

# VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

## CHAPTER 84

*An Act to amend and reenact §§ 9.1-185.4, 9.1-186.4, 15.2-1705, 22.1-5, 22.1-223, 22.1-224, 22.1-225, 22.1-253.13:3, 22.1-253.13:4, 22.1-254, 22.1-254.2, 22.1-302, 23-7.4:5, 30-231.01 through 30-231.3, 30-231.8, 53.1-10, 63.2-608, and 66-3 of the Code of Virginia, relating to high school equivalency programs and examinations.*

[H 1007]

Approved March 3, 2014

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

**1. That §§ 9.1-185.4, 9.1-186.4, 15.2-1705, 22.1-5, 22.1-223, 22.1-224, 22.1-225, 22.1-253.13:3, 22.1-253.13:4, 22.1-254, 22.1-254.2, 22.1-302, 23-7.4:5, 30-231.01 through 30-231.3, 30-231.8, 53.1-10, 63.2-608, and 66-3 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 9.1-185.4. Limitations on licensure.**

A. In order to be licensed as a bail bondsman a person shall (i) be 18 years of age or older, (ii) have received a high school diploma or ~~GED~~ *passed a high school equivalency examination approved by the Board of Education*, and (iii) have successfully completed the bail bondsman exam required by the Board or successfully completed prior to July 1, 2005, a surety bail bondsman exam required by the State Corporation Commission under former § 38.2-1865.7.

B. The following persons are not eligible for licensure as bail bondsmen and may not be employed nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;
2. Employees of a local or regional jail;
3. Employees of a sheriff's office;
4. Employees of a state or local police department;
5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ 9.1-150.1 et seq.) of this chapter;
6. Employees of an office of an attorney for the Commonwealth;
7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency; and

8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 who are sworn officers or whose responsibilities involve direct access to records of inmates.

C. The exclusions in subsection B shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

#### **§ 9.1-186.4. Limitations on licensure.**

A. In order to be licensed as a bail enforcement agent a person shall (i) be 21 years of age or older, (ii) have received a high school diploma or ~~GED~~ *passed a high school equivalency examination approved by the Board of Education*, and (iii) have satisfactorily completed a basic certification course in training for bail enforcement agents offered by the Department. Partial exemptions to the training requirements may be approved by the Department if the individual has received prior training.

B. The following persons are not eligible for licensure as a bail enforcement agent and may not be employed nor serve as agents for a bail enforcement agent:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored.
2. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States within the preceding five years. This prohibition may be waived by the Department, for good cause shown, so long as the conviction was not for one of the following or a substantially similar misdemeanor: carrying a concealed weapon, assault and battery, sexual battery, a drug offense, driving under the influence, discharging a firearm, a sex offense, or larceny.
3. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States, that is substantially similar to the following: brandishing a firearm or stalking. The Department may not waive the prohibitions under this subdivision 3.
4. Persons currently the subject of a protective order within the Commonwealth or another state.
5. Employees of a local or regional jail.
6. Employees of a sheriff's office, or a state or local police department.
7. Commonwealth's Attorneys, and any employees of their offices.
8. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency.

C. The exclusions in subsection B shall not be construed to prohibit law enforcement from accompanying a bail enforcement agent when he engages in bail recovery.

**§ 15.2-1705. Minimum qualifications; waiver.**

A. The chief of police and all police officers of any locality, all deputy sheriffs and jail officers in this Commonwealth, and all law-enforcement officers as defined in § 9.1-101 who enter upon the duties of such office after July 1, 1994, are required to meet the following minimum qualifications for office. Such person shall (i) be a citizen of the United States, (ii) be required to undergo a background investigation including fingerprint-based criminal history records inquiries to both the Central Criminal Records Exchange and the Federal Bureau of Investigation, (iii) have a high school education or have passed the ~~General Educational Development exam~~ *a high school equivalency examination approved by the Board of Education*, (iv) possess a valid driver's license if required by the duties of office to operate a motor vehicle, (v) undergo a physical examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed physician, (vi) be at least eighteen years of age, (vii) not have been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth, and (viii) not have produced a positive result on a pre-employment drug screening, if such screening is required by the hiring law-enforcement agency or jail, where the positive result cannot be explained to the law-enforcement agency or jail administrator's satisfaction. In addition, all such officers who enter upon the duties of such office on or after July 1, 2013, shall not have been convicted of or pled guilty or no contest to (a) any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth, (b) any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371, or (c) domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States.

