 51.1-1100 of the Code of Virginia are amended and reenacted as follows:

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

A. 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, the Commission for the Arts, and the ~~Board~~ *board of visitors trustees* 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.

B. Unless the Governor expressly reserves such a power to himself, the Secretary may (i) resolve administrative, jurisdictional, or policy conflicts between any agencies or officers for which he is responsible and (ii) provide policy direction for programs involving more than a single agency.

C. The Secretary may 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.

D. The Secretary shall direct the formulation of a comprehensive program budget for cultural affairs encompassing the programs and activities of the agencies involved in cultural affairs.

E. The Secretary shall consult with the agencies for which he is responsible and biennially report to the General Assembly on the coordination efforts among such agencies.

**§ 2.2-1153. State agencies and institutions to notify Department of property not used or required; criteria.**

A. Whenever any department, agency or institution of state government possesses or has under its control state-owned or leased property that is not being used to full capacity or is not required for the programs of the department, agency or institution, it shall so notify the Department. Such notification shall be in a form and manner prescribed by the Department. Each department, agency and institution shall submit to the Department a land use plan for state-owned property it possesses or has under its control showing present and planned uses of such property. Such plan shall be approved by the cognizant board or governing body of the department, agency or institution holding title to or otherwise controlling the state-owned property or the agency head in the absence of a board or governing body, with a recommendation on whether any property should be declared surplus by the department, agency or institution. Development of such land use plans shall be based on guidelines promulgated by the Department. The guidelines shall provide that each land use plan shall be updated and copies provided to the Department by September 1 of each year. The Department may exempt properties that are held and used for conservation purposes from the requirements of this section. The Department shall review the land use plans, the records and inventory required pursuant to subsections B and C of § 2.2-1136 and such other information as may be necessary and determine whether the property or any portion thereof should be declared surplus to the needs of the Commonwealth. By October 1 of each year, the

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59 Department shall provide a report to the Chairmen of the House Appropriations and Senate Finance  
60 Committees setting forth the Department's findings, the sale or marketing of properties identified  
61 pursuant to this section, and recommending any actions that may be required by the Governor and the  
62 General Assembly to identify and dispose of property not being efficiently and effectively utilized. The  
63 Department shall provide a listing of surplus properties on the Department's website. The description of  
64 surplus property shall include parcel identification consistent with national spatial data standards in  
65 addition to a street address.

66 Until permanent disposition of the property determined to be surplus is effected, the property shall  
67 continue to be maintained by the department, agency or institution possessing or controlling it, unless  
68 upon the recommendation of the Department, the Governor authorizes the transfer of the property to the  
69 possession or control of the Department. In this event, the department, agency or institution formerly  
70 possessing or controlling the property shall have no further interest in it.

71 B. The Department shall establish criteria for ascertaining whether property under the control of a  
72 department, agency or institution should be classified as "surplus" to its current or proposed needs. Such  
73 criteria shall provide that the cognizant board or governing body, if any, of the department, agency or  
74 institution holding the title to or otherwise controlling the state-owned property, or the agency head in  
75 the absence of a board or governing body, shall approve the designation of the property as surplus.

76 C. Notwithstanding the provisions of subsection A:

77 1. The property known as College Woods, which includes Lake Matoaka and is possessed and  
78 controlled by a college founded in 1693, regardless of whether such property has been declared surplus  
79 pursuant to this section, shall not be transferred or disposed of without the approval of the board of  
80 ~~visitors~~ trustees of such college by a two-thirds vote of all board members at a regularly scheduled  
81 board meeting. The General Assembly shall also approve the disposal or transfer.

82 2. Surplus real property valued at less than \$5 million that is possessed and controlled by a public  
83 institution of higher education may be sold by such institution, provided that (i) at least 45 days prior to  
84 executing a contract for the sale of such property, the institution gives written notification to the  
85 Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and (ii) the  
86 Governor may postpone the sale at any time up to 10 days prior to the proposed date of sale. Such sale  
87 may be effected by public auction, sealed bids, or by marketing through one or more Virginia licensed  
88 real estate brokers after satisfying the public notice provisions of subsection A of § 2.2-1156. The terms  
89 of all negotiations resulting in such sale shall be public information. The public institution of higher  
90 education may retain the proceeds from the sale of such property if the property was acquired by  
91 nongeneral funds. If the institution originally acquired the property through a mix of general and  
92 nongeneral funds, 50 percent of the proceeds shall be distributed to the institution and 50 percent shall  
93 be distributed to the State Park Conservation Resources Fund established under subsection A of  
94 § 10.1-202. The authority of a public institution of higher education to sell surplus real property  
95 described under this subdivision or to retain any proceeds from the sale of such property shall be subject  
96 to the institution meeting the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019  
97 (regardless of whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004  
98 et seq.) of Chapter 10 of Title 23.1).

99 **§ 2.2-1209. Agency director human resource training and agency succession planning.**

100 A. The Department shall develop and administer training programs to familiarize the director of each  
101 agency in the executive branch of state government with state human resources policies, including  
102 general policies, compensation management, benefits administration, employee training, succession  
103 planning, and resources available at the Department. The Department shall offer such training programs  
104 at least twice per year.

105 B. The director of each agency in the executive branch of state government and the agency's chief  
106 human resource officer shall attend a training program offered pursuant to subsection A within six  
107 months after the appointment of the director. The agency's chief human resource officer shall provide  
108 subsequent training to the director on any distinct companion human resource policies of the agency that  
109 are germane to agency programs and operations. Thereafter, the director shall attend a training program  
110 offered pursuant to subsection A at least once every four years. The president of a public institution of  
111 higher education may send a designee.

112 C. The director of each agency in the executive branch of state government, other than an institution  
113 of higher education, shall include in the agency's annual strategic plan its key workforce planning issues.  
114 In addition, the director shall submit a succession plan for key personnel, executive positions, and  
115 employees nearing retirement to the Cabinet Secretary associated with the director's agency and the  
116 Department. The Department shall establish guidelines for the content of such workforce and succession  
117 plans. Each public institution of higher education shall prepare a succession plan for presentation to the  
118 board of ~~visitors~~ trustees with a copy to the Department.

119 **§ 2.2-2101. Prohibition against service by legislators on boards, commissions, and councils**  
120 **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 § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute, who shall be appointed as provided for in § 23.1-3112; to members of the Advisory Board on Teacher Education and Licensure, who shall be appointed as provided for in § 22.1-305.2; 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 § 23.1-3117; to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3136; 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 Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the ~~Board~~ *board* of ~~visitors~~ *trustees* of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 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 Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; 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 and Resilient Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485.

**§ 2.2-2105. Investigation of management of institutions or conduct of officers or employees.**

Whenever ~~any the governing board of visitors to any of the institutions~~ *any public institution of higher education in the Commonwealth deems* it necessary or expedient to investigate the management of ~~the~~ *the* institution or the conduct of any of its officers or employees, such board, or a committee of its members selected by the board, shall have such power and authority to send for persons and papers or to order the attendance of witnesses and compel their attendance as is now conferred upon a committee appointed by the General Assembly or either branch thereof by § 30-10. The oath to be taken by any witness examined by such board or committee may be administered by the president or the presiding officer of the board, *the* chairman of its committee, or the clerk or secretary of the board or committee. All expenses incurred in summoning or in the attendance of such witness shall be paid out of the funds of the institution whose boards made or ordered the investigation.

**§ 2.2-2519. Membership; quorum.**

The Commission shall have a total membership of eight members that shall consist of six nonlegislative citizen members and two ex officio members. Nonlegislative citizen members shall be appointed by the Governor as follows: two who shall be former members of either the board of ~~visitors~~ *trustees* of a *baccalaureate* public institution of higher education or the State Board for Community Colleges; one who shall be either a former president, provost, or executive vice-president of a public institution of higher education; one who shall be a faculty member of a public institution of higher education; and two who shall be citizens at large. The Secretary of Education or his designee and the Secretary of the Commonwealth or his designee shall serve as ex officio members of the Commission with nonvoting privileges. The nonlegislative citizen member appointed who is a faculty member of a public institution of higher education shall serve without voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Three voting members of the Commission shall constitute a quorum.

Nonlegislative citizen members shall serve at the pleasure of the Governor, and ex officio members of the Commission shall serve terms coincident with their terms of office.

**§ 2.2-2801. Disability to hold state office; exceptions.**

A. Section 2.2-2800 shall not be construed to prevent:

1. Members of Congress from acting as ~~visitors~~ *trustees* of the *board of trustees of the* University of Virginia or the *board of trustees of the* Virginia Military Institute, or from holding offices in the militia;

2. United States commissioners or United States census enumerators, supervisors, or the clerks under the supervisor of the United States census, or fourth-class or third-class postmasters, or United States caretakers of the Virginia National Guard, from acting as notaries, school board selection commission members, or supervisors, or from holding any district office under the government of any county, or the office of councilman of any town or city in the Commonwealth;

3. Any United States rural mail carrier, or star route mail carrier from being appointed and acting as notary public or holding any county or district office;

4. Any civilian employee of the United States government from being appointed and acting as notary public;

5. Any United States commissioners or United States park commissioners from holding the office of commissioner in chancery, bail commissioner, jury commissioner, commissioner of accounts, assistant commissioner of accounts, substitute or assistant civil justice, or assistant judge of a municipal court of any city or assistant judge of a juvenile and domestic relations district court of any city, or judge of any county court or juvenile and domestic relations district court of any county, or the municipal court or court of limited jurisdiction, by whatever name designated, of any incorporated town;

6. Any person employed by, or holding office or a post of profit, trust or emolument, civil, legislative, executive or judicial, under the government of the United States, from being a member of the militia or holding office therein, or from being a member or director of any board, council, commission or institution of the Commonwealth who serves without compensation except one who serves on a per diem compensation basis;

7. Foremen, quartermen, leading men, artisans, clerks or laborers, employed in any navy yard or naval reservation in Virginia from holding any office under the government of any city, town or county in the Commonwealth;

8. Any United States government clerk from holding any office under the government of any town or city;

9. Any person holding an office under the United States government from holding a position under the management and control of the State Board of Health;

10. Any state federal director of the Commonwealth in the employment service of the United States Department of Labor from holding the office of Commissioner of Labor of the Commonwealth;

11. Clerks and employees of the federal government engaged in the departmental service in Washington from acting as school trustees;

12. Any person, who is otherwise eligible, from serving as a member of the governing body or school board of any county, city or town, or as a member of any public body who is appointed by such governing body or school board, or as an appointive officer or employee of any county, city or town or the school board thereof;

13. Game management agents of the United States Fish and Wildlife Service or United States deputy game wardens from acting as special conservation police officers;

14. Any appointive state or local official or employee from serving, with compensation, on an advisory board of the federal government;

15. Any state or local law-enforcement officer from serving as a United States law-enforcement officer; however, this subdivision shall not be construed to authorize any law-enforcement officer to receive double compensation;

16. Any United States law-enforcement officer from serving as a state or local law-enforcement officer when requested by the chief law-enforcement officer of the subject jurisdiction; however, this subdivision shall not be construed to authorize any law-enforcement officer to receive double compensation;

17. Any attorney for the Commonwealth or assistant attorney for the Commonwealth from serving as or performing the duties of a special assistant United States attorney or assistant United States attorney; however, this subdivision shall not be construed to authorize any attorney for the Commonwealth or assistant attorney for the Commonwealth to receive double compensation;

18. Any assistant United States attorney from serving as or performing the duties of an assistant attorney for the Commonwealth when requested by the attorney for the Commonwealth of the subject jurisdiction; however, this subdivision shall not be construed to authorize any assistant United States attorney to receive double compensation;

19. Any elected state or local official from serving, without compensation, on an advisory board of the federal government; however, this subdivision shall not be construed to prohibit reimbursement for actual expenses;

20. Sheriffs' deputies from patrolling federal lands pursuant to contracts between federal agencies and

local sheriffs;

21. State judicial officers from performing acts or functions with respect to United States criminal proceedings when such acts or functions are authorized by federal law to be performed by state judicial officers; or

22. Any member of the Armed Forces of the United States from serving on the Virginia Military Advisory Council or the Virginia Offshore Wind Development Authority.

