



## VETERANS EDUCATION SUCCESS

April 17, 2020

Sylvia Rosa-Casanova

State Council of Higher Education for Virginia  
101 N. 14 Street  
Richmond, 23219

Re: Regulations Governing the Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates (8VAC 40-31)

Dear Ms. Rosa-Casanova:

On behalf of the student servicemembers, veterans, their family members and survivors that we represent, we thank you for the opportunity to comment on the enrollment contracts used by certain private and out-of-state institutions.

Veterans Education Success has found that enrollment contracts are increasingly being used by certain postsecondary institutions as ways to limit the rights of the students that we serve. Restrictive clauses are often an attempt by institutions to provide legal cover for unscrupulous marketing and lower-quality education.

The state of Virginia should not allow students to sign enrollment contracts that use any of the following:

- **Forced arbitration clauses:** These clauses prohibit students or former students from going to court to seek resolution of any complaints. The institution instead requires students to take complaints to an arbitrator in a private, binding process that fails to properly inform the public of the harm that the individual student has suffered. It is an increasingly common way of preventing critical information from reaching the marketplace, and Virginia should prevent them from being used on its students.
- **Go-it-alone clauses:** These clauses prevent students and former students who have complaints from joining with peers who may have similar complaints against the school (often called a group or “class” action). Instead, each student is required to seek relief on their own. Virginia should prevent their use to ensure the interests of justice are done.
- **Gag clauses:** Also known as “nondisclosure agreements” (NDAs), these prohibit students and former students from telling other people about any problems that they may have encountered at the institution. Some schools are even using these on professors and other non-professorial staff to prevent the public from finding out about internal problems, such as financial issues or substandard education. Restrictions that prevent the public from finding out material information about an institution are not in the interest of Virginia’s students and their use should be prohibited.



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- **Internal process requirements:** All institutions encourage students to make use of internal grievance procedures, but these types of requirements prohibit students from taking their complaints to other forums for resolution, such as law enforcement, without first going through the school's internal process. This is an unnecessary burden that can waste time and tie up disputes in an opaque and bureaucratic manner while preventing students from enjoying the rights and protections that are theirs by law. They are contrary to good public policy and should be prohibited.

Virginia should be on the lookout for and refuse to certify any institution that uses clauses in enrollment contracts that restrict the rights of students. Schools are increasingly using these clauses to cover up behavior that hurts students. The state of Virginia has an interest in making sure that its residents are getting what they pay for when it comes to higher education.

Additionally, enrollment agreement renewals should be required if either the student OR the institution makes changes to the program or enrollment. In the event that an institution delays a student's start date or changes the program of enrollment a new enrollment agreement must be completed. Postsecondary institutions regularly make changes that affect students, without the student's permission or knowledge, and enrollment agreements should reflect those changes.


A skyrocketing national unemployment rate portends millions of students, and minimally thousands of Virginians, returning to school to burnish their credentials. Virginia has an interest in making sure that they reenter the workforce as successful taxpayers. One of the most efficient ways to do so is to prevent the use of these restrictive clauses in enrollment contracts.

Sincerely,



Veterans Education Success

Michael Saunders, Director of Military and Consumer Policy



Ramond Curtis, State Policy Manager

Veterans Education Success