B. Upon request of a sheriff or chief of police, or the director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101, or jail officers as defined in § 53.1-1, the Department of Criminal Justice Services is hereby authorized to waive the requirements for qualification as set out in subsection A of this section for good cause shown.

**§ 22.1-5. Regulations concerning admission of certain persons to schools; tuition charges.**

A. Consistent with Article VIII, Section 1 of the Constitution of Virginia, no person may be charged tuition for admission or enrollment in the public schools of the Commonwealth, whether on a full-time or part-time basis, who meets the residency criteria set forth in § 22.1-3. No person of school age shall be charged tuition for enrollment in a ~~general education development program preparing students to pass a high school equivalency examination approved by the Board of Education~~ or alternative program offered as a regional or divisionwide initiative by the local school division in which such person is deemed to reside pursuant to § 22.1-3. Further, no person of school age shall be denied admission or charged tuition when (i) such person's custodial parent has been deployed outside the United States as a member of the Virginia National Guard or as a member of the United States armed forces; and (ii) such person's custodial parent has executed a Special Power of Attorney under Title 10, United States Code, § 1044b providing for the care of the person of school age by an individual who is defined as a parent in § 22.1-1 during the time of his deployment outside the United States. The person of school age shall be allowed to attend a school in the school division in which the individual providing for his care, pursuant to the Special Power of Attorney under Title 10, United States Code, § 1044b, resides. Furthermore, when practicable, such persons of school age may continue to attend school in the Virginia school division they attended immediately prior to the deployment and shall not be charged tuition for attending such division.

The following persons may, however, in the discretion of the school board of a school division and pursuant to regulations adopted by the school board, be admitted into the public schools of the division and may, in the discretion of the school board, be charged tuition:

1. Persons who reside within the school division but who are not of school age.
2. Persons of school age who are residents of the Commonwealth but who do not reside within the school division, except as provided in this section.
3. Persons of school age who are attending school in the school division pursuant to a foreign student exchange program approved by the school board.
4. Persons of school age who reside beyond the boundaries of the Commonwealth but near thereto in a state or the District of Columbia which grants the same privileges to residents of the Commonwealth.
5. Persons of school age who reside on a military or naval reservation located wholly or partly within the geographical boundaries of the school division and who are not domiciled residents of the Commonwealth of Virginia; however, no person of school age residing on a military or naval reservation located wholly or partly within the geographical boundaries of the school division may be charged tuition if federal funds provided under P.L. 874 of 1950, commonly known as Impact Aid, shall fund such students at not less than 50 percent of the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school

division. Notwithstanding any other provision of law to the contrary, such persons of school age who reside on a military or naval reservation with military-owned housing located wholly or partly within the geographical boundaries of multiple school divisions shall be deemed eligible for interscholastic programs immediately upon enrollment in a public elementary or secondary school in any of the aforementioned school divisions, provided that such persons (i) satisfy all other requirements for eligibility and (ii) are dependents of a military service member required by the military to live on the military installation as evidenced by a statement on command letterhead signed by, or by direction of, the service member's commanding officer.

6. Persons of school age who, as domiciled residents of the Commonwealth who were enrolled in a public school within the school division, are required as a result of military or federal orders issued to their parents to relocate and reside on federal property in another state or the District of Columbia, if the school division subsequently enrolling such persons is contiguous to such state or District of Columbia.

7. Persons of school age who reside in the school division and who are enrolled in summer programs, exclusive of required remediation as provided in § 22.1-253.13:1, or in local initiatives or programs not required by the Standards of Quality or the Standards of Accreditation.

For the purposes of determining the residency of persons described in subdivisions 1 and 2, local school boards shall adopt regulations consistent with the residency requirements regarding persons residing in housing or temporary shelter, or on property located in multiple jurisdictions, as articulated in § 22.1-3.

B. Persons of school age who are not residents of the Commonwealth but are living temporarily with persons residing within a school division may, in the discretion of the school board and pursuant to regulations adopted by it, be admitted to the public schools of the school division. Tuition shall be charged such persons.

C. No tuition charge authorized or required in this section shall exceed the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school division and the actual, additional costs of any special education or gifted and talented program provided the pupil, except that if the tuition charge is payable by the school board of the school division of the pupil's residence pursuant to a contract entered into between the two school boards, the tuition charge shall be that fixed by such contract.

D. School boards may accept and provide programs for students for whom English is a second language who entered school in Virginia for the first time after reaching their twelfth birthday, and who have not reached 22 years of age on or before August 1 of the school year. No tuition shall be charged such students, if state funding is provided for such programs.