B. Nor shall § 2.2-2800 be construed to exclude:

1. A person to whom a pension has been granted by the United States or who receives retirement compensation in any manner from the United States, or any person receiving or entitled to receive benefits under the Federal Old-Age and Survivors' Insurance System or under the Federal Railroad Retirement Act.

2. Officers or soldiers on account of the recompense they may receive from the United States when called out in actual duty.

**§ 2.2-2817.2. Employees of the University of Virginia Medical Center.**

The University of Virginia Medical Center, hereafter referred to as the Medical Center, may purchase basic group life, accidental death and dismemberment, and disability insurance policies covering in whole or in part any of its employees. In addition, the Medical Center may establish, administer and make available to employees a program of optional insurance, including life, accidental death and dismemberment, and disability insurance. Employees of the Medical Center covered under the aforesaid basic insurance policies purchased by the Medical Center shall not be covered by the insurance program established pursuant to § 51.1-501 or be considered "eligible employees" under § 51.1-1100, unless the *board of trustees of the University of Virginia* ~~Board of Visitors~~, or a duly authorized agent or representative of the ~~Board~~ *board*, purchases such insurance policies from the Virginia Retirement System. Nor shall they be required to present at their own expense evidence of insurability satisfactory to an insurance company upon changing from one form of coverage to another form of coverage provided pursuant to this section. Chapter 5 of Title 51.1 (§ 51.1-500 et seq.) shall not apply to any insurance coverage offered by the Medical Center except that the provisions of §§ 51.1-510 and 51.1-511 shall apply to such insurance coverage; provided that any administrative or ministerial functions performed by or on behalf of the Board of the Virginia Retirement System under §§ 51.1-510 and 51.1-511 shall be performed by the Medical Center.

Notwithstanding the definition of "state employee" contained in § 51.1-124.3, all employees of the Medical Center may be enrolled in a health care plan other than that provided for in § 2.2-2818 at the election of the Medical Center and subject to the review and approval of the ~~Board~~ *board* of ~~Visitors~~ *trustees* of the University of Virginia; however, any Medical Center employee who was first employed by the Medical Center prior to July 1, 1996, and who had not been classified as a health care provider under the provisions of § 51.1-502.1 prior to July 1, 1996, shall be provided the option of enrolling in a health care plan elected by the Medical Center or enrolling in the health care plan established pursuant to § 2.2-2818 until such time as the *board of trustees of the University of Virginia* ~~Board of Visitors~~ may determine that it is not in the best interest of the University to continue to provide that option to any employees of the Medical Center. If the ~~Board~~ *board* of ~~Visitors~~ *trustees* determines that such health plan option will not continue to be provided, any Medical Center employees who must reenroll in a different health plan shall be allowed to do so with a waiver of preexisting medical conditions for the employees and, if applicable, their spouses and dependents.

Subject to such eligibility criteria as it may establish, the Medical Center may make available to any of its employees the insurance programs established pursuant to this section, including health plan coverage, notwithstanding the fact that such employees may not be eligible for participation in any retirement plan established pursuant to § 51.1-126.3 or the retirement system established pursuant to Chapter 1 (§ 51.1-124.1 et seq.) of this title.

The eligibility of any employee of the Medical Center for participation in any insurance program established pursuant to this section shall not of itself render such employees eligible for participation in the Virginia Retirement System or any optional retirement program.

**§ 2.2-2905. Certain officers and employees exempt from chapter.**

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and

305 notaries public;

306 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
307 special inquiries, investigations, or examinations on its behalf;

308 8. The presidents and teaching and research staffs of state educational institutions;

309 9. Commissioned officers and enlisted personnel of the National Guard;

310 10. Student employees at institutions of higher education and patient or inmate help in other state  
311 institutions;

312 11. Upon general or special authorization of the Governor, laborers, temporary employees, and  
313 employees compensated on an hourly or daily basis;

314 12. County, city, town, and district officers, deputies, assistants, and employees;

315 13. The employees of the Virginia Workers' Compensation Commission;

316 14. The officers and employees of the Virginia Retirement System;

317 15. Employees whose positions are identified by the State Council of Higher Education and the  
318 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the  
319 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of  
320 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The  
321 Library of Virginia, and approved by the Director of the Department of Human Resource Management  
322 as requiring specialized and professional training;

323 16. Employees of the Virginia Lottery;

324 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;

325 18. Employees of the Virginia Commonwealth University Health System Authority;

326 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for  
327 such employees shall be subject to the review and approval of the ~~Board~~ *board* of ~~Visitors~~ *trustees* of  
328 the University of Virginia. The University of Virginia shall ensure that its procedures for hiring  
329 University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall  
330 remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

331 20. In executive branch agencies the employee who has accepted serving in the capacity of chief  
332 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential  
333 assistant for policy or administration. An employee serving in either one of these two positions shall be  
334 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve  
335 in this exempt capacity;

336 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
337 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

338 22. Officers and employees of the Virginia Port Authority;

339 23. Employees of the Virginia College Savings Plan;

340 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
341 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
342 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
343 (§ 2.2-3000 et seq.);

344 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
345 state employees for purposes of participation in the Virginia Retirement System, health insurance, and  
346 all other employee benefits offered by the Commonwealth to its classified employees;

347 26. Employees of the Virginia Indigent Defense Commission;

348 27. Any chief of a campus police department that has been designated by the governing body of a  
349 public institution of higher education as exempt, pursuant to § 23.1-809; and

350 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage  
351 Control Authority.

352 **§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern**  
353 **Virginia Medical School.**

354 A. No officer or employee of any governmental agency of state government or Eastern Virginia  
355 Medical School shall have a personal interest in a contract with the governmental agency of which he is  
356 an officer or employee, other than his own contract of employment.

357 B. No officer or employee of any governmental agency of state government or Eastern Virginia  
358 Medical School shall have a personal interest in a contract with any other governmental agency of state  
359 government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive  
360 negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the  
361 administrative head of the governmental agency that competitive bidding or negotiation is contrary to the  
362 best interest of the public.

363 C. The provisions of this section shall not apply to:

364 1. An employee's personal interest in additional contracts of employment with his own governmental  
365 agency that accrue to him because of a member of his immediate family, provided the employee does  
366 not exercise any control over the employment or the employment activities of the member of his

immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;

7. Subject to approval by the board of ~~visitors~~ *trustees*, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;

8. Subject to approval by the relevant board of ~~visitors~~ *trustees*, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education or the Eastern Virginia Medical School prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of ~~visitors~~ *trustees*; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or

9. Subject to approval by the relevant board of ~~visitors~~ *trustees*, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each

open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Medical School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of ~~visitors~~ *trustees* may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of ~~visitors~~ *trustees* disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the board of ~~visitors~~ *trustees*.

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by



the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of ~~visitors~~ trustees of the University of Virginia, acting pursuant to § 23.1-2210, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to 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, if disclosure of such information would (i) reveal confidential analyses prepared for the board of ~~visitors~~ trustees of the University of Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of ~~visitors~~ trustees of the University of Virginia, or the Virginia College Savings Plan. 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.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary

551 nature produced or collected by or for the Authority or members of its medical or teaching staffs;  
552 financial statements not publicly available that may be filed with the Authority from third parties; the  
553 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid  
554 for by the Authority to assist the Authority in connection with its strategic planning and goals; the  
555 determination of marketing and operational strategies where disclosure of such strategies would be  
556 harmful to the competitive position of the Authority; and information of a proprietary nature produced  
557 or collected by or for employees of the Authority, other than the Authority's financial or administrative  
558 records, in the conduct of or as a result of study or research on medical, scientific, technical, or  
559 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body  
560 or a private concern, when such information has not been publicly released, published, copyrighted, or  
561 patented. This exclusion shall also apply when such information is in the possession of Virginia  
562 Commonwealth University.

563 15. Information held by the Department of Environmental Quality, the State Water Control Board,  
564 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active  
565 federal environmental enforcement actions that are considered confidential under federal law and (ii)  
566 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such  
567 information shall be disclosed after a proposed sanction resulting from the investigation has been  
568 proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure  
569 of information related to inspection reports, notices of violation, and documents detailing the nature of  
570 any environmental contamination that may have occurred or similar documents.

571 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel  
572 itinerary, including vehicle identification data or vehicle enforcement system information; video or  
573 photographic images; Social Security or other identification numbers appearing on driver's licenses;  
574 credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll  
575 facility use.

576 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax  
577 identification number, state sales tax number, home address and telephone number, personal and lottery  
578 banking account and transit numbers of a retailer, and financial information regarding the nonlottery  
579 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,  
580 hometown, and amount won shall be disclosed.

581 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a  
582 person regulated by the Board, where such person has tested negative or has not been the subject of a  
583 disciplinary action by the Board for a positive test result.

584 19. Information pertaining to the planning, scheduling, and performance of examinations of holder  
585 records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by  
586 or for the State Treasurer or his agents or employees or persons employed to perform an audit or  
587 examination of holder records.

588 20. Information held by the Virginia Department of Emergency Management or a local governing  
589 body relating to citizen emergency response teams established pursuant to an ordinance of a local  
590 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or  
591 operating schedule of an individual participant in the program.

592 21. Information held by state or local park and recreation departments and local and regional park  
593 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this  
594 subdivision shall operate to prevent the disclosure of information defined as directory information under  
595 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the  
596 public body has undertaken the parental notification and opt-out requirements provided by such  
597 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of  
598 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction  
599 has restricted or denied such access. For such information of persons who are emancipated, the right of  
600 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of  
601 the information may waive, in writing, the protections afforded by this subdivision. If the protections are  
602 so waived, the public body shall open such information for inspection and copying.

603 22. Information submitted for inclusion in the Statewide Alert Network administered by the  
604 Department of Emergency Management that reveal names, physical addresses, email addresses, computer  
605 or internet protocol information, telephone numbers, pager numbers, other wireless or portable  
606 communications device information, or operating schedules of individuals or agencies, where the release  
607 of such information would compromise the security of the Statewide Alert Network or individuals  
608 participating in the Statewide Alert Network.

609 23. Information held by the Judicial Inquiry and Review Commission made confidential by  
610 § 17.1-913.

611 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local  
612 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement

system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and

operational plan shall not be redacted or withheld pursuant to this subdivision.

**§ 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. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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 public institution of higher education in the Commonwealth 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. 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. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. 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.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of 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 the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of ~~visitors~~ trustees. 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 (a) 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 (b) 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.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

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

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. 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.

14. 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.

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia 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 Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. 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.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. 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 by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of ~~visitors~~ trustees of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, 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 board of ~~visitors~~ trustees of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan 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, a local finance board or board of trustees, the board of ~~visitors~~ trustees of the University of Virginia, or the Virginia College Savings Plan. 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.

21. 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, 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, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

22. Those portions of meetings of the board of ~~visitors~~ trustees of the University of Virginia or the board of trustees of 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

797 there is discussed proprietary, business-related information pertaining to the operations of the University  
798 of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business  
799 development or marketing strategies and activities with existing or future joint venturers, partners, or  
800 other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School,  
801 as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure  
802 of such information would adversely affect the competitive position of the Medical Center or Eastern  
803 Virginia Medical School, as the case may be.

804 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority  
805 or the board of ~~visitors~~ trustees of Virginia Commonwealth University of any of the following: the  
806 acquisition or disposition by the Authority of real property, equipment, or technology software or  
807 hardware and related goods or services, where disclosure would adversely affect the bargaining position  
808 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising  
809 activities of, the Authority; grants and contracts for services or work to be performed by the Authority;  
810 marketing or operational strategies plans of the Authority where disclosure of such strategies or plans  
811 would adversely affect the competitive position of the Authority; and members of the Authority's  
812 medical and teaching staffs and qualifications for appointments thereto.

