



ASSOCIATION OF VERMONT
INDEPENDENT COLLEGES

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PO Box 254, Montpelier, Vermont 05601
802.828.8826
vermont-icolleges.org
sstitely@vermont-icolleges.org

To: Senate Education Committee
From: Susan Stitely, Association of Vermont Independent Colleges (AVIC)
Date: January 19, 2018
Re: Maintenance of student records when a college is placed on probation by its accrediting agency

I. Background

The closure of Burlington College (BC) resulted in the State of Vermont assuming responsibility for the College's student records. AOE requested and received \$60,000 from appropriators during the 2017 session to cover the cost of administering the records. AOE also proposed that each private institution maintain a bond to cover costs related to student records upon closure. The legislature instead enacted language requiring AVIC to maintain an MOU with each of its members for administration of student records in the event a member should cease operations in the future (see below Sec. 36. 16 V.S.A. § 175 (g)).

The legislation does not solve the state's issue as AVIC is a voluntary association, not all private colleges belong to AVIC, and institutions can withdraw at any time.

II. Proposed Language

AVIC proposes to strike Sec. 36. 16 V.S.A. § 175 (g) requiring an MOU by private colleges and amend it as follows: *Within 90 days of a higher education institution being placed on probation for financial reasons by its accrediting agency, the institution must inform the State Board of Education of its status, and submit for approval a student record plan to the State Board. The student record plan shall:*

- *include an agreement with a higher education institution or other entity to act as a repository for the institution's records with funds set aside, if necessary, for the permanent maintenance of the student records.*

If the State Board does not approve the plan, the State may institute an action under subsection (d)(a) of this section.

This approach would give the state sufficient time to follow the procedures outlined in 16 V.S.A. § 175 and have redress as provided by the statute.

III. Current Legislation (16 V.S.A. § 175)

§ 175. Postsecondary educational institutions; closing

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

(b) Persons acting as a repository may microfilm records received under this section.

(c) Students and former students of the discontinuing institution shall be entitled to verified copies of their records upon payment of a reasonable fee.

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the State Board shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

(f) The State Board shall adopt rules under this section for its proper administration. The rules may include provisions for preparing and maintaining transferred records. Persons acting as a repository of records are bound only by maintenance provisions to which they agreed before receiving transferred records.

(g) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and

(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section. (Added 1979, No. 49, § 1, eff. April 25, 1979; amended 2017, No. 49, § 36, eff. Oct. 1, 2017.)