#### **§ 22.1-223. Definitions.**

As used in this article:

"Adult basic education" means education for adults that enables them to express themselves orally and in writing, read, access information and resources, make decisions, act independently and interact with others, and continue lifelong learning to cope with and compete successfully in a global economy.

"Adult education program" means an instructional program below the college credit level provided by public schools for persons over the age of compulsory school attendance specified in § 22.1-254 who are not enrolled in the regular public school program, including adult basic education, credit programs, cultural adult education, external diploma programs, general adult education, and ~~general educational development~~ *programs preparing students to pass a high school equivalency examination approved by the Board of Education.*

"Credit program" means a program of academic courses that are available to adults to enable them to complete the regular requirements for a high school diploma.

"Cultural adult education" means English for speakers of other languages (ESOL), the preparation of foreign-born adults for participation in American life or for becoming American citizens, and other educational services for foreign-born adults.

"External diploma program" means a program in which adults who did not complete high school may earn a high school diploma by demonstrating with 100 percent mastery the 65 competencies established and validated by the American Council on Education.

"General adult education" means academic, cultural, and avocational instruction that may be obtained through programs other than high school credit programs, a ~~general educational development (GED) program~~ *programs preparing students to pass a high school equivalency examination approved by the Board of Education*, or an external diploma program (EDP) *approved by the Board of Education.*

~~"General educational development High school equivalency program"~~ means a program of preparation and instruction for adults who did not complete high school, for students who have been granted permission by the superintendent of the school division in which they are or were last enrolled to take ~~the test for the general educational development certificate~~ *a high school equivalency examination approved by the Board of Education*, and for those who have been ordered by a court to participate in the program.

#### **§ 22.1-224. Duties of State Board.**

The Board of Education shall:

1. Require the development of adult education programs in every school division;
2. Encourage coordination in the development and provision of adult education programs between school boards and other state, federal, and local public and private agencies;
3. Promulgate appropriate standards and guidelines for adult education programs;
4. Accept and administer grants, gifts, services, and funds from available sources for use in adult education programs; and
5. Assist school divisions with all diligence in meeting the educational needs of adults participating in adult education programs to master the requirements for and earn a ~~general educational development (GED) certificate~~ *or a high school diploma or to pass a high school equivalency examination approved by the Board of Education.*

**§ 22.1-225. Authority of school boards.**

A. Local school boards shall provide adult education programs, in compliance with subdivision D 8 of § 22.1-253.13:1, for residents of the school division and, in their discretion, may charge appropriate fees to persons admitted to such programs.

B. With such funds as may be appropriated for the purposes of this article, school boards shall seek to ensure that every adult participating in such program has an opportunity to earn a ~~general educational development (GED) certificate~~ *or a high school diploma or pass a high school equivalency examination approved by the Board of Education.*

**§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.**

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board shall review annually the accreditation status of all schools in the Commonwealth.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall review the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.

When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the Board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board a corrective action plan, consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt and implement an academic review process, to be conducted by the Department of Education, to assist schools that are accredited with warning. The Department shall forward a report of each academic review to the relevant local school board, and such school board shall report the results of such academic review and the required annual progress reports in public session. The local school board shall implement any actions identified through the academic review and utilize them for improvement planning.

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of

action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

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

In prescribing such Standards of Learning assessments, the Board shall provide local school boards the option of administering tests for United States History to 1877, United States History: 1877 to the Present, and Civics and Economics. The last administration of the cumulative grade eight history test will be during the 2007-2008 academic school year. Beginning with the 2008-2009 academic year, all school divisions shall administer the United States History to 1877, United States History: 1877 to the Present, and Civics and Economics tests. The Board shall also provide the option of industry certification and state licensure examinations as a student-selected verified credit.

The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall include in the student outcome measures that are required by the Standards for Accreditation end-of-course or end-of-grade tests for various grade levels and classes, as determined by the Board, in accordance with the Standards of Learning. These Standards of Learning assessments shall include, but need not be limited to, end-of-course or end-of-grade tests for English, mathematics, science, and history and social science. Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

In addition, to assess the educational progress of students, the Board of Education shall (a) develop appropriate assessments, which may include criterion-referenced tests and alternative assessment instruments that may be used by classroom teachers; (b) select appropriate industry certification and state licensure examinations; and (c) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

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

The Board of Education may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local school boards regarding such special provisions.

D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students

from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 11 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

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

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to all students for grade levels and courses identified by the Board of Education, which may include criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the Standards of Learning Assessments and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of Learning Assessments to the public.