813 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within  
814 the Department of Health Professions to the extent such discussions identify any practitioner who may  
815 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

816 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
817 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees  
818 by or on behalf of individuals who have requested information about, applied for, or entered into  
819 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)  
820 of Title 23.1 is discussed.

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

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

831 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of  
832 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
833 defined in § 33.2-1800, or any independent review panel appointed to review information and advise  
834 the responsible public entity concerning such records.

835 29. Discussion of the award of a public contract involving the expenditure of public funds, including  
836 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where  
837 discussion in an open session would adversely affect the bargaining position or negotiating strategy of  
838 the public body.

839 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
840 subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation  
841 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory  
842 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

843 31. Discussion or consideration by the Commitment Review Committee of information subject to the  
844 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually  
845 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

846 32. Discussion or consideration of confidential proprietary information and trade secrets developed  
847 and held by a local public body providing certain telecommunication services or cable television services  
848 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
849 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et  
850 seq.).

851 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
852 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
853 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

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

856 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
857 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative  
858 files subject to the exclusion in subdivision A 2 a of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

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

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

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

930 E. This section shall not be construed to (i) require the disclosure of any contract between the  
931 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1  
932 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant  
933 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body  
934 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
935 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of  
936 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
937 of such bonds.

938 **§ 2.2-4381. Construction management or design-build contracts for covered institutions**  
939 **authorized.**

940 A. Any covered institution may enter into a contract for construction on a fixed price or  
941 not-to-exceed price construction management or design-build basis, provided that such institution  
942 complies with the requirements of this article and with the procedures adopted by the Secretary of  
943 Administration for using construction management or design-build contracts.

944 B. Covered institutions shall:

945 1. Develop procedures for determining the selected procurement method which, at a minimum, shall  
946 consider cost, schedule, complexity, and building use;

947 2. Submit such procedures, and any subsequent changes to adopted procedures, to the Department for  
948 review and comment; and

949 3. Submit Department-reviewed procedures to its board of ~~visitors~~ *trustees* for adoption.

950 C. Procedures adopted by a board of ~~visitors~~ *trustees* pursuant to this article shall include the  
951 following requirements:

952 1. A written determination is made in advance by the covered institution that competitive sealed  
953 bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the  
954 determination to use construction management or design-build. The determination shall be included in  
955 the Request for Qualifications and maintained in the procurement file;

956 2. Prior to making a determination as to the use of construction management or design-build for a  
957 specific construction project, a covered institution shall have in its employ or under contract a licensed  
958 architect or engineer with professional competence appropriate to the project who shall (i) advise the  
959 covered institution regarding the use of construction management or design-build for that project and (ii)  
960 assist the covered institution with the preparation of the Request for Proposal and the evaluation of such  
961 proposals;

962 3. Public notice of the Request for Qualifications is posted on the Department's central electronic  
963 procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification  
964 proposals;

965 4. For construction management contracts, the contract is entered into no later than the completion of  
966 the schematic phase of design, unless prohibited by authorization of funding restrictions;

967 5. Prior construction management or design-build experience or previous experience with the  
968 Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of  
969 a contract. However, in the selection of a contractor, a covered institution may consider the experience  
970 of each contractor on comparable projects;

971 6. Construction management contracts shall require that (i) no more than 10 percent of the  
972 construction work, as measured by the cost of the work, be performed by the construction manager with  
973 its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of  
974 the work, be performed by subcontractors of the construction manager, which the construction manager  
975 shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

976 7. The procedures allow for a two-step competitive negotiation process.

977 D. The Department shall evaluate the proposed procurement method selected by a covered institution  
978 and make its recommendation as to whether the use of the construction management or design-build  
979 procurement method is appropriate for the specific project. In its review, the Department shall also  
980 consider:

981 1. The written determination of the covered institution;



2. The compliance by the covered institution with subdivisions C 1, 2, and 7;  
 3. The project cost, expected timeline, and use;  
 4. Whether the project is a complex project; and  
 5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

E. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

F. If a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such covered institution shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a covered institution's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

**§ 22.1-290.1. Clinical faculty programs.**

A. As used in this section, unless the context requires a different meaning:

"Clinical faculty member" means a licensed public or private school teacher who meets the standards of the board of ~~visitors~~ trustees or other governing body for acceptance in an institution's clinical faculty program.

"Student teacher" means an individual enrolled in a program for training teachers in an accredited institution of higher education located in this Commonwealth.

"Training institution" means an accredited public or private institution of higher education which has implemented a training program for public school teachers designed to improve skills in supervising and evaluating student teachers.

B. The governing board of any public institution of higher education in the Commonwealth or accredited private institution of higher education in the Commonwealth may establish a clinical faculty program utilizing specially trained public school teachers as supervisors of student teachers. Any such program shall include the following components:

1. Any teacher accepted as a clinical faculty member shall be designated adjunct faculty;  
 2. Prior to being assigned student teachers, all clinical faculty members shall be required to attend training programs offered by accredited public or private institutions of higher education which are designed to improve their skills in supervising and evaluating student teachers;

3. Clinical faculty members shall be given the responsibility for the grading and evaluation of the student teachers assigned to them in cooperation with appropriate full-time faculty members at the institution; and

4. Such data on the clinical faculty program as may be required by the Board of Education shall be provided by the institution in a timely manner.

C. Any governing board that chooses to implement a clinical faculty program pursuant to subsection B shall develop standards for acceptance of public or private school teachers as clinical faculty members. Public or private school teachers may apply to the institution of higher education for acceptance as clinical faculty members for the purpose of supervising and evaluating student teachers.

D. There is hereby authorized to be appropriated for the purposes of this section such sums as the General Assembly may from time to time determine to be necessary. The Board of Education shall serve as fiscal agent for the training institutions and the clinical faculty programs.

The Board shall allocate from such funds as are appropriated, moneys to participating training institutions for the purpose of compensating clinical faculty members. The Board, in consultation with the training institutions, shall set such compensation.

The Board shall, in cooperation with the State Council of Higher Education, set criteria for the programs implemented by the training institutions. The Board may also issue such guidelines as may be necessary for the implementation of the provisions of this section. The training program criteria set by the Board and the Council and the guidelines issued by the Board shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq.). However, prior to establishing such criteria or issuing such guidelines, the Board and the Council shall consult with the Office of the Attorney General and provide opportunity for public comment.

**§ 22.1-346. Transfer of property; rights and duties of the board of trustees 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 Education shall be transferred to and be under the control of the ~~Board~~ board of ~~visitors~~ trustees of the Virginia School for the Deaf and the Blind. The Department of General Services shall cooperate with the Board in supervising the

1043 maintenance and repair of the real and personal property of the school.

1044 B. Any gift, grant, devise or bequest made prior to July 1, 1984, to the Virginia School for the Deaf  
1045 and the Blind at Staunton shall be held by the ~~Board~~ *board* of ~~Visitors~~ *trustees* of the Virginia School  
1046 for the Deaf and the Blind for the school. The ~~Board~~ *board* shall have the power to take, hold, receive  
1047 and enjoy any gift, grant, devise or bequest made hereafter to the Virginia School for the Deaf and the  
1048 Blind. Such gift, grant, devise or bequest shall be held for uses and purposes designated by the donor or  
1049 if not designated for a specific purpose, for the general purposes of any programs of the school. The  
1050 ~~Board~~ *board* shall provide fiduciary administration of such funds, including investments, disbursements,  
1051 accounting, and financial reporting. The ~~Board~~ *board* shall also accept, execute and administer any trust  
1052 in which it may have an interest under the terms of the instrument creating the trust.

1053 C. The ~~Board~~ *board* of ~~Visitors~~ *trustees* of the Virginia School for the Deaf and the Blind shall be  
1054 charged with the operational control of the Virginia School for the Deaf and the Blind at Staunton. In  
1055 exercising this operational control, the ~~Board~~ *board* shall include, in any budget recommendations to the  
1056 Governor for state funding for the several school divisions which may be related to educational  
1057 technology or other programs appropriate for implementation within the school, state funding for such  
1058 programs to be provided to the Virginia School for the Deaf and the Blind. However, the Virginia  
1059 School for the Deaf and the Blind shall not be defined as a school division for constitutional purposes.  
1060 Supervision of the contracts and agreements of the Virginia School for the Deaf and the Blind are  
1061 hereby transferred to the ~~Board~~ *board* of ~~Visitors~~ *trustees* of the Virginia School for the Deaf and the  
1062 Blind.

1063 The ~~Board~~ *board* shall provide rules and regulations for the governance of the school. The ~~Board~~  
1064 *board* shall administer, supervise and direct the activities and programs of the school pursuant to the  
1065 rules and regulations of the ~~Board~~ *board*. The ~~Board~~ *board* shall appoint the officers and employees of  
1066 the school subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

1067 **§ 22.1-346.2. Board of trustees of the Virginia School for the Deaf and the Blind established.**

1068 A. There is hereby established the ~~Board~~ *board* of ~~Visitors~~ *trustees* of the Virginia School for the  
1069 Deaf and the Blind (Board), as a policy agency in the executive branch of state government under the  
1070 name of the "Virginia School for the Deaf and the Blind," for the purpose of governing the educational  
1071 programs and services to deaf, blind, and multi-disabled students enrolled at the Virginia School for the  
1072 Deaf and the Blind.

1073 B. The Board shall have a total membership of 11 members that shall consist of four legislative  
1074 members and seven nonlegislative citizen members. Members shall be appointed as follows: two  
1075 members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in  
1076 accordance with the principles of proportional representation contained in the Rules of the House of  
1077 Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules; and seven  
1078 nonlegislative citizen members, of whom one shall be a parent of a child who is deaf or blind  
1079 representing the Eastern region of the Commonwealth, one shall be a parent of a child who is deaf or  
1080 blind representing the Western region of the Commonwealth, and one shall be a representative of the  
1081 Virginia School for the Deaf and the Blind Alumni Association, to be appointed by the Governor,  
1082 subject to confirmation by the General Assembly. Nonlegislative citizen members of the Board shall be  
1083 citizens of the Commonwealth. Legislative members of the Board shall serve terms coincident with their  
1084 terms of office. After the initial staggering of terms, nonlegislative members appointed shall serve for  
1085 four-year terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the  
1086 unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All  
1087 members may be reappointed. However, no House member shall serve more than four consecutive  
1088 two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no  
1089 nonlegislative member appointed by the Governor shall serve more than two consecutive four-year  
1090 terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute  
1091 a term in determining the member's eligibility for reappointment.

1092 The Board shall elect a chairman and vice-chairman from among its membership. The Board shall  
1093 elect a secretary, who shall keep an accurate record of the proceedings of the Board and of the  
1094 executive committee if one is created by the Board, and such other officers as the Board deems  
1095 appropriate. A majority of the members shall constitute a quorum. The Board shall meet no more than  
1096 four times each year. The meetings of the Board shall be held at the call of the chairman or whenever  
1097 the majority of the members so request.

1098 C. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and  
1099 nonlegislative citizen members shall receive such compensation for the performance of their duties as  
1100 provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses  
1101 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the  
1102 costs of expenses of the members shall be provided from such funds as may be appropriated to the  
1103 ~~Board~~ *board* of ~~Visitors~~ *trustees* of the Virginia School for the Deaf and the Blind, in accordance with  
1104 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~~ *board* of ~~Visitors~~ *trustees* 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.

#### **§ 23.1-100. Definitions.**

As used in this title, unless the context requires a different meaning:

"Associate-degree-granting" means that an associate degree is the most advanced degree that is granted.

"Associate-degree-granting public institution of higher education" includes Richard Bland College and each comprehensive community college.

"Baccalaureate" means that bachelor's degrees or more advanced degrees, or both, are granted.

