

26104667D

SENATE BILL NO. 494

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 23.1-1300, 23.1-1303, and 23.1-2303 of the Code of Virginia, relating to public institutions of higher education; governing boards; membership appointment, terms, and composition; duties relating to shared governance; requirements; work group.

 Patron—Deeds

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-1300, 23.1-1303, and 23.1-2303 of the Code of Virginia are amended and reenacted as follows:

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

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of ~~four~~ six years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive ~~four-year~~ six-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive ~~four-year~~ six-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. *As a part of the confirmation process, the Senate and House Committees on Privileges and Elections shall meet as soon as practicable upon receiving from the Secretary of the Commonwealth copies of the resume and statement of economic interests for each gubernatorial appointee pursuant to subsection A of § 2.2-107 to begin considering such appointees for confirmation. The appointment of each member appointed by the Governor shall be effective upon approval by the Senate and House Committees on Privileges and Elections provided, however, that no gubernatorial appointee shall assume a position on a governing board except upon confirmation by the General Assembly.* Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and qualified. Ex officio members shall serve a term coincident with their term of office.

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

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

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

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

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

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

INTRODUCED

SB494

12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board ~~or the board of visitors~~, and the institution's faculty senate or its equivalent. Any vacancy of such a representative shall be filled in the same manner as the original selection, whether the vacancy occurs by expiration of a term or otherwise.

H. The governing board ~~of visitors of any~~ each baccalaureate public institution of higher education shall appoint to its respective board (i) ~~one or more students as nonvoting, advisory representatives~~ faculty representative as a voting member, to be selected from a list of individuals nominated by the institution's faculty senate or its equivalent; (ii) one staff representative as a voting member, to be selected from a list of individuals nominated by the institution's staff senate or its equivalent; and (iii) one student representative as a voting member, to be selected from a list of individuals nominated by such institution's student government or an equivalent student governance organization or body. Such ~~representatives shall be appointed under such circumstances and~~ faculty representative and staff representative shall be appointed to serve (a) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (b) for such terms as may be mutually agreed to by the board of visitors and the institution's faculty senate or its equivalent or staff senate or its equivalent, respectively. Such student representative serve for such terms as the board of visitors of the institution shall prescribe.

I. ~~Nothing in subsections G and H shall prohibit the governing board of any public institution of higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matter.~~

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

~~K. J.~~ No baccalaureate public institution of higher education shall employ an individual appointed by the Governor to the board of visitors of such institution within two years of the expiration of his term. Such prohibition shall not apply to the employment of an individual to serve as an institution president or, in the case of Virginia Military Institute, the Superintendent.

§ 23.1-1303. Governing boards; duties.

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

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

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

2. Establish and maintain on the institution's website (i) a listing of all board members, including the name of the Governor who made each appointment and the date of each appointment; (ii) a listing of all committees created by the board and the membership of each committee; (iii) a schedule of all upcoming meetings of the full board and its committees and instructions for the public to access such meetings; (iv) an archive of agendas and supporting materials for each meeting of the governing board and its committees that was held; and (v) an email address or email addresses that allow board members to receive public communications pertaining to board business;

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

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

5. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational

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

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

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

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

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

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

11. Submit and make publicly available on the institution's website the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

12. No later than December 1 of each year, report to the Council and make publicly available on the institution's website (i) the value of investments as reflected on the Statement of Net Position as of June 30 of the previous fiscal year, excluding any funds derived from endowment donations, endowment income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such investment earnings spans more than one fiscal year, the report shall reflect the commitments made in each future fiscal year. The reports of the Boards of Visitors of Virginia Commonwealth University and the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia Commonwealth University Health System Authority and the University of Virginia Medical Center, respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested in securities;

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

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

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

16. Adopt policies that are supportive of the intellectual property rights of matriculated students who are

not employed by such institution; and

17. Solicit the input of representatives of the institution's faculty senate or its equivalent (i) at least twice per academic year on topics of general interest to the faculty and (ii) in advance of decisions to be made on the search for the institution's new *Adopt policies defining and implementing shared governance among the components of such institution's organizational structure, including the governing board, chief executive officer, and the faculty, staff, and students of such institution.*

§ 23.1-2303. Membership.

