

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 448

An Act to amend and reenact § 23-9.2:3 of the Code of Virginia, relating to higher education; mental health and parental notification policies.

[H 900]

Approved March 30, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 23-9.2:3 of the Code of Virginia is amended and reenacted as follows:

§ 23-9.2:3. Power of governing body of educational institution to establish rules and regulations; offenses occurring on property of institution; state direct student financial assistance; release of educational records.

A. In addition to the powers now enjoyed by it, the board of visitors or other governing body of every educational institution shall have the power:

1. To establish rules and regulations for the acceptance and assistance of students except that (i) individuals who have failed to meet the federal requirement to register for the selective service shall not be eligible to receive any state direct student assistance; (ii) the accreditation status of a Virginia public high school shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education; and (iii) the governing boards of the four-year institutions shall establish policies providing for the admission of certain graduates of Virginia community colleges as set forth in § 23-9.2:3.02.

2. To establish rules and regulations for the conduct of students while attending such institution.

3. To establish programs, in cooperation with the State Council of Higher Education and the Office of the Attorney General, to promote compliance among students with the Commonwealth's laws relating to the use of alcoholic beverages.

4. To establish rules and regulations for the rescission or restriction of financial aid, within the discretionary authority provided to the institution by federal or state law and regulations, and the suspension and dismissal of students who fail or refuse to abide by such rules and regulations for the conduct of students.

5. To establish rules and regulations for the employment of professors, teachers, instructors and all other employees and provide for their dismissal for failure to abide by such rules and regulations.

6. To provide parking and traffic rules and regulations on property owned by such institution.

7. To establish guidelines for the initiation or induction into any social fraternity or sorority in accordance with § 18.2-56.

8. To establish programs, in cooperation with the State Council of Higher Education for Virginia and the Office of the Attorney General, to promote the awareness and prevention of sexual crimes committed upon students.

B. Upon receipt of an appropriate resolution of the board of visitors or other governing body of an educational institution, the governing body of a political subdivision which is contiguous to the institution shall enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution.

The governing bodies of the public institutions of higher education shall assist the State Council of Higher Education in enforcing the provisions related to eligibility for financial aid.

C. Notwithstanding any other provision of state law, the board of visitors or other governing body of every public institution of higher education in Virginia shall establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if ~~the student's treating physician or treating clinical psychologist~~ *any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student* has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a

disclosure pursuant to this subsection shall be civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees.

D. The board of visitors or other governing body of every public institution of higher education in Virginia shall establish policies and procedures requiring the release of the educational record of a dependent student, as defined by 20 U.S.C. § 1232g, to a parent at his request.

E. In order to improve the quality of the Commonwealth's work force and educational programs, the governing bodies of the public institutions of higher education shall establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the 21st Century and, particularly, that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology.