

SENATE BILL NO. 1030

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on February 2, 2023)

(Patron Prior to Substitute--Senator Norment)

A BILL to amend and reenact § 23.1-1303 of the Code of Virginia, relating to public institutions of higher education; duties of governing board; requests for certain information relating to student tuition and fees.

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-1303 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-1303. Governing boards; duties.

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection H of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

27 2. Establish and maintain on the institution's website (i) a listing of all board members, including
28 the name of the Governor who made each appointment and the date of each appointment; (ii) a listing of
29 all committees created by the board and the membership of each committee; (iii) a schedule of all
30 upcoming meetings of the full board and its committees and instructions for the public to access such
31 meetings; (iv) an archive of agendas and supporting materials for each meeting of the governing board
32 and its committees that was held; and (v) an email address or email addresses that allow board members
33 to receive public communications pertaining to board business;

34 3. Establish regulations or institution policies for the acceptance and assistance of students that
35 include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the
36 federal requirement to register for the selective service are not eligible to receive any state direct student
37 assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall
38 not be considered in making admissions determinations for students who have earned a diploma pursuant
39 to the requirements established by the Board of Education, and (iii) relating to the admission of certain
40 graduates of comprehensive community colleges as set forth in § 23.1-907;

41 4. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

42 5. Notwithstanding any other provision of state law, establish policies and procedures requiring
43 the notification of the parent of a dependent student when such student receives mental health treatment
44 at the institution's student health or counseling center and such treatment becomes part of the student's
45 educational record in accordance with the federal Health Insurance Portability and Accountability Act (42
46 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family
47 Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such
48 notification shall only be required if it is determined that there exists a substantial likelihood that, as a
49 result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or
50 others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to
51 his lack of capacity to protect himself from harm or to provide for his basic human needs. However,
52 notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral
53 disorders by a health regulatory board within the Department of Health Professions who is treating the

54 student has made a part of the student's record a written statement that, in the exercise of his professional
55 judgment, the notification would be reasonably likely to cause substantial harm to the student or another
56 person. No public institution of higher education or employee of a public institution of higher education
57 making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure
58 unless such disclosure constitutes gross negligence or willful misconduct by the institution or its
59 employees;

60 6. Establish policies and procedures requiring the release of the educational record of a dependent
61 student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a
62 parent at his request;

63 7. Establish programs to seek to ensure that all graduates have the technology skills necessary to
64 compete in the twenty-first century and that all students matriculating in teacher-training programs receive
65 instruction in the effective use of educational technology;

66 8. Establish policies for the discipline of students who participate in varsity intercollegiate
67 athletics, including a provision requiring an annual report by the administration of the institution to the
68 governing board regarding enforcement actions taken pursuant to such policies;

69 9. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-
70 2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed
71 meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's
72 performance. Any change to the chief executive officer's employment contract during any such meeting
73 or any other meeting of the board shall be made only by a vote of the majority of the board's members;

74 10. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations
75 pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1
76 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research
77 committee to submit to the Governor, the General Assembly, and the chief executive officer of the
78 institution or his designee at least annually a report on the human research projects reviewed and approved
79 by the committee and require the committee to report any significant deviations from approved proposals;

80 11. Submit and make publicly available on the institution's website the annual financial statements
81 for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects
82 to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

83 12. No later than December 1 of each year, report to the Council and make publicly available on
84 the institution's website (i) the value of investments as reflected on the Statement of Net Position as of
85 June 30 of the previous fiscal year, excluding any funds derived from endowment donations, endowment
86 income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year;
87 and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such
88 investment earnings spans more than one fiscal year, the report shall reflect the commitments made in
89 each future fiscal year. The reports of the Boards of Visitors of Virginia Commonwealth University and
90 the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia
91 Commonwealth University Health System Authority and the University of Virginia Medical Center,
92 respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and
93 illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested
94 in securities;

95 13. Submit to the General Assembly and the Governor and make publicly available on the
96 institution's website an annual executive summary of its interim activity and work no later than the first
97 day of each regular session of the General Assembly. The executive summary shall be submitted as
98 provided in the procedures of the Division of Legislative Automated Systems for the processing of
99 legislative documents and reports and shall be posted on the General Assembly's website;

100 14. Make available to any interested party upon request a copy of the portion of the most recent
101 report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in
102 Virginia" pertaining to institutions of higher education;

103 15. Adopt procedures requiring the transparent disclosure to each Virginia student or, if such
104 student is a dependent, the parent of each Virginia student enrolled at such institution of what dollar
105 amount of such student's annual tuition and other mandatory fees are used to provide financial aid, grants,
106 or scholarships for other students at such institution. Such procedures shall include a provision allowing

107 any Virginia student or the parent of any Virginia student to opt out of paying the portion of such student's
108 tuition and mandatory fees that were allocated toward providing financial aid, grants, or scholarships for
109 other students at such institution;

110 16. Adopt policies or institution regulations regarding the ownership, protection, assignment, and
111 use of intellectual property and provide a copy of such policies or institution regulations to the Governor
112 and the Joint Commission on Technology and Science. All employees, including student employees, of
113 public institutions of higher education are bound by the intellectual property policies or institution
114 regulations of the institution employing them;

115 ~~16.~~17. Adopt policies that are supportive of the intellectual property rights of matriculated students
116 who are not employed by such institution; and

117 ~~17.~~18. Solicit the input of representatives of the institution's faculty senate or its equivalent (i) at
118 least twice per academic year on topics of general interest to the faculty and (ii) in advance of decisions
119 to be made on the search for the institution's new chief executive officer.

120 **2. That the provisions of this act shall become effective on July 1, 2024.**

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