"Baccalaureate public institution of higher education" includes Christopher Newport University, George Mason University, James Madison University, Longwood University, the University of Mary Washington, Norfolk State University, Old Dominion University, Radford University, the University of Virginia, the University of Virginia's College at Wise as a division of the University of Virginia, Virginia Commonwealth University, Virginia Military Institute, Virginia Polytechnic Institute and State University, Virginia State University, and The College of William and Mary in Virginia.

"Chief executive officer" includes the Chancellor of the Virginia Community College System, the Chancellor of the University of Virginia's College at Wise, the Superintendent of Virginia Military Institute, and the president of each other public institution of higher education.

"Comprehensive community college" means an associate-degree-granting public institution of higher education governed by the State Board that offers instruction in one or more of the following fields:

1. Freshman and sophomore courses in arts and sciences acceptable for transfer to baccalaureate degree programs;

2. Diversified technical curricula, including programs leading to an associate degree;

3. Career and technical education leading directly to employment;

4. Courses in general and continuing education for adults in the fields set out in subdivisions 1, 2, and 3; or

5. Noncredit training and retraining courses and programs of varying lengths to meet the needs of business and industry in the Commonwealth.

"Council" means the State Council of Higher Education for Virginia.

"Governing board" includes the State Board and the board of ~~visitors~~ *trustees* of each baccalaureate public institution of higher education. "Governing board" does not include local community college boards.

"Local community college board" means the board established to act in an advisory capacity to the

1166 State Board and perform such duties with respect to the operation of a single comprehensive community  
1167 college as may be delegated to it by the State Board.

1168 "Nonprofit private institution of higher education" means any postsecondary school, as that term is  
1169 defined in § 23.1-213, in the Commonwealth that is exempt from paying federal income taxes under  
1170 § 501(c)(3) of the Internal Revenue Code and is certified by the Council to offer degrees or exempt  
1171 from such certification pursuant to Article 3 (§ 23.1-213 et seq.) of Chapter 2.

1172 "Non-Virginia student" means any student who has not established domicile in the Commonwealth  
1173 pursuant to § 23.1-502.

1174 "Private institution of higher education" includes each nonprofit private institution of higher  
1175 education and proprietary private institution of higher education in the Commonwealth.

1176 "Proprietary private institution of higher education" means any postsecondary school, as that term is  
1177 defined in § 23.1-213, in the Commonwealth that is privately owned, privately managed, and obligated  
1178 to pay federal income taxes in the Commonwealth and is certified by the Council to offer degrees or  
1179 exempt from such certification pursuant to Article 3 (§ 23.1-213 et seq.) of Chapter 2.

1180 "Public institution of higher education" includes the System as a whole and each  
1181 associate-degree-granting and baccalaureate public institution of higher education in the Commonwealth.

1182 "State Board" means the State Board for Community Colleges.

1183 "System" means the Virginia Community College System.

1184 "Virginia student" means any student who has established domicile in the Commonwealth pursuant to  
1185 § 23.1-502.

1186 **§ 23.1-507. University of Virginia's College at Wise; reduced rate tuition charges for certain**  
1187 **students.**

1188 A. The board of ~~visitors~~ *trustees* of the University of Virginia may charge reduced rate tuition to any  
1189 student enrolled at the University of Virginia's College at Wise who resides in Kentucky within a  
1190 50-mile radius of the University of Virginia's College at Wise, is domiciled in Kentucky, and is entitled  
1191 to in-state tuition charges at the institutions of higher education in Kentucky if Kentucky has similar  
1192 reciprocal provisions for Virginia students.

1193 B. The board of ~~visitors~~ *trustees* of the University of Virginia may charge reduced rate tuition to any  
1194 student enrolled at the University of Virginia's College at Wise who resides in Tennessee within a  
1195 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled  
1196 to in-state tuition charges at the institutions of higher education in Tennessee if Tennessee has similar  
1197 reciprocal provisions for Virginia students.

1198 C. The board of ~~visitors~~ *trustees* of the University of Virginia may charge reduced rate tuition to any  
1199 student enrolled in programs offered jointly by its partners or associates and the University of Virginia's  
1200 College at Wise at a regional off-campus center who resides in Tennessee within a 50-mile radius of the  
1201 University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition  
1202 charges at the institutions of higher education in Tennessee if Tennessee has similar reciprocal  
1203 provisions for Virginia students. Any such respective partners or associates shall establish separate  
1204 tuition charges for their independent classes or programs at such regional off-campus centers.

1205 D. Any non-Virginia student granted reduced rate tuition pursuant to this section shall be counted as  
1206 a non-Virginia student for the purposes of determining admissions, enrollment, and tuition and fee  
1207 revenue policies.

1208 **§ 23.1-615. Soil scientist scholarships.**

1209 A. The *board of trustees* of Virginia Polytechnic Institute and State University ~~Board of Visitors~~ may  
1210 establish up to 20 annual soil scientist scholarships for Virginia students in an amount equal to tuition  
1211 and mandatory fees at Virginia Polytechnic Institute and State University.

1212 B. Each scholarship award shall be made upon such basis, competitive or otherwise, as is determined  
1213 by the president or other proper officer of the institution of higher education (institution) that the  
1214 applicant plans to attend, with due regard to the scholastic achievements, character, and adaptability of  
1215 the applicant to the service contemplated under such award. No award shall be made unless the  
1216 applicant possesses the requisite qualifications.

1217 C. Each such scholarship shall be awarded for a single award year and may be renewed annually for  
1218 up to three additional award years upon a showing of satisfactory progress.

1219 D. Before any such scholarship is awarded, the applicant shall agree in a signed written contract to  
1220 pursue soil science at the institution at which the scholarship is awarded until his graduation and, upon  
1221 graduating, to promptly begin and engage continuously as a soil scientist as an employee of the  
1222 Commonwealth for as many years as he was a beneficiary of such scholarship, unless no such suitable  
1223 vacancy exists as an employee of the Commonwealth, in which case the obligation of such contract shall  
1224 be discharged by being continuously engaged in the Commonwealth as a soil scientist as an employee of  
1225 a local, state, or federal government agency for as many years as he was a beneficiary of such  
1226 scholarship. The contract shall contain such other provisions as Virginia Polytechnic Institute and State  
1227 University deems necessary to accomplish the purposes of the scholarship. In the event that the holder

of any awarded soil scientist scholarship dies while receiving instruction under such a scholarship, any balance unpaid and agreed to be repaid by the holder of such scholarship shall be deemed paid, and no liability shall be attached to his estate.

E. Such contract shall contain a clause under which the applicant shall be relieved of his obligation to serve the Commonwealth as a soil scientist, for a period equal to that during which he was a beneficiary of such scholarship, at any time that he (i) fails to maintain a scholastic standard at least equal to the standard required of the general student body at such institution or (ii) becomes permanently disabled and is not able to engage in the profession of soil scientist, upon certification by a faculty committee. Any applicant so relieved shall arrange to reimburse the Commonwealth for the amount received on account of such scholarship plus interest on such amount computed at the prevailing rate charged on student loans at the institution attended by the applicant. Any applicant who so reimburses the Commonwealth and subsequently fulfills the terms of his contract by completing his studies and serving the Commonwealth as a soil scientist for a period equal to that during which he received such scholarship shall be reimbursed from the general fund of the state treasury the amount of the scholarship and interest previously repaid to the Commonwealth. This reimbursement shall be made on any contract made under the provisions of this subsection.

F. All funds repaid by any applicant pursuant to subsection E shall be paid into the state treasury and shall become a part of the general fund. The governing board of the institution attended by the applicant shall collect such payments and shall pay all moneys so received into the state treasury promptly. If any applicant fails to abide by the terms of such contract, such fact shall be communicated to the Attorney General by the proper officer of the institution or by the employing state agency. The Attorney General shall take such action as he deems proper.

G. The funds making up each scholarship shall be paid to the recipient or applied toward the payment of his expenses at the relevant institution in such a manner and at such a time during the academic year as the president or other proper officer determines.

H. There is appropriated to Virginia Polytechnic Institute and State University from the general fund of the state treasury the sum of \$8,000 each year of the biennium for carrying out the purpose of this section.

#### **§ 23.1-800. Health histories and immunizations required; exemptions.**

A. No full-time student who enrolls for the first time in any baccalaureate public institution of higher education is eligible to register for his second semester or quarter unless he (i) has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of ~~visitors~~ *trustees* that includes documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the date on which the immunization was administered, and any further immunizations indicated or (ii) objects to such health history requirement on religious grounds, in which case he is exempt from such requirement.

B. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each student shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each full-time student shall be vaccinated against meningococcal disease and hepatitis B unless the student or, if the student is a minor, the student's parent or legal guardian signs a written waiver stating that he has received and reviewed detailed information on the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student is exempt from the immunization requirements set forth in subsections B and C who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless the Board of Health has declared an emergency or epidemic of disease, or (ii) presents a statement from a licensed physician that states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of ~~visitors~~ *trustees* seeking assistance in the implementation of this section.

F. The Council shall, in cooperation with the Board and Commissioner of Health, encourage private institutions of higher education to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

#### **§ 23.1-802. Student mental health; policies; website resource; training.**

A. The governing board of each public institution of higher education shall develop and implement policies that (i) advise students, faculty, and staff, including residence hall staff, of the proper procedures

1289 for identifying and addressing the needs of students exhibiting suicidal tendencies or behavior and (ii)  
1290 provide for training where appropriate. Such policies shall require procedures for notifying the  
1291 institution's student health or counseling center for the purposes set forth in subdivision B 4 of  
1292 § 23.1-1303 when a student exhibits suicidal tendencies or behavior.

1293 B. The board of ~~visitors~~ *trustees* of each baccalaureate public institution of higher education shall  
1294 develop and implement policies that ensure that after a student suicide, affected students have access to  
1295 reasonable medical and behavioral health services, including postvention services. For the purposes of  
1296 this subsection, "postvention services" means services designed to facilitate the grieving or adjustment  
1297 process, stabilize the environment, reduce the risk of negative behaviors, and prevent suicide contagion.

1298 C. The board of ~~visitors~~ *trustees* of each baccalaureate public institution of higher education shall  
1299 establish a written memorandum of understanding with its local community services board or behavioral  
1300 health authority and with local hospitals and other local mental health facilities in order to expand the  
1301 scope of services available to students seeking treatment. The memorandum shall designate a contact  
1302 person to be notified, to the extent allowable under state and federal privacy laws, when a student is  
1303 involuntarily committed, or when a student is discharged from a facility. The memorandum shall provide  
1304 for the inclusion of the institution in the post-discharge planning of a student who has been committed  
1305 and intends to return to campus, to the extent allowable under state and federal privacy laws.

1306 D. Each baccalaureate public institution of higher education shall create and feature on its website a  
1307 page with information dedicated solely to the mental health resources available to students at the  
1308 institution.

1309 E. Each resident assistant in a student housing facility at a public institution of higher education shall  
1310 participate in Mental Health First Aid training or a similar program prior to the commencement of his  
1311 duties.

1312 **§ 23.1-907. Articulation, dual admissions, and guaranteed admissions agreements; admission of**  
1313 **certain comprehensive community college graduates.**

1314 A. The board of ~~visitors~~ *trustees* of each baccalaureate public institution of higher education shall  
1315 develop, consistent with Council guidelines and the institution's six-year plan as set forth in § 23.1-306,  
1316 articulation, dual admissions, and guaranteed admissions agreements with each associate-degree-granting  
1317 public institution of higher education.

1318 B. The Council and each public institution of higher education shall develop a passport credit  
1319 program, including any necessary guidelines for such program. In developing the program, the Council  
1320 and each public institution of higher education shall establish competencies and standards for each  
1321 passport credit course. Any course that does not meet or exceed the standards developed under the  
1322 program shall not be deemed a passport credit course. Such passport credit program shall require that it  
1323 is the responsibility of the course provider to ensure that a passport credit course meets the standards of  
1324 the program. Each passport credit course shall satisfy a lower division general education requirement at  
1325 any public institution of higher education.

