

**DRAFT 19-1195** (An act relating to the closing of postsecondary schools)

Jim Condos, Secretary of State  
Tanya Marshall, State Archivist & Chief Record Officer

Office of the Secretary of State

House Education Committee: March 15, 2019

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**BACKGROUND**

As previously testified during the 2017-2018 biennium on S.237 (An Act Relating to Miscellaneous Changes to Education Law), reiterated to the Committee by Deputy Secretary of State Chris Winters on February 28, 2019, and in testimony before the Committee on March 15, 2019, the Vermont State Archives and Records Administration (VSARA) is not, and nor can it be, the registrar or custodian of any additional postsecondary school records. This has been formalized in a written agreement between State Archivist Gregory Sanford and Department of Education Commissioner Armando Vileseca dated April 30, 2009.

If paper storage is a concern, there is a statewide contract managed by the Department of Buildings and General Services for records storage services in a facility in Morrisville that is owned and managed by SecurShred.

**RECOMMENDATIONS FOR PROPOSED LEGISLATION FROM OTHER STATES**

*New York*

§5006. Teachout plans

- (a) A [postsecondary school] may submit a teachout plan to the [accountable state official] for approval pursuant to [rules] established by the [accountable state official]. A teachout plan shall consist of a contract between a registered business or licensed [postsecondary school], with another school, hereinafter called the teachout school, so that in the event that the registered business or licensed [postsecondary school] ceases instruction, the teachout school will provide the necessary instruction specified in a student's original enrollment agreement with the school ceasing instruction. A teachout plan may employ more than one teachout school to provide instruction to students in the school ceasing instruction. Schools under common ownership but having separate licenses or registrations may, subject to the approval of the commissioner, enter into teachout agreements.

A teachout plan shall include the following provisions:

- (1) the teachout school must offer courses of study that are substantially similar to those offered in the school ceasing instruction;
  - (2) teachout schools must be located in the geographic area in which the school ceasing instruction was located;
  - (3) all provisions for a teachout plan must be included in the enrollment agreement signed by the student; and
  - (4) the teachout school shall agree to fulfill the enrollment agreement signed by the student at the school ceasing instruction.
- (b) The registered business or licensed [postsecondary school] shall provide to the teachout school and to the [accountable state entity] immediately upon closure the following information:
- (1) Copies of the academic and financial records for all students in attendance at the school at the projected time of closure;
  - (2) A listing of all such students presently in attendance including their names, addresses, social security numbers, curriculum that each student is enrolled in and the number of hours the students will have completed at the time of the school closure.
  - (3) The [accountable state entity] will provide to the teachout school, immediately upon notification of a school closing, a copy of each approved curriculum that the closing school is presently offering.
- (c) The commissioner shall require all teachout schools to address the following issues:
- (1) Integration of students into a curriculum which may be different from the curriculum in which they are currently receiving instruction;
  - (2) Assessments of students' progress so that they may be placed into an appropriate course;
  - (3) Provision of remedial instruction to students who are found to be deficient in one or more course areas upon their initial assessment;
  - (4) Provision by the teachout school to adhere to the required student/teacher ratios and room capacities; and

- (5) Compliance with statutory and regulatory requirements during the teachout.
- (d) The student shall not be subject to any costs beyond the total costs identified in the original enrollment agreement.
- (e) A student may decline to pursue instruction at the teachout school and may instead seek a refund pursuant to section five thousand seven of this article.

(Currently in law: <http://www.counsel.nysed.gov/pamphlet9/appenda5001>)

### **Massachusetts**

(a) A [postsecondary school] with the power to grant degrees and located in the State of Vermont that begins discussions or deliberations, or enters into a written agreement to:

- (1) close;
- (2) merge with another [postsecondary school];
- (3) acquire the facilities or land of another institution of higher education; or
- (4) to open a branch campus shall provide the [accountable state entity] with reasonable notice not less than 120 days before the intended closure, merger, acquisition or opening.

A [postsecondary school] with the power to grant degrees and located in the [State] shall, upon learning that it may not have the financial resources to sustain the quality of its education programs, support institutional improvements, or graduate its entering class, notify the [accountable state entity] not less than 14 days after the institution becomes aware of those circumstances.

The [accountable state entity] shall establish standards and guidelines on notice required under this subsection which shall include, but shall not be limited to, requirements on notice to current students, employees and applicants of the [postsecondary school]. The [accountable state entity] may establish sanctions or fines, not to exceed \$1,000 per day, for institutions that fail to comply with the board's notification requirements.

(b) Notwithstanding any general or special law to the contrary, a proposal by a [public postsecondary school] to:

(1) merge with another [postsecondary school];

(2) acquire the facilities or land of a [postsecondary school]; or

(3) open a branch campus shall be subject to the notice requirements under subsection (a) and be reviewed by the [accountable state entity]. During its review of the merger, acquisition or opening, the board may request additional information from the [public postsecondary school].

*(Amendment currently in Commonwealth Senate:*

<https://malegislature.gov/Bills/GetAmendmentContent/190/S4/303/Senate/Category/Content>)

### **Virginia**

(a) Each postsecondary school shall notify the [accountable state entity] of its intention to close at least 30 days prior to the closure. The notice shall be accompanied by a comprehensive plan for closure and a teachout plan that makes provision for presently enrolled students to complete the program of instruction for which they have enrolled, either at such postsecondary school or at another postsecondary school certified by the [accountable state entity] or authorized to operate in the [State]. Each closing postsecondary school shall obtain the [accountable state entity]'s approval of the teachout plan prior to implementation.

(b) Each closing postsecondary school shall notify the [accountable state entity], in writing, if there is no comparable program for the purposes of developing a teachout plan within 50 miles of the closing postsecondary school or if the closing postsecondary school is unable to enter a teachout agreement with another postsecondary school. This information shall be provided at the time the closing postsecondary school notifies the [accountable state entity] of its intention to close.

(c) Owners or senior administrators of a postsecondary school that closes without providing (i) an adequate teachout plan or refunds of unearned tuition and (ii) appropriate preservation of records shall be denied certification to operate another postsecondary school in the [State].

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(Currently in law: <https://law.lis.virginia.gov/vacode/title23.1/chapter2/section23.1-229/>)