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Testimony on DR 19-0961: Changes to 16 V.S.A. § 175 Post Secondary Institutions; Closing

Given by:

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Summary

AOE appreciates the intent of the Committee's draft as we understand it, which is to protect the integrity of and access to student academic records, especially records that might be compromised in the case of abrupt or unforeseen closure of a postsecondary institution in Vermont. We appreciate that the Committee has an interest in strengthening existing law, with the goal of ensuring the Agency of Education does become 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 or retain the following provisions to accomplish the purposes of 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. Retain the bill's timeline for an academic records plan submitted to State Board within 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. Retain AVIC "covered college" language. However, if this language is removed, the committee will need to consider alternative language designating an appropriate state government custodian for student academic records, in the event no other solution is available.**

The Agency supports the language in draft 2.1 which includes in the definition of "covered college" those colleges who may leave AVIC membership and subsequently close within two years. A recent example illustrates why this change is necessary.

In December, the State Board was notified that a particular college was no longer an AVIC member. The college then notified the Agency and State Board in January that it

would be closing in Summer 2019. To its credit, the college worked with the Agency and the State Board to seek approval of a partner institution to become the custodian of its student academic records. We can imagine the possibility of less positive outcomes under current law.

The primary cause for concern at this time is uncertainty about where records would revert, by default, if no other custodian is identified through the § 175 process. Draft 2.1 potentially alleviates this concern. However, it is important for the committee to understand the reasons why the Agency of Education is not an appropriate custodian for student academic records.

- 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.

We would suggest the addition of language that would clarify that the Vermont State Archives and Records Administration (VSARA) may be designated by the State Board to act as a temporary custodian for any records that are at risk of compromise or loss as a result of a closure.

- 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.