A. The board shall consist of 16 members appointed by the Governor.

B. Notwithstanding § 23.1-1300, members are eligible to serve for a total of two ~~four-year~~ *six-year* terms which may be served consecutively; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two additional ~~four-year~~ *six-year* terms.

2. That the unexpired term of any person serving as a member of the governing board of any public institution of higher education, pursuant to §§ 23.1-1401, 23.1-1501, 23.1-1601, 23.1-1701, 23.1-1801, 23.1-1901, 23.1-2001, 23.1-2101, 23.1-2106, 23.1-2201, 23.1-2303, 23.1-2501, 23.1-2601, 23.1-2701, and 23.1-2801 of the Code of Virginia, prior to the effective date of this act, shall expire on the effective date of this act.

3. That the Governor's initial appointments of members to the governing board of Richard Bland College pursuant to § 23.1-2106 of the Code of Virginia shall be staggered as follows: three members for a term of six years, three members for a term of four years, and three members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

4. That the Governor's initial appointments of members to the governing board of the University of Mary Washington pursuant to § 23.1-1801 of the Code of Virginia shall be staggered as follows: four members for a term of six years, four members for a term of four years, and four members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

5. That the Governor's initial appointments of members to the governing board of Longwood University pursuant to § 23.1-1701 of the Code of Virginia, the governing board of Norfolk State University pursuant to § 23.1-1901 of the Code of Virginia, and the governing board of Virginia Polytechnic Institute and State University pursuant to § 23.1-2601 of the Code of Virginia, shall be staggered as follows: five members for a term of six years, four members for a term of four years, and four members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

6. That the Governor's initial appointments of members to the governing board of Christopher Newport University pursuant to § 23.1-1401 of the Code of Virginia shall be staggered as follows: five members for a term of six years, five members for a term of four years, and four members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

7. That the Governor's initial appointments of members to the governing board of James Madison University pursuant to § 23.1-1601 of the Code of Virginia, the governing board of Radford University pursuant to § 23.1-2101 of the Code of Virginia, and the governing board of Virginia State University pursuant to § 23.1-2701 of the Code of Virginia, shall be staggered as follows: five members for a term of six years, five members for a term of four years, and five members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

8. That the Governor's initial appointments of members to the governing board of George Mason University pursuant to § 23.1-1501 of the Code of Virginia, the governing board of Virginia Commonwealth University pursuant to § 23.1-2303 of the Code of Virginia, and the governing board of the Virginia Military Institute pursuant to § 23.1-2501 of the Code of Virginia, shall be staggered as follows: six members for a term of six years, five members for a term of four years, and five members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

9. That the Governor's initial appointments of members to the governing board of Old Dominion University pursuant to § 23.1-2001 of the Code of Virginia, the governing board of the University of Virginia pursuant to § 23.1-2201 of the Code of Virginia, and the governing board of the College of William and Mary in Virginia pursuant to § 23.1-2801 of the Code of Virginia, shall be staggered as follows: six members for a term of six years, six members for a term of four years, and five members for a term of two years. After the initial staggering of terms, members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

245 10. That the State Council of Higher Education for Virginia (the Council) shall convene a work group
246 consisting of members of governing boards of public institutions of higher education, administrators of
247 public institutions of higher education, and members of faculty, staff, and student governance bodies or
248 organizations at public institutions of higher education, for the purpose of developing model shared
249 governance policies in accordance with subdivision of B 17 of § 23.1-1303 of the Code of Virginia, as
250 amended by the first enactment of this act. Such model shared governance policies developed by the
251 Counsel pursuant to this enactment shall include provisions relating to the establishment, membership
252 and roles of elected faculty governance bodies for institutions of higher education. The Council shall
253 make available to the governing board of each public institution of higher education by January 1,
254 2027, the model shared governance policies developed in accordance with this enactment.