

23106231D

## HOUSE BILL NO. 2030

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on February 3, 2023)

(Patron Prior to Substitute—Delegate Ballard)

*A BILL to amend and reenact §§ 22.1-5, 22.1-7.1, and 22.1-7.2 of the Code of Virginia, relating to school boards; policies or regulations for the enrollment of nonresident students; work group; report.*

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

**1. That §§ 22.1-5, 22.1-7.1, and 22.1-7.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-5. Regulations concerning admission of certain persons to schools; tuition charges; policies or regulations for enrollment of nonresident students.**

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 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

60 programs not required by the Standards of Quality or the Standards of Accreditation.

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

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

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

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

79 E. *Any school board that accepts for enrollment students who reside outside of the local school*  
80 *division shall establish and make available to the public school division policies or regulations that*  
81 *include considerations for the eligibility for such nonresident student enrollment. Such policies or*  
82 *regulations may be added or included in existing enrollment procedures for such nonresident students.*  
83 *Such policies or regulations shall include application procedures and timelines and a transparent and*  
84 *fair method to address enrollment requests beyond capacity.*

85 F. *The Department shall compile and post publicly and prominently on its website a database of*  
86 *each set of school board policies or regulations established pursuant to subsection E.*

87 **§ 22.1-7.1. Open enrollment policies permitted.**

88 A. *As used in this section, "open enrollment" means the option for a student who resides in a local*  
89 *school division to enroll in any school in the local school division regardless of the location of the*  
90 *student's residence.*

91 B. Any local school board may establish and implement policies to provide for the open enrollment  
92 to any school of any student residing within the school division upon the request of a parent or  
93 guardian. In developing such policies, a local school board may include the following conditions and  
94 limitations:

95 1. An application process whereby a parent or guardian indicates a school preference for purposes of  
96 his child attending a school in the child's school division but outside of the attendance area in which the  
97 child resides;

98 2. A requirement that the parent or guardian provide transportation for the student attending a school  
99 other than his assigned school;

100 3. A requirement that a student may be disqualified from attending a school other than his assigned  
101 school if he has been subject to a specified disciplinary action;

102 4. A prohibition on the recruitment of a student from one school to another by a school division  
103 employee;

104 5. A limitation on participation in certain athletic activities for a student who chooses to attend a  
105 school other than his assigned school;

106 6. A random, unbiased selection process in the event open enrollment requests exceed the capacity of  
107 a school;

108 7. A provision that a student shall be permitted to remain at the receiving school until the student  
109 has completed the highest grade level in the school; and

110 8. A preference to a student (i) who resides in a location that has been subject to a change in school  
111 attendance area during the previous two years, (ii) who has a sibling attending the receiving school, or  
112 (iii) whose parent or guardian is an employee of the receiving school.

113 ~~B.~~ C. A copy of the school division's policies for open enrollment, if any, shall be posted on the  
114 division's website and shall be available to the public upon request.

115 ~~C.~~ D. Nothing in this section shall interfere with a local school board's authority to adopt a pupil  
116 assignment plan pursuant to § 22.1-79.

117 ~~D.~~ For the purposes of this section, "open enrollment" means a policy adopted and implemented by a  
118 local school board to allow any student to enroll in any school within the school division of attendance  
119 regardless of the location of the student's residence.

120 **§ 22.1-7.2. Enrollment for students residing on a military installation or in military housing.**

121 A. As used in this section, "military installation" means a base, camp, post, station, yard, center,

122 homeport facility for any ship, fort, or other activity under the jurisdiction of the Department of  
123 Defense, including any leased facility, that is located in whole or in part within the Commonwealth.  
124 "Military installation" does not include any facility used primarily for civil works, rivers and harbors  
125 projects, or flood control projects.

126 B. Any local school board of a school division in which a military installation or other military  
127 housing is located shall establish and implement policies to provide for the enrollment to any school of  
128 any student residing on a military installation or in military housing within the school division upon the  
129 request of his parent if space in the school is available. In developing such policies, a local school board  
130 may include any of *the* conditions listed in subsection *A B* of § 22.1-7.1 or any other condition deemed  
131 appropriate by the local school board.

132 C. A copy of the school division's policies for enrollment for students residing on a military  
133 installation or in military housing within the school division shall be posted on the division's website  
134 and shall be available to the public upon request.

135 **2. That the Secretary of Education and the Superintendent of Public Instruction shall convene a**  
136 **work group of relevant stakeholders to issue recommendations no later than October 1, 2023, to**  
137 **the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and**  
138 **Appropriations, the House Committee on Education, and the Senate Committee on Education and**  
139 **Health on the implementation of tuition-free nonresident student enrollment in the**  
140 **Commonwealth.**