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

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

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department of Education shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board of Education may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

**§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who earn the units of credit prescribed by the Board of Education, pass the prescribed tests, and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. Course credits earned for online courses taken in the Department of Education's Virtual Virginia program shall transfer to Virginia public schools in accordance with provisions of the standards for accreditation. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the number and subject area requirements of standard and verified units of credit required for graduation pursuant to the standards for accreditation and (ii) the remaining number and subject area requirements of such units of credit the individual student requires for graduation.

B. Students identified as disabled who complete the requirements of their individualized education programs shall be awarded special diplomas by local school boards.

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the requirements for a standard or advanced studies diploma of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve the number of verified units of credit required for graduation as provided in the standards for accreditation. If such student who does not graduate or achieve such verified units of credit is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. In establishing course and credit requirements for a high school diploma, the Board shall:

1. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation credit requirements, which shall include Standards of Learning testing, as necessary.

2. Establish the requirements for a standard and an advanced studies high school diploma, which shall each include at least one credit in fine or performing arts or career and technical education and one credit in United States and Virginia history. The requirements for a standard high school diploma shall, however, include at least two sequential electives chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses. Such focused sequence of elective courses shall provide a foundation for further education or training or preparation for employment. The advanced studies diploma shall be the recommended diploma for students pursuing baccalaureate study. Both the standard and the advanced studies diploma shall prepare students for post-secondary education and the career readiness required by the Commonwealth's economy.

Beginning with first-time ninth grade students in the 2013-2014 school year, requirements for the standard diploma shall include a requirement to earn a career and technical education credential that has been approved by the Board, that could include, but not be limited to, the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.

Beginning with first-time ninth grade students in the 2016-2017 school year, requirements for the standard and advanced diplomas shall include a requirement to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

The Board shall make provision in its regulations for students with disabilities to earn a standard diploma.

3. Provide, in the requirements to earn a standard or advanced studies diploma, the successful completion of one virtual course. The virtual course may be a noncredit-bearing course.

4. Provide, in the requirements for the verified units of credit stipulated for obtaining the standard or advanced studies diploma, that students completing elective classes into which the Standards of Learning for any required course have been integrated may take the relevant Standards of Learning test for the relevant required course and receive, upon achieving a satisfactory score on the specific Standards of Learning assessment, a verified unit of credit for such elective class that shall be deemed to satisfy the Board's requirement for verified credit for the required course.

5. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstration of mastery of the course content and objectives. Having received credit for the course, the student shall be permitted to sit for the relevant Standards of Learning assessment and, upon receiving a passing score, shall earn a verified credit. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

6. Provide for the award of verified units of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding verified units of credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, the appropriate verified units of credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

7. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

E. In the exercise of its authority to recognize exemplary academic performance by providing for diploma seals, the Board of Education shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

In addition, the Board shall establish criteria for awarding a diploma seal for advanced mathematics and technology for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) technology courses; (ii) technical writing, reading, and oral communication skills; (iii) technology-related training; and (iv) industry, professional, and trade association national certifications.

The Board shall also establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on the GED examination *a high school*



*equivalency examination approved by the Board of Education*; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, and report high school graduation and dropout data using a formula prescribed by the Board.

The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data.

**§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.**

A. Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational, or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

Instruction in the home of a child or children by the parent, guardian, or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing a ~~general educational development (GED) certificate~~ *the achievement of a passing score on a high school equivalency examination approved by the Board of Education* but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or a ~~GED certificate~~ *has achieved a passing score on a high school equivalency examination approved by the Board of Education*, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. Each local school board shall develop policies for excusing students who are absent by reason of observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if the absence is verified in a manner acceptable to the school board.

D. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; or

2. On recommendation of the juvenile and domestic relations district court of the county or city in

which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

E. Local school boards may allow the requirements of subsection A to be met under the following conditions:

For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

- a. Career guidance counseling;
- b. Mandatory enrollment and attendance in a ~~general educational development~~ preparatory program *for passing a high school equivalency examination approved by the Board of Education* or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such ~~GED~~ preparatory program or approved alternative education program to such principal or his designee;
- c. Mandatory enrollment in a program to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment;
- d. Successful completion of the course in economics and personal finance required to earn a Board of Education-approved high school diploma;
- e. Counseling on the economic impact of failing to complete high school; and
- f. Procedures for reenrollment to comply with the requirements of subsection A.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

G. Whenever a court orders any pupil into an alternative education program, including a program of ~~general educational development~~ *preparing students for a high school equivalency examination approved by the Board of Education*, offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

H. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

I. The provisions of this article shall not apply to:

1. Children suffering from contagious or infectious diseases while suffering from such diseases;
2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;
3. Children under 10 years of age who live more than two miles from a public school unless public

transportation is provided within one mile of the place where such children live;

4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and

5. Children excused pursuant to subsections B and D.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

**§ 22.1-254.2. Testing for high school equivalency; eligibility; guidelines.**

A. The Board of Education shall establish a program of testing for ~~general educational development (GED)~~ *high school equivalency through which a person may pass a high school equivalency examination approved by the Board of Education* through which persons may earn a high school equivalency certificate or *may earn* a diploma as provided in subsection F of § 22.1-253.13:4. The following persons may participate in the testing program:

1. Persons who are at least 18 years of age and not enrolled in public school or not otherwise meeting the school attendance requirements set forth in § 22.1-254;

2. Persons 16 years of age or older who have been instructed by their parents in their home pursuant to § 22.1-254.1 and who have completed such home school instruction;

3. Persons who have been excused from school attendance pursuant to subsections B and D of § 22.1-254;

4. Persons for whom an individual student alternative education plan has been granted pursuant to subsection E of § 22.1-254;

5. Persons 16 through 18 years of age who are housed in adult correctional facilities and who are actively pursuing a ~~GED certificate~~ *a passing score on a high school equivalency examination approved by the Board of Education* but who are not enrolled in an individual student alternative education plan pursuant to subsection E of § 22.1-254;

6. Persons 16 years of age or older who have been expelled from school pursuant to §§ 22.1-277.06 through 22.1-277.08; and

7. Persons required by court order to participate in the testing program.

Under no circumstances shall persons under the age of 16 be eligible for the testing program.

B. From such funds as may be appropriated for this purpose, local school boards shall implement programs of preparation and testing for ~~general educational development~~ *high school equivalency* consistent with guidelines to be developed by the Board of Education. Such guidelines shall include a provision that allows preparatory and testing programs to be offered jointly by two or more school boards.

**§ 22.1-302. Written contracts required; execution of contracts; qualifications of temporarily employed teachers; rules and requirements.**

A. A written contract, in a form permitted by the Board of Education's regulations, shall be made by the school board with each teacher employed by it, except those who are temporarily employed, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties.

The standard 10-month contract shall include 200 days, including (i) a minimum of 180 teaching days or 990 instructional hours and (ii) up to 20 days for activities such as teaching, participating in professional development, planning, evaluating, completing records and reports, participating on committees or in conferences, or such other activities as may be assigned or approved by the local school board.

A temporarily employed teacher, as used in this section, means (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

B. Temporarily employed teachers, as defined in this section, shall be at least 18 years of age and shall hold a high school diploma or a ~~general educational development (GED) certificate~~ *have passed a high school equivalency examination approved by the Board of Education*.

A temporarily employed teacher is not required to be licensed by the Board of Education, nor is the local school board required to enter into a written contract with a temporarily employed teacher. However, local school boards shall establish employment qualifications for temporarily employed

teachers that may exceed these requirements for the employment of such teachers. School boards shall also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes exceed baseline employment qualifications.

C. A separate contract in a form permitted by the Board of Education shall be executed by the school board with a teacher who is receiving a monetary supplement for any athletic coaching or extracurricular activity sponsorship assignment. This contract shall be separate and apart from the contract for teaching.

Termination of a separate contract for any athletic coaching or extracurricular activity sponsorship assignment by either party thereto shall not constitute cause for termination of the separate teaching contract of the coach or teacher.

All such contracts shall require the party intending to terminate the coaching or extracurricular activity sponsorship contract to give reasonable notice to the other party before termination thereof shall become effective.

For the purposes of this section, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

**§ 23-7.4.5. Grant for tuition and fees for certain individuals.**

A. The payment of tuition or fees, except fees established for the purpose of paying for course materials, such as laboratory fees, shall be provided for a person who is a bona fide domiciliary of Virginia, as defined in § 23-7.4, and who:

1. Has received a high school diploma or a ~~general educational development (GED) certificate~~ *has passed a high school equivalency examination approved by the Board of Education* and was in foster care or in the custody of the Department of Social Services or is considered a special needs adoption at the time such diploma or certificate was awarded, or was in foster care when he turned 18 and subsequently received a high school diploma or ~~GED certificate~~ *passed a high school equivalency examination approved by the Board of Education*;

2. Is enrolled or has been accepted for enrollment as a full-time or part-time student, taking a minimum of six credit hours per semester, in a degree or certificate program of at least one academic year in length in a public two-year institution of higher education in the Commonwealth;

3. Has not been enrolled in postsecondary education as a full-time student for more than five years and/or does not have a prior bachelor's degree;

4. Maintains the required grade point average established by the State Board for Community Colleges;

5. Has submitted applications for federal student financial aid programs for which he may be eligible; and

6. Demonstrates financial need and meets any additional financial need requirements established by the State Board for Community Colleges for the purposes of such grant.

