

2008 SESSION

INTRODUCED

080612404

HOUSE BILL NO. 167

Offered January 9, 2008

Prefiled December 26, 2007

A BILL to amend and reenact § 23-7.4:3 of the Code of Virginia, relating to errors in the determination of eligibility for in-state tuition charges.

Patron—Albo

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 23-7.4:3 of the Code of Virginia is amended and reenacted as follows:

§ 23-7.4:3. Determinations of eligibility; appeals and guidelines; reimbursement for re-classification.

A. Each public institution of higher education shall establish an appeals process for those students who are aggrieved by decisions regarding eligibility for in-state or reduced tuition charges pursuant to §§ 23-7.4 and 23-7.4:2. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to these administrative reviews.

An initial determination shall be made. Each appeals process shall include an intermediate review of the initial determination and a final administrative review. The final administrative decision shall be in writing. A copy of this decision shall be sent to the student. Either the intermediate review or the final administrative review shall be conducted by an appeals committee consisting of an odd number of members. No person who serves at one level of this appeals process shall be eligible to serve at any other level of this review. All such due process procedures shall be in writing and shall include time limitations in order to provide for orderly and timely resolutions of all disputes.

Any party aggrieved by a final administrative decision shall have the right to review in the circuit court for the jurisdiction in which the relevant institution is located. A petition for review of the final administrative decision shall be filed within thirty days of receiving the written decision. In any such action, the institution shall forward the record to the court, whose function shall be only to determine whether the decision reached by the institution could reasonably be said, on the basis of the record, not to be arbitrary, capricious or otherwise contrary to law.

B. To ensure the application of uniform criteria in administering this section and determining eligibility for in-state tuition charges, the State Council of Higher Education shall issue and from time to time revise guidelines, including domiciliary status questions to be incorporated by all state institutions of higher education in their admissions applications. These guidelines shall not be subject to the Administrative Process Act.

An advisory committee, composed of at least ten representatives of institutions of higher education, shall be appointed by the Council each year to cooperate with the Council in developing the guidelines for determining eligibility or revisions thereof. The Council shall consult with the Office of the Attorney General and provide opportunity for public comment prior to issuing any such guidelines.

C. *If a student is classified initially as an out-of-state student due to administrative error, and pursuant to the appeals process provided in this section obtains a reclassification as an in-state student, such reclassification shall be effective beginning with the academic semester in which the application for reclassification was submitted. Thus, the differential between out-of-state tuition and in-state tuition paid by such student shall be reimbursed to the student by the institution of higher education.*

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