

VIRGINIA ACTS OF ASSEMBLY - 2025 SESSION

CHAPTER 202

An Act to amend and reenact § 22.1-217.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-401.3, relating to public institutions of higher education; policies; individuals with disabilities; postsecondary transition planning and services; documentation or evidence; report.

[H 1805]

Approved March 21, 2025

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-217.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-401.3 as follows:

§ 22.1-217.2. Special education transition planning and materials.

A. The Superintendent of ~~Public Instruction~~ shall make available special education transition materials for students and parents to be used during a student's annual Individualized Education Program meeting as required by the State Board of Education Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81-118 and 20 U.S.C. § 1400 et seq.) and direct local school divisions to use the material to the fullest extent possible. Such materials shall be prepared and updated as necessary by the Department of ~~Education~~ and shall include information describing services that can be provided in the least restrictive environment possible and the purpose and use of temporary guardianship, limited guardianship, and guardianship, as those terms are defined in § 64.2-2000.

B. Any individualized education program (IEP) meeting for any student with a disability that is held for the purpose of postsecondary transition planning and the consideration of needed postsecondary transition services shall include, consistent with the guidance documents relating to postsecondary transition planning and services developed by the Department pursuant to subdivisions 1 and 4 of § 22.1-214.4, consideration and documentation of any information relating to such student's needed postsecondary transition services that may be necessary or relevant to coordinating and facilitating the successful and efficient transition of such student from secondary school to an institution of higher education.

§ 23.1-401.3. Individuals with disabilities; documentation or evidence; accommodations.

A. Each public institution of higher education shall adopt a policy that makes any of the following documentation or evidence that is submitted by an enrolled or admitted student sufficient to establish that the student is an individual with a disability:

1. Documentation that the individual has had an individualized education program (IEP) in accordance with the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. The public institution of higher education may request additional documentation from such an individual if (i) the IEP was not in effect immediately prior to the date on which the individual graduated from or was otherwise no longer enrolled in high school or (ii) the IEP is otherwise not sufficient to establish that such individual is an individual with disability pursuant to the federal Americans with Disabilities Act, 42 U.S.C. § 12131 et seq. Any IEP shall be deemed sufficient to establish that such individual is an individual with a disability under the federal Americans with Disabilities Act that includes (a) information on the nature of the individual's physical or mental impairment; (b) a documented history or record of such physical or mental impairment, including documentation of an evaluation that has been completed or updated no more than three years prior to such individual's application for admission to the institution; and (c) an explanation of substantial limitations experienced by such individual as a result of such disability and the related accommodations needed by such individual;

2. Documentation of the individual's disability due to service in the Armed Forces of the United States or the Commonwealth; and

3. Any other documentation or evidence that the institution deems appropriate for such purpose.

B. In the event that a student's disability or need for accommodations has not been properly documented and additional time is needed to conduct the process by which the public institution of higher education determines eligibility for accommodations, the public institution of higher education shall grant such student provisional or temporary accommodations while such determination process continues.

C. Each policy adopted pursuant to subsection A shall include a transparent and explicit process by which the institution determines eligibility for accommodations for an individual with a disability. Each public institution of higher education shall disseminate information about such process to students, including all new students, to the parents of students as appropriate, and to faculty in accessible formats and make such information available in a conspicuous and publicly accessible manner, including on the institution's website.

2. That the State Council of Higher Education for Virginia (the Council) shall, in consultation with

representatives of public institutions of higher education and public secondary schools in the Commonwealth, (i) study the quality and consistency of transition individualized education programs (IEPs) developed and implemented for students with disabilities across the Commonwealth that are dedicated to establishing the postsecondary transition services needed by students with disabilities (transition IEPs) or contain sections that are dedicated to establishing the postsecondary transition services needed by students with disabilities (transition sections) and (ii) make recommendations on strategies for improving the standardization of transition IEPs or transition sections contained in IEPs to help facilitate the timely provision of transition services and accommodations for students with disabilities by public institutions of higher education across the Commonwealth. The Council shall submit to the Senate Committee on Education and Health and the House Committee on Education by November 1, 2025, a report on its findings and recommendations.