

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 380

An Act to amend and reenact §§ 23.1-213 and 23.1-219 of the Code of Virginia, relating to postsecondary schools; distance learning; certification and reciprocity.

[H 457]

Approved March 18, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-213 and 23.1-219 of the Code of Virginia are amended and reenacted as follows:

§ 23.1-213. Definitions.

As used in this article, unless the context requires a different meaning:

"Academic-vocational non-college degree school" means a non-college degree school that offers degree and nondegree credit courses.

"Agent" means a person who is employed by any institution of higher education or non-college degree school, whether such institution or school is located within or outside the Commonwealth, to act as an agent, solicitor, procurer, broker, or independent contractor to procure students or enrollees for any such institution or school by solicitation in any form at any place in the Commonwealth other than the office or principal location of such institution or school.

"Certificate" means an award that is given by (i) institutions of higher education and academic-vocational non-college degree schools for successful completion of a curriculum consisting of courses that may also be taken for degree credit or (ii) vocational non-college degree schools for successful completion of a curriculum. "Certificate" includes a diploma.

"College" means any associate-degree-granting institution of higher education or institution of higher education at which a bachelor's degree is the most advanced degree that is granted.

"Continuing or professional education" means those classes, courses, and programs designed specifically for individuals who have completed a degree in a professional field that (i) are intended to fulfill the continuing education requirements for licensure or certification in such professional field, (ii) have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession, and (iii) are offered exclusively to an individual practicing in such professional field.

"Degree" means any earned award at the associate, baccalaureate, graduate, first professional, or specialist levels that represents satisfactory completion of the requirements of a program or course of study or instruction beyond the secondary school level.

"Degree credit" means any earned credits awarded for successful completion of the requirements of a course of study or instruction beyond the secondary school level that may be used toward completion of a certificate or degree.

"Distance learning" or "distance learning modality" means any course offered by a postsecondary school for which the primary mode of instructional delivery is by television, videocassette or disc, film, radio, computer, or other telecommunications devices.

"Fraudulent academic credential" means a certificate, academic transcript, or other document issued by a person or other entity that is not an institution of higher education that provides evidence of or demonstrates completion of coursework or academic credit that results in the issuance of a degree.

"Institution of higher education" or "institution" means any person or other entity, other than a public institution of higher education or any other entity authorized to issue bonds pursuant to Chapter 11 (§ 23.1-1100 et seq.), that has received approval from the Council to (i) use the term "college" or "university," or words of like meaning, in its name or in any manner in connection with its academic affairs or business; (ii) enroll students; and (iii) offer approved courses for degree credit or programs of study leading to a degree or offer degrees either at a site or via ~~telecommunications equipment located in the Commonwealth~~ *a distance learning modality*.

"Multistate compact" means any agreement involving two or more states to jointly offer postsecondary educational opportunities pursuant to policies and procedures established in such agreement and approved by the Council.

"Non-college degree school" means any person or other entity that offers courses or programs of study that do not lead to a degree. "Non-college degree school" includes academic-vocational non-college degree schools and vocational non-college degree schools.

"Nondegree credit" means any earned credits awarded for successful completion of the requirements of a course of study or instruction beyond the secondary school level that may be used toward completion of a certificate but may not be used to earn a degree.

"Out-of-state" means formed, chartered, established, or incorporated outside of the Commonwealth.

"Postsecondary school" means any institution of higher education or non-college degree school

offering formal instructional programs with a curriculum designed primarily for students who have completed the requirements for a high school diploma or its equivalent. "Postsecondary school" includes programs of academic, vocational, and continuing professional education, except courses or programs of continuing professional education set forth in subdivision B 4 of § 23.1-226. "Postsecondary school" does not include avocational and adult basic education programs.

"Program" means a curriculum or course of study in a discipline or interdisciplinary area that leads to a degree or certificate.

"Program area" means a general group of disciplines in which one or more programs may be offered.

"Proprietary" means privately owned, privately managed, and corporately structured as a for-profit entity.

"Site" means a location in the Commonwealth where a postsecondary school (i) offers at least one course on an established schedule and (ii) enrolls at least two individuals who are not members of the same household, regardless of the presence or absence of administrative capability at such location.

"Teachout plan" means a written agreement between or among postsecondary schools that provides for the equitable treatment of students if one party to the agreement ceases to offer an educational program before all students enrolled in that program complete the program.

"University" means any baccalaureate institution of higher education.

"Vocational non-college degree school" means a non-college degree school that offers only courses for nondegree credit. "Vocational non-college degree school" does not include instructional programs that are intended solely for recreation, enjoyment, or personal interest or as a hobby or courses or instructional programs that prepare individuals to teach such pursuits.

§ 23.1-219. Council certification; requirements and prohibitions.

A. Without obtaining the certification of the Council or a determination that the activity or program is exempt from such certification requirements, no postsecondary school subject to the provisions of this article shall:

1. Use the term "college" or "university" or abbreviations or words of similar meaning in its name or in any manner in connection with its academic affairs or business;
2. Enroll students;
3. Offer degrees, courses for degree credit, programs of study leading to a degree, or courses for nondegree credit, either at a site or via ~~telecommunications equipment located within the Commonwealth~~ *a distance learning modality*; or
4. Initiate other programs for degree credit or award degrees or certificates at a new or additional level.

B. All institutions of higher education and academic-vocational non-college degree schools subject to the provisions of this article shall be fully accredited by an accrediting agency recognized by the U.S. Department of Education.

C. All out-of-state academic-vocational non-college degree schools subject to the provisions of this article shall disclose their accreditation status in all written materials advertising or describing such school that are distributed to prospective or enrolled students or the general public.

D. No postsecondary school shall be required to obtain another certification from the Council to operate in the Commonwealth if it (i) was formed, chartered, or established in the Commonwealth or chartered by an Act of Congress; (ii) has maintained its main campus continuously in the Commonwealth for at least 20 calendar years under its current ownership; (iii) was continuously approved or authorized to confer or grant academic or professional degrees by the Council, the Board of Education, or an act of the General Assembly during those 20 years; and (iv) is fully accredited by an accrediting agency that is recognized by and has met the criteria for Title IV eligibility of the U.S. Department of Education. If the Council revokes an institution's authorization to confer or grant academic or professional degrees, the institution is required to seek recertification annually until it meets the criteria of this subsection.

E. In addition to such other requirements as are established in this article or the regulations of the Council, any out-of-state institution of higher education or academic-vocational non-college degree school shall provide verification that:

1. The institution or school is fully accredited by an accrediting agency recognized by the U.S. Department of Education;
2. All courses, degrees, or certificates offered at any site are also offered at an out-of-state campus of the institution or school;
3. All credits earned at any site are transferable to an out-of-state campus of the institution or school; and
4. The institution or school has complied with the requirements of either Article 17 (§ 13.1-757 et seq.) of Chapter 9 of Title 13.1 or Article 14 (§ 13.1-919 et seq.) of Chapter 10 of Title 13.1.

F. *Any degree-granting postsecondary school providing distance learning to residents of the Commonwealth from a location outside of the Commonwealth shall be certified to operate in the Commonwealth or shall be a participant in a reciprocity agreement to which the Commonwealth belongs, in accordance with Council's authority pursuant to § 23.1-211, for the purpose of consumer*

protection.

G. Any postsecondary school that seeks to conduct ~~telecommunications~~ *distance learning* activities from a site shall apply for Council approval to conduct such activity and shall comply with this article and the Council's regulations in the same manner as any other postsecondary school subject to this article.

2. That the provisions of this act shall become effective on July 1, 2022.