B. The State Board for Community Colleges, in consultation with the State Council of Higher Education and the Department of Social Services, shall establish regulations governing such grants. The regulations shall include, but shall not be limited to, provisions addressing renewals of grants; financial need; the calculation of grant amounts, after consideration of any additional financial resources or aid the student may hold; the grade point average required to retain such grant; and procedures for the repayment of tuition and fees for failure to meet the requirements imposed by this section.

**§ 30-231.01. Definitions.**

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

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

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

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

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

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

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

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

"Graduate degree program" means an accredited academic program of study offered by a Virginia institution of higher education that has been accepted for participation in the Program by the Brown v. Board of Education Scholarship Committee to which scholarship recipients are accepted for admission and successful completion of the academic program culminates in the awarding of the masters or doctoral degree.

*"High school equivalency preparation program" means a program of preparation and instruction for adults who did not complete high school, and for youth who have been granted permission by the division superintendent of the school in which they are enrolled, to take a high school equivalency examination approved by the Board of Education.*

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

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

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

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

There is hereby created, from such funds made available for this purpose, the Brown v. Board of Education Scholarship Program, hereinafter referred to as the "Program." The Program shall be established for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which the public schools were closed to avoid desegregation, in obtaining: the adult high school diploma; ~~the General Education Development certificate~~ *a passing score on a high school equivalency examination approved by the Board of Education*; College-Level Examination Program (CLEP) credit; career or technical education or training in an approved program at a Virginia community college or at an accredited career and technical education postsecondary school in the Commonwealth; an undergraduate degree from an accredited public or private two-year or four-year institution of higher education; a graduate degree at the masters or doctoral level; or a professional degree from an accredited public or private four-year institution of higher education in Virginia.

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

A. With the funds made available from gifts, grants, donations, bequests, and other funds as may be received for such purpose, scholarships shall be awarded annually. Awards may be granted for part-time or full-time attendance for no more than one year of study for students enrolled in adult education programs for the high school diploma and preparation programs for ~~the General Education Development certificate~~ *a high school equivalency examination approved by the Board of Education* or the College-Level Examination Program (CLEP) credit, and for no more than the minimum number of credit hours required to complete program requirements, except as approved by the Committee for students enrolled in the following approved education programs: (i) an approved career or technical education or training program at a Virginia community college, or at an accredited career and technical education postsecondary school in the Commonwealth; (ii) a two-year undergraduate comprehensive community college program; (iii) a four-year undergraduate degree program; (iv) a recognized five-year undergraduate degree program; (v) a masters or doctoral level degree program; and (vi) a professional degree program. Awards granted may also be used for the College-Level Examination Program (CLEP) examinations and costs related to preparation for the tests, transition programs and services, and dual

enrollment programs as may be approved by the Committee, in accordance with § 30-231.8. Awards granted to applicants accepted for enrollment at accredited career and technical education postsecondary schools shall be made in accordance with Article VIII, section 11 of the Constitution of Virginia. In addition, no scholarship under this Program shall be used to obtain multiple baccalaureate, masters, doctoral, or professional degrees.

B. The Standards of Learning requirements and all related assessments shall be waived for any student awarded a scholarship under this Program and enrolled in an adult basic education program to obtain the high school diploma.

C. No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive scholarship awards. However, nothing in this section shall be construed to prohibit a student from taking courses of a religious or theological nature to satisfy undergraduate and graduate elective requirements for a liberal arts nonreligious degree.

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

E. Scholarships shall be awarded to eligible students by the Committee.

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

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

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

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

**§ 30-231.3. Amount of scholarships; use of scholarships; disbursement and recovery of scholarship funds; terms and conditions; penalty.**

A. Scholarships shall be awarded from gifts, grants, donations, bequests, or other funds made available to the Program. No scholarship awarded under this Program shall exceed the total annual costs of tuition, a book allowance, and fees assessed by the educational agency for the specific program in which the student is enrolled, as determined by the Committee.