1326 C. The Council and each public institution of higher education shall develop a one-year uniform  
1327 certificate of general studies program as set forth in subdivision 20 of § 23.1-203. All credits earned in  
1328 academic subject coursework by students attending an associate-degree-granting public institution of  
1329 higher education who complete the one-year uniform certificate of general studies program are  
1330 transferrable to a baccalaureate public institution of higher education in accordance with Council  
1331 guidelines.

1332 D. The Council shall prepare an annual report on the pertinent aspects of the pipeline of students  
1333 transferring from comprehensive community colleges to baccalaureate public institutions of higher  
1334 education.

1335 E. The Council, consistent with its responsibility to facilitate the development of articulation, dual  
1336 admissions, and guaranteed admissions agreements set forth in §§ 23.1-203 and 23.1-908, shall develop  
1337 guidelines for such agreements.

1338 F. Each comprehensive community college shall develop agreements for postsecondary degree  
1339 attainment with the public high schools in the school divisions that such comprehensive community  
1340 college serves specifying the options for students to complete an associate degree or a one-year Uniform  
1341 Certificate of General Studies concurrent with a high school diploma. Such agreements shall specify the  
1342 credit available for dual enrollment courses and Advanced Placement courses with qualifying exam  
1343 scores of three or higher.

1344 **§ 23.1-1100. Definitions.**

1345 As used in this chapter, unless the context requires a different meaning:

1346 "Board" means the members of the ~~board of visitors~~, board of trustees, or other governing board of  
1347 an institution.

1348 "Bond" means any bond, note, or other evidence of indebtedness or obligation of an institution issued  
1349 by an institution pursuant to this chapter.

1350 "Erect" includes building, constructing, reconstructing, erecting, demolishing, extending, bettering,

equipping, installing, modifying, and improving.

"Institution" means each public institution of higher education, as that term is defined in § 23.1-100; Eastern Virginia Medical School; the Institute for Advanced Learning and Research; the New College Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education Center; the Virginia School for the Deaf and the Blind; and the Wilson Workforce and Rehabilitation Center.

"Project" means (i) any (a) building, facility, addition, extension, or improvement of a capital nature that is necessary or convenient to carry out the purposes of an institution, including administration and teaching facilities, lecture and exhibition halls, libraries, dormitories, student apartments, faculty dwellings, dining halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers, infirmaries, field houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletics facilities, garages, parking facilities, warehouses and storage buildings, and book and student supplies centers, or (b) building, land, appurtenance, furnishing, or equipment necessary or desirable in connection with or incidental to a project or (ii) any personal property at an institution.

**§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives; residency.**

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and qualified. Ex officio members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of a public institution of higher education fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. No member of the board of ~~visitors~~ trustees of a baccalaureate public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of ~~visitors~~ trustees, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of ~~visitors~~ trustees, and the institution's faculty senate or its equivalent.

H. The board of ~~visitors~~ trustees of any baccalaureate public institution of higher education shall appoint one or more students as nonvoting, advisory representatives. Such representatives shall be appointed under such circumstances and serve for such terms as the board of ~~visitors~~ trustees of the institution shall prescribe.

I. Nothing in subsections G and H shall prohibit the governing board of any public institution of

higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matter.

J. The president or any one of the vice presidents of the board of ~~visitors~~ *trustees* of Virginia Military Institute, the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the governing board of each other public institution of higher education shall be a resident of the Commonwealth.

**§ 23.1-1301. Governing boards; powers.**

A. The board of ~~visitors~~ *trustees* of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;
2. Manage the funds of the institution and approve an annual budget;
3. Appoint the chief executive officer of the institution;
4. Appoint professors and fix their salaries; and
5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

B. The governing board of each public institution of higher education or its designee may:

1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned by the institution;

3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;

4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii) (a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public body" for purposes of subsection B of § 2.2-3708; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.

**§ 23.1-1303. Governing boards; duties.**

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii)



describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection H of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

3. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

4. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's performance. Any change to the chief executive officer's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members;

9. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

10. Submit the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

11. No later than December 1 of each year, report to the Council (i) the value of investments as

reflected on the Statement of Net Position as of June 30 of the previous fiscal year, excluding any funds derived from endowment donations, endowment income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such investment earnings spans more than one fiscal year, the report shall reflect the commitments made in each future fiscal year. The reports of the ~~Boards~~ *boards of visitors trustees* of Virginia Commonwealth University and the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia Commonwealth University Health System Authority and the University of Virginia Medical Center, respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested in securities.

12. Submit to the General Assembly and the Governor an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website;

13. Make available to any interested party upon request a copy of the portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to institutions of higher education;

14. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies or institution regulations to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies or institution regulations of the institution employing them; and

15. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution.

**§ 23.1-1309. Boards of trustees; baccalaureate public institutions of higher education; intercollegiate athletics programs.**

A. As used in this section:

"Athletics revenue" means the total revenue received by an institution that is generated by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes contributions; game guarantees; income received from endowments and investments; income received from the sale of food, game programs, novelties, and other concessions at an intercollegiate athletics contest; income received from intercollegiate athletics conferences for participation in bowl games, tournaments, and other intercollegiate athletics contests; income received from the provision of parking at intercollegiate athletics contests or other events associated with intercollegiate athletics; rights and licensing; school funds; student fees; support from third parties guaranteed by the institution, such as income received from athletics camps, income received from television, and housing allowances; and all other income from any other source generated by the institution's intercollegiate athletics programs.

"Contributions" means any income received directly from individuals, corporations, associations, foundations, clubs, or other donors for the operation of an institution's intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics; cash; marketable securities; income generated from preferential seating arrangements at intercollegiate athletics contests or other events associated with intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate athletics program by car dealers at no cost and apparel and sports drink products provided to intercollegiate athletes and coaches at no cost.

"Generated revenue" means all athletics revenue with the exception of the subsidy.

"Institution" means a baccalaureate public institution of higher education.

"Intercollegiate athletics program" means any athletics program for a particular sport that is operated by an institution and governed by the National Collegiate Athletic Association (NCAA).

"Rights and licensing" includes income from radio and television broadcasts; Internet and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind contributions of products and services provided to an intercollegiate athletics program at no cost as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other sports drink products, or water.

"School funds" means the direct and indirect financial support provided by the institution to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition, tuition waivers, federal work awards for student athletes, administrative costs, facilities and grounds maintenance, security, risk management, utilities, and depreciation and debt services.

"Student fees" means any fees assessed by an institution against a student that are used to support any of the institution's intercollegiate athletics programs.

"Subsidy" means the sum of school funds and student fees.

"Subsidy percentage" means the subsidy divided by the athletics revenue, provided that revenues allocated to (i) support spirit groups associated with any intercollegiate athletics program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for the purposes of such calculation.

"Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums received from any associated shipping and handling charges and includes sales to the public, faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales transactions such as sales for admission tickets to bowl games and conference and national tournaments.

B. The Auditor of Public Accounts, in collaboration with the Council, State Comptroller, Department of Planning and Budget, and each institution, shall develop and implement a standardized reporting format for each institution to annually report its intercollegiate athletics revenue and expenses to the Auditor of Public Accounts that shall include treatment of student fees and classification of specific intercollegiate athletics programs and shall require expenses for spirit groups, indirect cost policy requirements, and debt service for previously approved intercollegiate athletics capital outlay projects and other intercollegiate athletics capital outlay projects to be reported on separate lines.

C. The subsidy percentage shall not exceed:

1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

3. 70 percent for NCAA Division I-AA institutions;

4. 78 percent for NCAA Division I-AAA institutions;

5. 81 percent for NCAA Division II institutions that operate intercollegiate football programs;

6. 85 percent for NCAA Division II institutions that do not operate intercollegiate football programs;

7. 89 percent for NCAA Division III institutions that operate intercollegiate football programs; and

8. 92 percent for NCAA Division III institutions that do not operate intercollegiate football programs.

D. Each fiscal year, any percentage increase in the subsidy at an institution that complies with subsection C shall be matched by a like percentage increase in generated revenue, except that each such institution shall utilize a rolling average of the change in generated revenue and student fees over the immediately preceding five years for the purposes of such calculation.

E. When necessary, each institution shall submit to the Governor and the General Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the plan over a five-year period until the subsidy percentage complies with the requirements of subsection C.

F. The Auditor of Public Accounts shall annually review each institution's progress towards meeting the requirements of each plan approved pursuant to subsection E as part of his annual audit pursuant to § 30-133.

G. Failure to meet the progress requirements of each plan approved pursuant to subsection E for one year, as determined by the Auditor of Public Accounts, shall result in such reduction of the financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.) as the Governor or General Assembly determines.

H. Failure to meet the progress requirements of each plan approved pursuant to subsection E for two consecutive years, as determined by the Auditor of Public Accounts, shall result in revocation of all financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

I. The board of ~~visitors~~ trustees of any institution that seeks to add a major intercollegiate athletics program such as football or basketball or change the division level of any of its existing intercollegiate athletics programs shall first submit to the Intercollegiate Athletics Review Commission (Commission) established pursuant to Chapter 57 (§ 30-359 et seq.) of Title 30 a plan and recommendations for financing the addition or change. The institution shall not in any way undertake any such addition or agree or commit to any such change until it has received the findings and recommendations of the Commission pursuant to § 30-360. Any such addition or change is subject to the approval of the General Assembly expressed in the general appropriation act. The board of ~~visitors~~ trustees of any institution that adds a non-major intercollegiate athletics program shall report such decision within 15 days of the board's action.

**§ 23.1-1310. Boards of trustees; baccalaureate public institutions of higher education; property**

1658 **of predecessor institutions.**

1659 All real estate and personal property standing in the name of any predecessor institution of a  
 1660 baccalaureate public institution of higher education shall be transferred to, known and taken as standing  
 1661 in the name of, and controlled by the board of ~~visitors~~ *trustees* of such public institution of higher  
 1662 education. All such real estate and personal property is the property of the Commonwealth.

1663 **§ 23.1-1400. Corporate name; name of the University.**

1664 A. The board of ~~visitors~~ *trustees* of Christopher Newport University (the board) is a corporation  
 1665 under the name and style of "The Rector and ~~Visitors~~ *Trustees* of Christopher Newport University" and  
 1666 has, in addition to its other powers, all the corporate powers given to corporations by the provisions of  
 1667 Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The  
 1668 board shall at all times be under the control of the General Assembly.

1669 B. The institution shall be known as Christopher Newport University (the University).

1670 **§ 23.1-1500. Corporate name; name of the University.**

1671 A. The board of ~~visitors~~ *trustees* of George Mason University (the board) is a corporation under the  
 1672 name and style of "The Rector and ~~Visitors~~ *Trustees* of George Mason University" and has, in addition  
 1673 to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except  
 1674 those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all  
 1675 times be under the control of the General Assembly.

1676 B. The institution shall be known as George Mason University (the University).

1677 **§ 23.1-1600. Corporate name; name of the University.**

1678 A. The board of ~~visitors~~ *trustees* of James Madison University (the board) is a corporation under the  
 1679 name and style of "The ~~Visitors~~ *Trustees* of James Madison University" and has, in addition to its other  
 1680 powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those  
 1681 powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be  
 1682 under the control of the General Assembly.

1683 B. The institution shall be known as James Madison University (the University).

1684 C. All laws relating to Madison College or the board of visitors of Madison College shall be  
 1685 construed as relating to the University or the board, respectively.

1686 **§ 23.1-1700. Corporate name; name of the University.**

1687 A. The board of ~~visitors~~ *trustees* of Longwood University (the board) is a corporation under the  
 1688 name and style of "The ~~Visitors~~ *Trustees* of Longwood University" and has, in addition to its other  
 1689 powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those  
 1690 powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be  
 1691 under the control of the General Assembly.

