

VIRGINIA ACTS OF ASSEMBLY -- 2023 RECONVENED SESSION

CHAPTER 783

An Act to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 27, containing articles numbered 1 through 7, consisting of sections numbered 22.1-369 through 22.1-380, relating to educational opportunities for children of certain federal employees.

[H 1929]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 27, containing articles numbered 1 through 7, consisting of sections numbered 22.1-369 through 22.1-380, as follows:

CHAPTER 27.

EDUCATIONAL OPPORTUNITIES FOR CHILDREN OF CERTAIN FEDERAL EMPLOYEES.

Article 1.

Purpose.

§ 22.1-369. Purpose.

It is the purpose of this chapter to remove barriers to educational success imposed on school-age children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code because of frequent moves and service of their parents by:

1. Facilitating the timely enrollment in school divisions of children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code and ensuring that such children are not placed at a disadvantage due to difficulty in the transfer of educational records from a local education agency in a sending state or variations in entrance or age requirements between local education agencies in sending states and school divisions;

2. Facilitating the student placement process in school divisions through which children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment between local education agencies in sending states and school divisions;

3. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities in school divisions;

4. Facilitating the on-time graduation in the Commonwealth of children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code; and

5. Promoting flexibility and cooperation between local education agencies, parents, and students in order to achieve educational success for students.

Article 2.

Definitions.

§ 22.1-370. Definitions.

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

"Children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code" means school-age children, enrolled in kindergarten through grade 12, in the household of a federal employee serving under orders pursuant to Title 22 or 50 of the United States Code.

"Educational records" means those official records, files, and data directly related to a student and maintained by a school or local education agency, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

"Extracurricular activities" means voluntary activities sponsored by a school division or public school therein or an organization sanctioned by a school division. "Extracurricular activities" includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

"Local education agency" means a public authority legally constituted by a state as an administrative agency to provide control of and direction for kindergarten through grade 12 public schools.

"Sending state" means the state from which a child of a federal employee serving under orders pursuant to Title 22 or 50 of the United States Code is sent, brought, or caused to be sent or brought. "Sending state" does not include the Commonwealth.

"State" means one of 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, any other U.S. territory, and any Department of Defense Educational Activity school.

"Student" means the child of a federal employee serving under orders pursuant to Title 22 or 50 of

the United States Code and who is formally enrolled in kindergarten through grade 12.

"Transition" means (i) the formal and physical process of transferring from school to school or (ii) the period of time in which a student moves from one school in the sending state to another school in the Commonwealth.

Article 3.
Applicability.

§ 22.1-371. Applicability.

A. Except as otherwise provided in subsection B, the provisions of this chapter shall apply to school-age children who are dependents of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code when the parent produces documentation indicating that he is required to move in order to perform his job responsibilities and such move results in the student's relocation from a sending state to a school division.

B. The provisions of this chapter shall only apply to local education agencies.

Article 4.
Educational Records and Enrollment.

§ 22.1-372. Unofficial educational records.

In the event that official educational records cannot be released to the parents for the purpose of transfer from a local education agency in a sending state to a school division, the custodian of the records in the sending state may prepare and furnish to the parent a complete set of unofficial educational records. Upon receipt of the unofficial educational records by a school in a school division, such school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

§ 22.1-373. Enrollment.

Students shall be allowed to enroll in the school division of the student's intended residence if documentation is provided, at the time of enrollment, of Title 22 or 50 orders of the federal employee parent. Documentation indicating a permanent address within the school division shall be provided to the school division within 120 days of a student's enrollment or tuition may be charged, including tuition for the days since the student's enrollment. In the event that the federal employee parent is ordered to relocate under Title 22 or Title 50 orders before the one hundred twentieth day following the student's enrollment, the school division shall not charge tuition. Students eligible to enroll in a school division pursuant to this section may register, remotely or in person, for courses and other academic programs and participate in the lottery process for charter schools and college partnership laboratory schools in the school division in which such student will reside at the same time and in the same manner as students who reside in the local school division. The assignment of the school that such student will attend shall be determined by the school division.

§ 22.1-374. Kindergarten and first grade entrance age.

Students shall be allowed to continue their enrollment at the grade level in a school division commensurate with their grade level, including kindergarten, in the local education agency in the sending state at the time of transition, regardless of minimum age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in a school division, regardless of minimum age. A student transferring after the start of the school year into a school division shall enter the school on his validated grade level from the local education agency in the sending state.

Article 5.
Placement and Attendance.

§ 22.1-375. Course placement.

When a student transfers into a school division before or during the school year, such school division shall initially honor placement of the student in educational courses based on the student's enrollment in the school in the sending state or educational assessments conducted at the school in the sending state if such courses are offered. Such courses include honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the school in the sending state and promoting placement in academically challenging and career-challenging courses should be paramount when considering course placement. Nothing in this section shall be construed to preclude school divisions from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in educational courses.

§ 22.1-376. Educational program placement.

School divisions shall initially honor placement of a student who transfers into the school division in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include gifted and talented programs and English as a second language programs. Nothing in this section shall be construed to preclude school divisions from performing subsequent evaluations to ensure appropriate placement of the student in educational programs.

§ 22.1-377. Placement flexibility.

School division administrative officials shall have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered in the school division.

*Article 6.
Eligibility.*

§ 22.1-378. Eligibility for enrollment.

Children of federal employees serving under orders pursuant to Title 22 or 50 of the United States Code shall be eligible for enrollment in a school division provided that the documents required by §§ 22.1-3.1 and 22.1-3.2 are provided and subject to the authority of the school division to exclude such children from attendance pursuant to § 22.1-277.2 or if such children have been found guilty or adjudicated delinquent for any offense listed in subsection G of § 16.1-260 or any substantially similar offense under the laws of any state.

§ 22.1-379. Eligibility for extracurricular activities participation.

School divisions shall facilitate the opportunity for the participation of students in extracurricular activities, regardless of application deadlines, to the extent that such students are otherwise qualified.

*Article 7.
Graduation.*

§ 22.1-380. Graduation; waivers and exit exams.

In order to facilitate the on-time graduation of students, school division administrative officials shall incorporate the following procedures:

1. School division administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in a local education agency in a sending state or shall provide reasonable justification for denial of such waiver. Should a waiver not be granted to a student who would qualify to graduate in a sending state, the school division shall provide an alternative means of acquiring required coursework so that graduation may occur on time; and

2. School division administrative officials shall accept, in lieu of testing requirements for graduation in the Commonwealth, (i) exit or end-of-course exams required for graduation from the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing acceptable in the Commonwealth.