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

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

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

E. Before any scholarship is awarded, the applicant shall sign an acceptance form under the terms of which the applicant affirms the accuracy of the information he has provided and agrees to pursue the approved education program for which the scholarship is awarded until his graduation or the completion of the program, as appropriate. Following verification of enrollment by the relevant educational agency to the State Council of Higher Education, educational agencies acting as agents for students receiving awards under this chapter shall promptly credit disbursed funds to student accounts. A scholarship award made in accordance with the provisions of this chapter shall not be reduced by the educational agency upon receipt of any other financial assistance on behalf of the student. However, the scholarship award may be reduced by the Committee to ensure that, when such award is added to other financial assistance, the award does not produce a total of financial assistance that exceeds the annual total costs of tuition, a book allowance, and fees, pursuant to this section. Beginning on July 1, 2008, every

educational agency acting as an agent for students receiving awards under this chapter shall notify the Committee and the State Council of Higher Education upon request concerning the type and total of other financial assistance received by such students. In addition, every educational agency accepting for admission persons awarded a Brown v. Board of Education scholarship shall, upon request, provide the Committee information concerning the accreditation status of the school and academic programs offered, and other relevant information as the Committee may require to evaluate the person's eligibility for the scholarship and to determine the eligibility of the educational agency for participation in the Program. Whenever a student withdraws from an educational agency or otherwise fails, regardless of reason, to complete the program in which he is enrolled, the educational agency shall surrender promptly to the Commonwealth the balance of the scholarship award, in accordance with the tuition refund policy in effect at the time of the student's admission to the educational agency.

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

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

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

The Committee shall have the following powers and duties:

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

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

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

4. Establish, revise as necessary, and implement policies and standards to govern all aspects of the Program;

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

6. Develop and implement a system to provide individualized transition programs and services, including, but not limited to, remediation, acceleration, and fundamental basic life skills, designed to prepare eligible students for academic success in the preparation program for ~~the General Education Development certificate~~ *a high school equivalency examination approved by the Board of Education*, earning college credit through the College-Level Examination Program (CLEP) examinations, adult basic education programs, two-year, four-year, graduate, and professional degree programs;

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

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

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

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

**§ 53.1-10. Powers and duties of Director.**

The Director shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its system of state correctional facilities;

2. To implement the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups;

3. To employ such personnel and develop and implement such programs as may be necessary to carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of appropriations made therefor by the General Assembly;

4. To establish and maintain a general system of schools for persons committed to the institutions and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8. Such system shall include, as applicable, elementary, secondary, post-secondary, career and technical education, adult, and special education schools.

a. The Director shall employ a ~~Superintendent~~ *Superintendent* who will oversee the operation of educational and vocational programs in all institutions and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.

b. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.

c. The Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the twelfth grade or ~~GED~~ level. The program shall include guidelines for implementation and test administration, participation requirements, criteria for satisfactory completion, and a strategic plan for encouraging enrollment in college or an accredited vocational training program or other accredited continuing education program.

d. For the purposes of this section, the term "functional literacy" shall mean those educational skills necessary to function independently in society, including, but not limited to, reading, writing, comprehension, and arithmetic computation.

e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the Superintendent shall create a system for identifying prisoners with learning disabilities.

5. a. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion or construction of correctional facilities, consistent with applicable standards and goals of the Board;

b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;

6. To accept, hold and enjoy gifts, donations and bequests on behalf of the Department from the United States government and agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Director shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable, consistent with applicable standards and goals of the Board;

7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the types of and extent to which health-related problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each regular session of the General Assembly thereafter. The report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports;

8. To make application to the appropriate state and federal entities so as to provide any prisoner who is committed to the custody of the state a Department of Motor Vehicles approved identification card that would expire 90 days from issuance, a copy of his birth certificate if such person was born in the Commonwealth, and a social security card from the Social Security Administration;

9. To forward to the Commonwealth's Attorneys' Services Council, updated on a monthly basis, a list of all identified criminal gang members incarcerated in state correctional institutions. The list shall contain identifying information for each criminal gang member, as well as his criminal record;

10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that occurred in a state correctional facility, of that defendant's known gang membership. The notice shall contain identifying information for each criminal gang member as well as his criminal record; and

11. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of local jails not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority



vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General.

**§ 63.2-608. Virginia Initiative for Employment Not Welfare (VIEW).**

A. The Department shall establish and administer the Virginia Initiative for Employment Not Welfare (VIEW) to reduce long-term dependence on welfare, to emphasize personal responsibility and to enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills and prior training of a participant.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and a limit on TANF financial assistance.