1692 B. The institution shall be known as Longwood University (the University).

1693 **§ 23.1-1800. Corporate name; name of the University.**

1694 A. The board of ~~visitors~~ *trustees* of the University of Mary Washington (the board) is a corporation  
 1695 under the name and style of "The Rector and ~~Visitors~~ *Trustees* of the University of Mary Washington"  
 1696 and has, in addition to its other powers, all the corporate powers given to corporations by the provisions  
 1697 of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The  
 1698 board shall at all times be under the control of the General Assembly.

1699 B. The institution shall be known as the University of Mary Washington (the University).

1700 **§ 23.1-1900. Corporate name; name of the University.**

1701 A. The board of ~~visitors~~ *trustees* of Norfolk State University (the board) is a corporation under the  
 1702 name and style of "The ~~Visitors~~ *Trustees* of Norfolk State University" and has, in addition to its other  
 1703 powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those  
 1704 powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be  
 1705 under the control of the General Assembly.

1706 B. The institution shall be known as Norfolk State University (the University).

1707 C. All laws relating to Norfolk State College or the board of visitors of Norfolk State College shall  
 1708 be construed as relating to the University or the board, respectively.

1709 **§ 23.1-1901. Membership; executive committee.**

1710 A. The board of ~~visitors~~ *trustees* shall consist of 13 members appointed by the Governor, of whom at  
 1711 least four shall be alumni of the University. Of the alumni appointed, at least one shall be a resident of  
 1712 the Commonwealth.

1713 B. The alumni association of the University may submit to the Governor a list of four nominees for  
 1714 each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The  
 1715 Governor may appoint a member from the list of nominees.

1716 C. The board may appoint at least three and not more than five of its members to an executive  
 1717 committee that has and may exercise such powers as the board may prescribe.

1718 **§ 23.1-2000. Corporate name; name of the University.**

1719 A. The board of ~~visitors~~ *trustees* of Old Dominion University (the board) is a corporation under the

name and style of "Old Dominion University" and has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as Old Dominion University (the University).

C. All laws relating to Norfolk College or the board of visitors of Norfolk College shall be construed as relating to the University or the board, respectively.

**§ 23.1-2100. Corporate name; name of the University.**

A. The board of ~~visitors~~ *trustees* of Radford University (the board) is a corporation under the name and style of "The ~~Visitors Trustees~~ of Radford University" and has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as Radford University (the University).

C. All laws relating to Radford College or the board of visitors of Radford College shall be construed as relating to the University or the board, respectively.

**§ 23.1-2200. Corporate name; name of the University.**

A. The board of ~~visitors~~ *trustees* of the University of Virginia (the board) is a corporation under the name and style of "the Rector and ~~Visitors Trustees~~ of the University of Virginia" and has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as the University of Virginia (the University).

**§ 23.1-2300. Corporate name; name of the University.**

A. The board of ~~visitors~~ *trustees* of Virginia Commonwealth University (the board) is a corporation under the name and style of "Virginia Commonwealth University" and has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as Virginia Commonwealth University (the University).

**§ 23.1-2400. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the board of directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.

"Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b) demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all other kinds of equipment; (d) engineering and inspections; (e) financial, legal, and accounting services; (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility studies; and (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to be used in connection with any project; (viii) redemption premiums, obligations purchased to provide for the payment of bonds being refunded, and other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other reserves for the payment of principal and interest on bonds; (x) all other expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition, or financing of projects, other facilities, or equipment appropriate for carrying out the purposes of this chapter and the placing of the same in operation; or (xi) the refunding of bonds.

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned, leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in

1781 connection with, MCV Hospitals in the normal course of its operations as a teaching, research, and  
1782 medical treatment facility.

1783 "Hospital obligations" means all debts or other obligations, contingent or certain, owing to any  
1784 person or other entity on the transfer date, arising out of the operation of MCV Hospitals as a medical  
1785 treatment facility or the financing or refinancing of hospital facilities and including all bonds and other  
1786 debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery  
1787 of services, whether or not performed.

1788 "Project" means any health care, research, or educational facility or equipment necessary or  
1789 convenient to or consistent with the purposes of the Authority, whether owned by the Authority,  
1790 including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health  
1791 maintenance centers; medical office facilities; clinics; outpatient clinics; surgical centers; alcohol,  
1792 substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the  
1793 residence or care of the elderly, the handicapped, or the chronically ill; residential facilities for nurses,  
1794 interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm  
1795 individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering  
1796 undergraduate or graduate programs for the health professions and sciences and such other courses of  
1797 study as may be appropriate, together with research, training, and teaching facilities; all necessary or  
1798 desirable related and supporting facilities and equipment or equipment alone, including (i) parking,  
1799 kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and  
1800 recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities;  
1801 (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the  
1802 transportation of medical equipment, medical personnel, or patients; and all lands, buildings,  
1803 improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to  
1804 any project.

1805 "Transfer date" means a date or dates agreed to by the board of ~~visitors~~ trustees of Virginia  
1806 Commonwealth University and the Authority for the transfer of employees to the Authority and for the  
1807 transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of  
1808 hospital obligations by the Authority, which dates for the various transfers and the various assumptions  
1809 may be different, but in no event shall any date be later than June 30, 1997.

1810 "University" means Virginia Commonwealth University.

1811 **§ 23.1-2402. Board of directors; membership; meetings; officers; employees.**

1812 A. The Authority shall be governed by a board of directors with a total of 21 members that consists  
1813 of 19 appointed members and two ex officio members. The 19 appointed members shall consist of six  
1814 nonlegislative citizen members to be appointed by the Governor, of whom two shall be physician-faculty  
1815 members; five members to be appointed by the Speaker of the House of Delegates, of whom two shall  
1816 be physician-faculty members; three members to be appointed by the Senate Committee on Rules, of  
1817 whom one shall be a physician-faculty member; and five nonlegislative citizen members of the board of  
1818 ~~visitors~~ trustees of the University to be appointed by the rector of the board of ~~visitors~~ trustees of the  
1819 University, all of whom shall be members of the board of ~~visitors~~ trustees of the University at all times  
1820 while serving on the board. The President of the University and the Vice-President for Health Sciences  
1821 of the University, or the individual who holds such other title as subsequently may be established by the  
1822 board of ~~visitors~~ trustees of the University for the chief academic and administrative officer for the  
1823 Health Sciences Schools of the University, shall serve ex officio with voting privileges.

1824 All appointed members except those who are members of the board of ~~visitors~~ trustees of the  
1825 University shall have demonstrated experience or expertise in business, health care management, or legal  
1826 affairs.

1827 B. The five appointed physician-faculty members shall be faculty members of the University with  
1828 hospital privileges at MCV Hospitals at all times while serving on the board.

1829 C. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules shall  
1830 appoint physician-faculty members after consideration of names from lists submitted by the faculty  
1831 physicians of the School of Medicine of the University through the Vice-President for Health Sciences  
1832 of the University. The list shall contain at least two names for each vacancy.

1833 D. Members shall serve for terms of three years. Vacancies occurring other than by expiration of a  
1834 term shall be filled for the unexpired term. No member shall serve for more than two consecutive  
1835 three-year terms; however, a member appointed to serve an unexpired term is eligible to serve two  
1836 consecutive three-year terms. Members who serve two consecutive three-year terms are eligible for  
1837 reappointment one year after the expiration of their second term. All appointments are subject to  
1838 confirmation by the General Assembly. Members shall continue to hold office until their successors have  
1839 been appointed and confirmed. Ex officio members shall serve a term coincident with their term of  
1840 office.

1841 E. Neither the board members appointed from the board of ~~visitors~~ trustees of the University nor the  
1842 ex officio members shall vote on matters that require them to breach their fiduciary duties to the

University or to the Authority.

F. Any member may be removed for malfeasance, misfeasance, incompetence, or gross neglect of duty by the individual or entity that appointed him or, if such appointing individual no longer holds the office creating the right of appointment, by the current holder of that office.

G. The president of the University shall serve as the chairman of the board. The board shall elect annually a vice-chairman from among its membership. The board shall also elect a secretary and treasurer and such assistant secretaries and assistant treasurers as the board may authorize for terms determined by the board, each of whom may or may not be a member of the board. The same individual may serve as both secretary and treasurer.

H. The board may appoint an executive committee and other standing or special committees and prescribe their duties and powers, and any executive committee may exercise all such powers and duties of the board under this chapter as the board may delegate.

I. The board may provide for the appointment, employment, term, compensation, and removal of officers, employees, and agents of the Authority, including engineers, consultants, lawyers, and accountants, as the board deems appropriate.

J. The board shall meet at least four times each year and may hold such special meetings as it deems appropriate.

K. The board may adopt, amend, and repeal such policies, regulations, procedures, and bylaws not contrary to law or inconsistent with this chapter as it deems expedient for its own governance and for the governance and management of the Authority.

L. A majority of the board shall constitute a quorum for meetings, and the board may act by a majority of those present at any meeting.

M. Legislative board members are entitled to such compensation as provided in § 30-19.12 and nonlegislative citizen board members are entitled to such compensation for the performance of their duties as provided in § 2.2-2813. All members are entitled to reimbursement 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 compensation and expenses of the members shall be provided by the Authority.

N. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the board and the employees of the Authority.

#### **§ 23.1-2403. Chief executive officer of the Authority.**

A. The Authority shall be under the immediate supervision and direction of a chief executive officer, subject to the policies and direction established by the board. The chief executive officer shall be the individual who holds the title of Vice-President for Health Sciences of Virginia Commonwealth University, or such other title as subsequently may be established by the board of ~~visitors~~ trustees of the University for the chief academic and administrative officer for the Health Sciences Schools of the University. Notwithstanding any other provision of law to the contrary, the selection and removal of the chief executive officer, and the conditions of appointment, including salary, shall be made jointly by the board and the board of ~~visitors~~ trustees of the University at a joint meeting of the board and the board of ~~visitors~~ trustees of the University upon a vote of a majority of the members of each board present and voting at the aforementioned joint meeting, acting separately in accordance with applicable provisions of law.

B. In the event that a majority of the members of each board do not agree upon the selection, removal, or conditions of appointment, including salary, of the chief executive officer as provided in subsection A, then each board shall appoint a committee of three members of its respective board to consider the matter upon which the boards disagree. The selection, removal, or conditions of appointment shall be made jointly by the two committees at a joint meeting of the committees upon a vote by a majority of the members of each committee present and voting at the joint meeting. In the event that a majority of the members of each committee agree upon the selection, removal, or conditions of appointment of the chief executive officer, then the decision shall be reported to the board and the board of ~~visitors~~ trustees of the University, each of which shall be bound by the decision of the committees. In the event that a majority of the members of each committee do not agree on the selection, removal, or conditions of appointment of the chief executive officer within 30 days of the appointment of the committees by each board, then the president of the University shall decide upon the matter upon which the committees disagree. The president of the University shall report his decision to both boards, each of which shall be bound by the decision of the president.

C. The chief executive officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

D. The chief executive officer shall supervise and administer the operation of the Authority in accordance with the provisions of this chapter.

#### **§ 23.1-2425. Confidential and public information.**

A. The Authority is subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.),

1904 including the exclusions set forth in subdivision 14 of § 2.2-3705.7 and subdivision A 23 of § 2.2-3711.

1905 B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the board are  
 1906 not considered meetings of the board of ~~visitors~~ *trustees* of the University. Meetings of the board may  
 1907 be conducted through telephonic or video means as provided in § 2.2-3708.

1908 **§ 23.1-2500. Corporate name; name of the Institute.**

1909 A. The board of ~~visitors~~ *trustees* of Virginia Military Institute (the board) is a corporation under the  
 1910 name and style of "Virginia Military Institute" and has, in addition to its other powers, all the corporate  
 1911 powers given to corporations by the provisions of Title 13.1 except those powers that are confined to  
 1912 corporations created pursuant to Title 13.1. The board shall at all times be under the control of the  
 1913 General Assembly.

1914 B. The institution shall be known as Virginia Military Institute (the Institute).

1915 C. There shall be paid out of the public treasury such sums as shall be appropriated by the General  
 1916 Assembly for the support of the school.

