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## **Testimony on DR 19-1195: Changes to 16 V.S.A. § 175 Post Secondary Institutions; Closing**

### **Given by:**

Emily Simmons General Counsel, Vermont Agency of Education

### **Summary**

The Vermont Agency of Education appreciates the intent of the House Education Committee to protect the integrity of and access to student academic records in the case of abrupt or unforeseen closure of a postsecondary institution in Vermont. We also appreciate that the committee has an interest in protecting the agency from becoming the custodian of last resort in the rare and unfortunate case where no other appropriate permanent repository is designated prior to closure.

*The Agency respectfully requests the committee consider the following amendments to strengthen the bill:*

**1. Require an institution to notify the State Board in the event of any form of probation by its accrediting body.**

The current draft includes only financial probation. Other probationary action by an accrediting body also has the potential to initiate a chain of events that may unfortunately end in the institution's closure.

**2. Shorten the bill's timeline for notification from 90 to 60 days.**

An institution may seek to or may be forced to close more quickly than the Agency and the State Board can act. A five-day window for notification and a 60-day window for submitting a plan to the State Board is reasonable time for the institution to act.

**3. Add language to designate an appropriate state government custodian for student academic records, in the event no other solution is available.**

The Agency of Education is not an appropriate custodian for student academic records for many reasons.

- The Agency does not have a secure storage facility. Records would be vulnerable to damage in the case of fire or flood.
- The Agency does not have staff to retrieve records upon request of students.
- The Agency does not have statutory authority to charge for the fee described in subsection (c) of § 175.

Vermont State Archives and Records Administration (VSARA) is an appropriate custodian of last resort for postsecondary student academic records.

- VSARA has a state of the art, climate-controlled records facility.
- VSARA employs staff who are trained in records administration.
- VSARA has existing authority to [charge fees](#) for records retrieval.
- VSARA currently houses student academic records of the following former institutions: Ethan Allen Community College, Green Mountain Institute College of Oriental Medicine, Mark Hopkins College, Middlesex College, Northeast College of Healing Arts and Science, Rutland Business College, Rutland United States School of Professional Paperhanging, Whitman’s Academy of Hair Design, Windham College.

**Suggestion for amendment in subsection (d):**

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(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~~ designate the Vermont State Archives and Records Administration as temporary ~~custody~~ custodian of the records. In any case when student academic records are not delivered to a permanent repository according to (a)(3) of this section, the Vermont State Archives and Records Administration shall take custody of the student academic records.

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