VIEW shall require all able-bodied recipients of TANF who do not meet an exemption to participate in a work activity. VIEW shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully subsidized employment or other allowable TANF work activity as defined by federal law and enter into an agreement of personal responsibility.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following work activities within 90 days after the approval of TANF assistance:

1. Unsubsidized private-sector employment;
2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section that shall be known as the Full Employment Program (FEP). FEP replaces TANF with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for TANF may participate in FEP unless exempted by this chapter. FEP shall assign participants to subsidized wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.

b. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF received prior to the work placement.

c. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304(a)(5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

d. FEP employers shall:

- (i) Endeavor to make FEP placements positive learning and training experiences;
- (ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;
- (iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;
- (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;
- (v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;
- (vi) Provide workers' compensation coverage for participants;
- (vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and
- (viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in the event the employer violates FEP rules.

e. As a condition of FEP participation, employers shall be prohibited from discriminating against any person, including program participants, on the basis of race, color, sex, national origin, religion, age, or disability;

3. Part-time or temporary employment;

4. Community work experience, as follows:

a. The Department and local departments shall work with other state, regional and local agencies and governments in developing job placements that serve a useful public purpose as provided in § 482(f) of the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public

function. VIEW participants shall not displace regular workers.

b. The number of hours per week for participants shall be determined by combining the total dollar amount of TANF and food stamps and dividing by the minimum wage with a maximum of a work week of 32 hours, of which up to 12 hours of employment-related education and training may substitute for work experience employment; or

5. Any other allowable TANF work activity as defined by federal law.

E. Notwithstanding the provisions of subsections A and D, if a local department determines that a VIEW participant is in need of job skills and would benefit from immediate job skills training, it may place the participant in a ~~general educational development (GED)~~ program *preparing individuals for a high school equivalency examination approved by the Board of Education* or a career and technical education program targeted at skills required for particular employment opportunities. Eligible participants include those with problems related to obtaining and retaining employment, such as participants (i) with less than a high school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have not retained a job for a period of at least six months during the prior two years, or (iv) who are in a treatment program for a substance abuse problem or are receiving services through a family violence treatment program. The VIEW participant may continue in a ~~GED high school equivalency examination preparation~~ program or career and technical education program for as long as the local department determines he is progressing satisfactorily and to the extent permitted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

F. Participants may be reevaluated after a period determined by the local department and reassigned to another work component. In addition, the number of hours worked may be reduced by the local department so that a participant may complete additional training or education to further his employability.

G. Local departments shall be authorized to sanction parents up to the full amount of the TANF grant for noncompliance, unless good cause exists.

H. VIEW participants shall not be assigned to projects that require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

Any injury to a VIEW participant arising out of and in the course of community work experience shall be covered by the participant's existing Medicaid coverage. If a community work experience participant is unable to work due to such an accident, his status shall be reviewed to determine whether he is eligible for an exemption from the limitation on TANF financial assistance.

A community work experience participant who becomes incapacitated for 30 days or more shall be eligible for TANF financial assistance for the duration of the incapacitation, if otherwise eligible.

The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent mechanism for community work experience participants.

### **§ 66-3. Powers of the Director.**

A. The Director of the Department shall have the following general powers:

1. To employ such personnel as may be required to carry out the purposes of this title.

2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers under this title, including, but not limited to, contracts and agreements with the United States, other states, and agencies and governmental subdivisions of the Commonwealth.

3. With the prior approval of the Governor, to enter into agreements with a public or private entity to operate a work program for children committed to the Department.

4. With the prior approval of the Governor, to acquire real property, by purchase or gift, needed for new or existing state juvenile correctional facilities and for administrative and other facilities necessary to the operations of the Department, pursuant to regulations promulgated by the Board to ensure adequate public notice and local hearing.

5. To establish and maintain schools of the appropriate grades, levels, and types in the institutions for persons committed to juvenile correctional centers.

6. To enter into such agreements with private entities, nonprofit civic organizations, school divisions, and public and private two-year and four-year institutions of higher education as it may deem necessary to provide age-appropriate educational programs and training, including career and technical education; career development opportunities; public service projects; restricted Internet access to online courses of institutions of higher education and approved or accredited online secondary education or adult education and literacy programs leading to a diploma or ~~the General Education Development (GED) program and testing~~ *achieving a passing score on a high school equivalency examination approved by the Board of Education*; access to postsecondary education that includes college credit, certification through an accredited vocational training program, or other accredited continuing education program using videoconferencing technology; and other learning experiences in the furtherance of its duties and responsibilities under this chapter for persons committed to the institutions comprising the Department.

7. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior

affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of detention homes not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General.

8. To do all acts necessary or convenient to carry out the purposes of this title.

B. The Director shall comply with and require all school facilities within the Department to comply with applicable regulations and statutes, both state and federal.