

# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 298

*An Act to amend and reenact §§ 63.2-608 and 63.2-609 of the Code of Virginia, relating to Virginia Initiative for Education and Work; exemption for postsecondary students.*

[H 484]

Approved April 11, 2022

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

**1. That §§ 63.2-608 and 63.2-609 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-608. Virginia Initiative for Education and Work (VIEW).**

A. The Department shall establish and administer the Virginia Initiative for Education and Work (VIEW) to reduce long-term dependence on welfare, emphasize personal responsibility, and 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). Persons 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. Wages earned by a FEP employee during the period for which his employer receives a subsidy pursuant to subdivision c shall be disregarded in the calculation of TANF benefits.

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. Pursuant to Board regulations, participating employers shall receive a subsidy of up to \$1,000 per month for each FEP employee for a period not to exceed six months. 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, sexual orientation, gender identity, 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 SNAP benefits 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. ~~Educational activities that lead to a post-secondary credential, such as a degree or industry-recognized credential, certification, or license from an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia; or~~

6. 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 program preparing individuals for a high school equivalency examination approved by the Board of Education, a career and technical education program targeted at skills required for particular employment opportunities, or an apprenticeship program developed by the local department in accordance with requirements established by the Department. 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 high school equivalency examination preparation program, career and technical education program, or apprenticeship 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 incapacity, 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.

#### **§ 63.2-609. VIEW exemptions.**

The following TANF recipients shall be exempt from mandatory participation in VIEW and shall remain eligible for TANF financial assistance:

1. Any individual, including all minor caretakers, under 16 years of age;

2. Any individual at least 16, but no more than 19 years of age, who is enrolled full-time in elementary or secondary school, including career and technical education programs. The career and technical education program must be equivalent to secondary school. Whenever feasible, such recipients should participate in summer work;

3. *To the extent authorized by federal law and regulations, any individual who is enrolled full time in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an*

*industry-recognized credential, certification, or license;*

4. Any individual who is unable to participate because of a temporary medical condition that is preventing employment or training, as determined by a physician or other qualified medical professional and certified by a written medical statement. Such an exemption shall be reevaluated every 60 days to determine whether the person is still exempt;

~~4.~~ 5. Any individual who is disabled, as determined by receipt of Social Security Disability Benefits or Supplemental Security Income;

~~5.~~ 6. Any individual 60 years of age or older;

~~6.~~ 7. Any individual who is the sole caregiver of another member of the household who is disabled as determined by receipt of Social Security Disability Benefits or Supplemental Security Income or who is incapacitated by another condition as determined by the Board and whose presence is essential for the care of the other member on a substantially continuous basis; *or*

~~7.~~ 8. A parent or caretaker-relative of a child under 12 months of age who personally provides care for the child. A parent or caretaker-relative exempt from mandatory participation in VIEW pursuant to this subdivision shall be exempt for a period of no more than 12 months. Months during which a parent or caretaker-relative is exempt may be consecutive or nonconsecutive.

In a TANF-UP case, both parents shall be referred for participation unless one meets an exemption; only one parent can be exempt. If both parents meet an exemption criterion, they shall decide who will be referred for participation.