1917 **§ 23.1-2600. Corporate name; name of the University.**

1918 A. The board of ~~visitors~~ *trustees* of Virginia Polytechnic Institute and State University (the board) is  
 1919 a corporation under the name and style of "Virginia Polytechnic Institute and State University" and has,  
 1920 in addition to its other powers, all the corporate powers given to corporations by the provisions of Title  
 1921 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board  
 1922 shall at all times be under the control of the General Assembly.

1923 B. The institution shall be known as Virginia Polytechnic Institute and State University (the  
 1924 University).

1925 C. All laws relating to Virginia Polytechnic Institute, its predecessors, its board of ~~visitors~~ *trustees*,  
 1926 or the board of visitors of each of its predecessors shall be construed as relating to the University.

1927 **§ 23.1-2640. Experimental farms.**

1928 A. A portion of the fund, not exceeding 10 percent of each sum assigned to Virginia State University  
 1929 and the University, may be expended, in the discretion of the board of ~~visitors~~ *trustees* of each  
 1930 institution, in the purchase of lands for experimental farms.

1931 B. The respective boards of ~~visitors~~ *trustees* may use a portion of the accruing interest from such  
 1932 fund to purchase suitable and appropriate laboratories.

1933 **§ 23.1-2700. Corporate name; name of the University.**

1934 A. The board of ~~visitors~~ *trustees* of Virginia State University (the board) is a corporation under the  
 1935 name and style of "The ~~Visitors~~ *Trustees* of Virginia State University" and has, in addition to its other  
 1936 powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those  
 1937 powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be  
 1938 under the control of the General Assembly.

1939 B. The institution shall be known as Virginia State University (the University).

1940 C. All laws relating to Virginia State College or the board of visitors of Virginia State College shall  
 1941 be construed as relating to the University or the board, respectively.

1942 **§ 23.1-2800. Corporate name; name of the University.**

1943 A. The board of ~~visitors~~ *trustees* of The College of William and Mary in Virginia (the board) is a  
 1944 corporation under the name and style of "The College of William and Mary in Virginia" and has, in  
 1945 addition to its other powers, (i) all the corporate powers given to corporations by the provisions of Title  
 1946 13.1 except those powers that are confined to corporations created pursuant to Title 13.1 and (ii) all  
 1947 powers conferred by the ancient royal charter of The College of William and Mary in Virginia. The  
 1948 board shall at all times be under the control of the General Assembly.

1949 B. The institution shall be known as The College of William and Mary in Virginia (the University).

1950 **§ 23.1-3000. Definitions.**

1951 As used in this chapter, unless the context requires a different meaning:

1952 "Board" means the board of ~~visitors~~ *trustees* of Eastern Virginia Medical School.

1953 "Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and other  
 1954 evidences of indebtedness, payment obligations, or deferred purchase financing arrangements.

1955 "Costs" means (i) costs of construction, reconstruction, renovation, site work, and acquisition of  
 1956 lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (ii) costs  
 1957 of demolition, removal, or relocation of buildings or structures; (iii) costs of labor; (iv) costs of  
 1958 materials, machinery, and all other kinds of equipment; (v) financing charges; (vi) costs of issuance of  
 1959 bonds, including printing, engraving, advertising, legal, and other similar expenses; (vii) credit  
 1960 enhancement and liquidity facility fees; (viii) fees for interest rate caps, collars, and swaps; (ix) interest  
 1961 on bonds and other borrowing in connection with a project prior to and during construction of the  
 1962 project and for a period not exceeding one year after the completion of such construction; (x) costs of  
 1963 engineering, inspection, financial, legal, and accounting services, plans, specifications, studies, surveys,  
 1964 estimates of costs and revenues, and feasibility studies; (xi) administrative expenses, including  
 1965 administrative expenses during the start-up of any project; (xii) working capital to be used in connection



with any project; (xiii) reserve funds and other reserves for the payment of principal of and interest on bonds; and (xiv) all other expenses necessary, desirable, or incidental to the construction, reconstruction, renovation, acquisition, financing, refinancing, or placing in operation of projects.

"Medical School" means the Eastern Virginia Medical School.

"Operating project" means any project (i) owned, in whole or in part; (ii) controlled, directly or indirectly, in whole or in part; or (iii) operated, directly or indirectly, by the Medical School, including parking, utility, and similar essential and related facilities operated by the Medical School or its agents either for itself or for itself and other health-related entities and institutions on a shared-support basis.

"Project" means any medical educational institution and medical facility, including colleges, schools, and divisions offering undergraduate and graduate programs for the health professions and sciences and such other courses of study as may be appropriate; medical and paramedical facilities; such other facilities deemed by the board as consistent with the powers and purposes of Eastern Virginia Medical School; all related and supporting facilities; and all necessary, desirable, or incidental lands, buildings, improvements, and other appurtenances and equipment.

**§ 23.1-3002. Board; membership; officers; meetings; committees.**

A. The Medical School shall be governed by a board of ~~visitors~~ *trustees* composed of 17 members as follows: two nonlegislative citizen members appointed by the Governor; two nonlegislative citizen members appointed by the Senate Committee on Rules; three nonlegislative citizen members appointed by the Speaker of the House of Delegates; six nonlegislative citizen members appointed by the Eastern Virginia Medical School Foundation; and four nonlegislative citizen members appointed by their respective city councils as follows: two members for the City of Norfolk, one member for the City of Virginia Beach, and one member appointed by the following city councils in a rotating manner: the City of Chesapeake, the City of Hampton, the City of Portsmouth, the City of Suffolk, and the City of Newport News.

B. Members shall serve for terms of three years, commencing on July 1 of the appointment year. Vacancies occurring other than by expiration of a term shall be filled by the original appointing authority for the unexpired term. No member shall serve for more than two consecutive three-year terms; however, (i) a member appointed to serve an unexpired term is eligible to serve two consecutive three-year terms immediately succeeding such unexpired term and (ii) an officer is eligible to serve up to three additional one-year terms. Except as otherwise provided in this subsection, no member who has served two consecutive three-year terms is eligible to serve on the board until at least one year has passed since the end of his second consecutive three-year term. Members shall continue to hold office until their successors have been appointed and confirmed.

C. Members shall receive no salaries but are entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties.

D. Each appointing authority has the right to remove any member it appointed for malfeasance, misfeasance, incompetence, or gross neglect of duty.

E. The board shall annually elect a rector, vice-rector, treasurer, and secretary from among its membership and may elect assistant secretaries and treasurers who are not required to be members of the board. The same member may serve as both secretary and treasurer.

F. The board shall meet at least four times each year and may hold such special meetings as it deems necessary. The rector or any three members may call special meetings of the board.

G. The board may appoint an executive committee composed of at least three but no more than five members for the transaction of business in the recess of the board.

**§ 23.1-3136. Board of Trustees.**

A. The Authority shall be governed by a Board of Trustees (the Board) that has a total membership of 15 members that shall consist of four 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; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members to be appointed by the Governor; one nonlegislative citizen member to be appointed by the board of ~~visitors~~ *trustees* of George Mason University; one nonlegislative citizen member to be appointed by the board of ~~visitors~~ *trustees* of Old Dominion University; and three members who shall serve ex officio with voting privileges, consisting of the President of George Mason University or his designee, the President of Old Dominion University or his designee, and the Director of the Council. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.

B. Legislative and ex officio members of the Board shall serve terms coincident with their terms of office.

C. 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.

2027 D. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term  
2028 of four years.

2029 E. No House member shall serve more than four consecutive two-year terms, no Senate member  
2030 shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve  
2031 more than two consecutive four-year terms. The remainder of any term to which a member is appointed  
2032 to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

2033 F. The Board shall elect a chairman and vice-chairman from among its membership. A majority of  
2034 the members shall constitute a quorum. The meetings of the Board shall be held at the call of the  
2035 chairman or whenever the majority of the members so request.

2036 G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and  
2037 nonlegislative citizen members shall receive such compensation for the performance of their duties as  
2038 provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses  
2039 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the  
2040 costs of compensation and expenses of the members shall be provided by the Authority.

2041 H. George Mason University and Old Dominion University shall provide staff support to the  
2042 Authority and the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon  
2043 request.

2044 **§ 23.1-3204. Board of Regents of Gunston Hall and Board of Trustees for Gunston Hall**  
2045 **established.**

2046 The Board of Regents of Gunston Hall (Board of Regents) is established as an educational institution  
2047 to manage, maintain, and operate Gunston Hall and accept and administer gifts of real and personal  
2048 property made for the benefit of Gunston Hall. The Board of ~~Visitors for~~ *Trustees of* Gunston Hall is  
2049 established. Membership of both collegial bodies shall be pursuant to the terms and conditions of the  
2050 deed of gift of Gunston Hall from Louis Hertle to the Commonwealth. The duties of the two boards are  
2051 prescribed in Chapter 138 of the Acts of Assembly of 1932 and Chapter 175 of the Acts of Assembly of  
2052 1948.

2053 **§ 30-133.1. Additional certifications for public institutions of higher education.**

2054 In addition to all other responsibilities and duties required under law, the Auditor of Public Accounts  
2055 shall, promptly upon completion of the annual audit for each public institution of higher education,  
2056 certify in writing to the Chairman of the ~~Board~~ *board of Visitors trustees* or other governing body of  
2057 the institution, the Secretaries of Education, Finance, and Administration, and the Chairmen of the  
2058 House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on  
2059 Finance whether or not the institution meets all of the financial and administrative management  
2060 standards currently in effect for public institutions of higher education pursuant to § 23.1-1001 and as  
2061 may be included in the appropriation act currently in effect. In addition, for any public institution of  
2062 higher education required to develop and implement a plan of corrective action under § 23.1-1001, the  
2063 Auditor shall at the time of making the certification provide a written evaluation of the institution's  
2064 progress in implementation of the plan and in meeting all of the financial and administrative  
2065 management standards currently in effect.

2066 For purposes of this section "public institution of higher education" means the same as that term is  
2067 defined in § 23.1-100.

2068 **§ 30-359. Intercollegiate Athletics Review Commission; purpose; membership; terms;**  
2069 **compensation and expenses.**

2070 A. As used in this chapter, "Commission" means the Intercollegiate Athletics Review Commission.

2071 B. The Commission is established as an advisory commission in the legislative branch of state  
2072 government. The purpose of the Commission is to review the plan and financing recommendations of  
2073 the board of ~~visitors trustees~~ of any public institution of higher education in the Commonwealth relating  
2074 to the institution adding a major intercollegiate athletics program such as football or basketball or  
2075 changing the division level of any of its existing intercollegiate athletics programs as set forth in  
2076 subsection I of § 23.1-1309.

2077 C. The Commission shall consist of eleven members as follows: the chair of the House Committee  
2078 on Appropriations, or his designee, and three members of the House Committee on Appropriations  
2079 appointed by the chair and the chair of the Senate Committee on Finance, or his designee, and two  
2080 members of the Senate Committee on Finance appointed by the chair. In addition, the Auditor of Public  
2081 Accounts, the Secretary of Education, the Secretary of Finance, and the Director of the State Council of  
2082 Higher Education for Virginia shall serve as ex officio, nonvoting members of the Commission.

2083 D. Members shall serve terms coincident with their terms of office. Vacancies for unexpired terms  
2084 shall be filled in the same manner as the original appointments.

2085 E. The members of the Commission shall elect a chairman and vice-chairman annually. A majority  
2086 of the voting members of the Commission shall constitute a quorum. The meetings of the Commission  
2087 shall be held at the call of the chairman or whenever the majority of the members so request.

2088 F. Members of the Commission shall receive such compensation and reimbursement of expenses as

provided in the general appropriation act.

**§ 30-360. Review of plans to add a major intercollegiate athletics program or change the division level of an existing intercollegiate athletics program.**

A. Within two business days of receipt of a plan and financing recommendations for changing the division level of any existing intercollegiate athletics program pursuant to subsection I of § 23.1-1309, the Commission shall review the plan and notify the board of ~~visitors~~ *trustees* of the public institution of higher education of its findings and recommendations.

B. Within 45 business days of receipt of a plan and financing recommendations for adding a major intercollegiate athletics program such as football or basketball pursuant to subsection I of § 23.1-1309, the Commission shall review the plan and notify the board of ~~visitors~~ *trustees* of the public institution of higher education of its findings and recommendations.

C. Findings and recommendations of the Commission may relate to (i) the potential financial impact of the addition of a major intercollegiate athletics program or a change in the division level of an existing intercollegiate athletics program upon the Commonwealth and students, (ii) the potential impact on the subsidy percentage, as that term is defined in § 23.1-1309, or (iii) the policy aspects of such an addition or change. Review by the Commission shall not be construed to constitute approval of any appropriations necessary to implement any portion of the plan.

D. Findings and recommendations of the Commission shall require an affirmative vote by three of the five members from the House Committee on Appropriations and two of the three members from the Senate Committee on Finance.

**§ 32.1-127.1:05. Breach of medical information notification.**

A. As used in this section:

"Breach of the security of the system" means unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security, confidentiality, or integrity of medical information maintained by an entity. Good faith acquisition of medical information by an employee or agent of an entity for the purposes of the entity is not a breach of the security of the system, provided that the medical information is not used for a purpose other than a lawful purpose of the entity or subject to further unauthorized disclosure.

"Encrypted" means the transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without the use of a confidential process or key, or the securing of the information by another method that renders the data elements unreadable or unusable.

"Entity" means any authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; boards of ~~visitors~~ *trustees* of public institutions of higher education; and other organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds.

"Medical information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of the Commonwealth, when the data elements are neither encrypted nor redacted:

1. Any information regarding an individual's medical or mental health history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or

2. An individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

"Notice" means:

1. Written notice to the last known postal address in the records of the entity;

2. Telephone notice;

3. Electronic notice; or

4. Substitute notice, if the entity required to provide notice demonstrates that the cost of providing notice will exceed \$50,000, the affected class of Virginia residents to be notified exceeds 100,000 residents, or the entity does not have sufficient contact information or consent to provide notice as described in subdivisions 1, 2, or 3 of this definition. Substitute notice consists of the following:

a. E-mail notice if the entity has e-mail addresses for the members of the affected class of residents;

b. Conspicuous posting of the notice on the website of the entity if the entity maintains a website; and

c. Notice to major statewide media.

Notice required by this section shall include a description of the following:

(1) The incident in general terms;

2150 (2) The type of medical information that was subject to the unauthorized access and acquisition;  
2151 (3) The general acts of the entity to protect the personal information from further unauthorized  
2152 access; and

2153 (4) A telephone number that the person may call for further information and assistance, if one exists.  
2154 "Redact" means alteration or truncation of data such that no information regarding an individual's  
2155 medical history, mental or physical condition, or medical treatment or diagnosis or no more than four  
2156 digits of a health insurance policy number, subscriber number, or other unique identifier are accessible  
2157 as part of the medical information.

2158 B. If unencrypted or unredacted medical information was or is reasonably believed to have been  
2159 accessed and acquired by an unauthorized person, an entity that owns or licenses computerized data that  
2160 includes medical information shall disclose any breach of the security of the system following discovery  
2161 or notification of the breach of the security of the system to the Office of the Attorney General, the  
2162 Commissioner of Health, the subject of the medical information, and any affected resident of the  
2163 Commonwealth without unreasonable delay. Notice required by this section may be reasonably delayed  
2164 to allow the entity to determine the scope of the breach of the security of the system and restore the  
2165 reasonable integrity of the system. Notice required by this section may be delayed if, after the entity  
2166 notifies a law-enforcement agency, the law-enforcement agency determines and advises the entity that  
2167 the notice will impede a criminal or civil investigation, or homeland or national security. Notice shall be  
2168 made without unreasonable delay after the law-enforcement agency determines that the notification will  
2169 no longer impede the investigation or jeopardize national or homeland security.

2170 C. An entity shall disclose the breach of the security of the system if encrypted information is  
2171 accessed and acquired in an unencrypted form, or if the security breach involves a person with access to  
2172 the encryption key.

2173 D. An entity that maintains computerized data that includes medical information that the entity does  
2174 not own or license shall notify the owner or licensee of the information of any breach of the security of  
2175 the system without unreasonable delay following discovery of the breach of the security of the system, if  
2176 the medical information was accessed and acquired by an unauthorized person or the entity reasonably  
2177 believes the medical information was accessed and acquired by an unauthorized person.

2178 E. In the event an entity provides notice to more than 1,000 persons at one time, pursuant to this  
2179 section, the entity shall notify, without unreasonable delay, the Office of the Attorney General and the  
2180 Commissioner of Health of the timing, distribution, and content of the notice.

2181 F. This section shall not apply to (i) a person or entity who is a "covered entity" or "business  
2182 associate" under the Health Insurance Portability and Accountability Act of 1996 (42 USC § 1320d et  
2183 seq.) and is subject to requirements for notification in the case of a breach of protected health  
2184 information (42 USC 17932 et seq.) or (ii) a person or entity who is a non-HIPAA-covered entity  
2185 subject to the Health Breach Notification Rule promulgated by the Federal Trade Commission pursuant  
2186 to 42 USC § 17937 et seq.

2187 G. An entity that complies with the notification requirements or procedures pursuant to the rules,  
2188 regulations, procedures, and guidelines established by the entity's primary or functional state or federal  
2189 regulator shall be in compliance with this section.

2190 **§ 46.2-1228. Enforcement of parking regulations of boards of trustees of educational**  
2191 **institutions.**

2192 Any regulation of any board of ~~visitors~~ *trustees* or other governing body of an educational institution  
2193 pursuant to the provisions of § 23.1-1301 relating to parking on property owned by the institution shall  
2194 provide:

2195 1. That uncontested citations issued thereunder shall be paid to the administrative official or officials  
2196 appointed under the provisions of this section in the city or county in which the property of the  
2197 institution lies, who shall promptly deposit such sums into the state treasury as a special revenue of the  
2198 institution; and

2199 2. That contested or delinquent citations shall be certified or complaint, summons, or warrant shall be  
2200 issued as provided in § 46.2-1225 to the general district court in whose jurisdiction the institution lies.  
2201 Any sum collected by the court, minus court costs, shall be promptly deposited by the clerk into the  
2202 state treasury as a special revenue of the institution. However, nothing in this section shall prevent any  
2203 educational institution which adopts, or has adopted, regulations pursuant to § 23.1-1301 providing for  
2204 administrative disposition of contested, uncontested, or delinquent citations from disposing of those  
2205 citations in accordance with those regulations, and all moneys collected under those regulations shall be  
2206 deposited promptly into the state treasury as a special revenue of the institution.

2207 **§ 51.1-126.3. Employees of the University of Virginia Medical Center.**

2208 A. The University of Virginia Medical Center, hereafter referred to as the Medical Center, may  
2209 establish one or more retirement plans covering in whole or in part its employees. The Medical Center  
2210 is authorized to make contributions for the benefit of its employees who are covered by any plan  
2211 established pursuant to this section. Any such alternative retirement plans for Medical Center employees

shall not become effective until such time as the ~~Board~~ *board of Visitors trustees* of the University of Virginia may determine. Except as provided herein, all employees of the Medical Center who are employed by the Medical Center on or after July 1, 2000, shall be participants in a Medical Center retirement plan established pursuant to this section, with a contribution by the Medical Center at a rate to be determined by *the board of trustees of the University of Virginia* ~~Board of Visitors~~. However, an employee hired by the Medical Center on or after July 1, 2003, who, as of the first day of such employment, is a current member of the Virginia Retirement System defined benefit retirement plan established by this chapter shall elect to either: (i) continue to participate in such defined benefit retirement plan or (ii) choose the plan provided by the Medical Center with a contribution by the Medical Center at a rate to be determined by *the board of trustees of the University of Virginia* ~~Board of Visitors~~. Such election shall be exercised not later than 60 days from the time of the employee's entry into the performance of his duties for the Medical Center, and the election shall be irrevocable. During such 60-day period, to the time of such election, such employee shall participate in the Virginia Retirement System defined benefit retirement plan established by this chapter. If such election is not made within the time period provided in this subsection, such employee shall be deemed to have elected to participate in the retirement plan established by the Medical Center.

B. With respect to any employee of the Medical Center who elects to continue to participate in the Virginia Retirement System defined benefit retirement plan, the Medical Center shall collect and pay all employee and employer contributions due to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title for such employees. For Medical Center employees who elect or who are required pursuant to subsection A to become members of the retirement program established by the Medical Center, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Medical Center assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For purposes hereof, the basic benefit shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on creditable service and average final compensation, as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Medical Center will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

C. No employee of the Medical Center who is an active member of any plan established under this section shall also be an active member of the retirement system established by this chapter or a beneficiary of such other plan other than as a contingent annuitant.

D. The *board of trustees of the University of Virginia* ~~Board of Visitors~~ shall adopt guidelines for the implementation of the provisions of this section, including guidelines for the administration of any retirement plan established pursuant to this section. The ~~Board~~ *board* shall have no duties and responsibilities with respect to such plan. The guidelines adopted by the ~~Board~~ *board of Visitors trustees* shall be filed with the Board of Trustees of the Virginia Retirement System.

#### **§ 51.1-1100. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

"Company" means an insurance company issuing a long-term disability insurance policy purchased by the Board pursuant to this chapter.

"Disability" means a partial disability or total disability.

"Disability benefit" means income replacement payments payable to a participating employee under a short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not include benefits payable under the Act.

"Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the retirement system, including the hybrid retirement program described in § 51.1-169; (ii) an employee as defined in § 51.1-201; (iii) an employee as defined in § 51.1-212; or (iv) a qualifying part-time employee. Any person participating in a plan established pursuant to § 51.1-126, 51.1-126.1, 51.1-126.4, 51.1-126.5, 51.1-502.1, or 51.1-502.3 shall not be an eligible employee. Employees of the University of Virginia Medical Center covered under the basic insurance policies purchased by the Medical Center shall not be considered eligible employees under this chapter, unless *the board of trustees of the University of Virginia* ~~Board of Visitors~~, or a duly authorized agent or representative of the ~~Board~~ *board of Visitors trustees*, purchases such insurance policies from the Virginia Retirement System.

"Existing employee" means an employee who elected to participate in the Virginia Sickness and Disability Program.

"Partial disability" exists during the first 24 months following the occurrence or commencement of an

2273 illness or injury when an employee is earning less than 80 percent of his predisability earnings and, as a  
2274 result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job  
2275 functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the  
2276 essential job functions of his own job only on a part-time basis.

2277 "Participating employee" means any eligible employee required or electing to participate in the  
2278 program.

2279 "Program" means the program providing sick leave, family and personal leave, short-term disability,  
2280 and long-term disability benefits for participating employees established pursuant to this chapter.

2281 "Qualifying part-time employee" means any person who would qualify as a state employee as defined  
2282 in § 51.1-124.3 but, rather than being regularly employed full time on a salaried basis, is regularly  
2283 employed part time for at least 20 hours but less than 40 hours per week on a salaried basis.

2284 "State service" means the employee's total period of state service as an eligible employee, including  
2285 all periods of classified full-time and classified part-time service and periods of leave without pay, but  
2286 not including periods during which the employee did not meet the definition of an eligible employee.

2287 "Total disability" exists (i) during the first 24 months following the occurrence or commencement of  
2288 an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24  
2289 months following the occurrence or commencement of an illness or injury if an employee is unable to  
2290 perform any job for which he is reasonably qualified based on his training or experience and earning  
2291 less than 80 percent of his predisability earnings.

2292 "Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating  
2293 employee for which benefits are payable under the Act and the Commonwealth is the employer for  
2294 purposes of the Act.

2295 In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this  
2296 chapter except as otherwise provided.