Proposal to Adopt Revised Weapons and Space Regulations
February 2013

Purpose:

This agenda item provides background and recommendations related to the adoption of revised weapons and space regulations on the VCU campus.

Background:

Authority of Boards of Visitors

The Board of Visitors of Virginia Commonwealth University possesses authority to adopt rules and regulations pursuant to the Code of Virginia. All Boards of Visitors enjoy the authority for the purposes granted under §23-9.2:3. This Board further enjoys plenary authority to “make all needful rules and regulations” specifically concerning Virginia Commonwealth University so long as “the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth” under §23-91.29.

Regulations have the force of law by statute and recognized as such by the Supreme Court. Regulations must be in accord with statutory authority and not inconsistent with general law.

Subject to the perimeters above, the Courts have traditionally afforded great weight to an agency’s interpretation of its governing statutes. Broad latitude has also been afforded in the furtherance of educational purposes.

As the regulatory authority of Boards of Visitors is limited to their respective institutions, the General Assembly has exempted Universities, in §2.2-4002.A.6., from the detailed provisions of the Administrative Process Act. However, University regulations must be published under, and meet the requirements of, the Virginia Register Act, §§2.2-4100, et seq. The Register Act calls for publication of a proposed regulation and, following formal Board adoption, publication of a final regulation. The final regulation becomes effective upon receipt by the Registrar’s Office unless a later effective date is specified. The recommendation is that the proposed regulations be made effective March 15, 2013.

Proposed Weapons and Space Regulations

The proposed weapons regulation (Tab A) is crafted to provide the broadest permissible prohibition against weapons on campus, to include holders of valid concealed handgun permits. George Mason University adopted virtually the same weapons prohibition which was upheld by the Virginia Supreme Court. The purpose of the space regulation (Tab B) is to develop “protected areas.” The purpose of establishing the protected area is the ability to restrict what might otherwise be legal activity in the area if there is a safety risk. This regulation has also been adopted by other state universities but has not been tested.
Current Weapons Regulation

The current weapons regulation is a single provision in a student code of conduct promulgated in 1995. The provision states that “…no person, either singly or in concert with others, shall willfully: [h]ave in his or her possession any fire arm, other weapon, or explosive, regardless of whether a license to possess same has been issued, without authorization of the President of the University.” Persons whose official duty it is to possess a weapon are exempted.

The 1995 regulation (8 VAC90-10) is outdated. The 1995 regulation, in addition to the weapons regulation above, contains other provisions that involve only VCU faculty, students or staff. These provisions are addressed by university policy and do not require or rise to the level of regulation with the force of law.

Recommendation

The recommendation is for the VCU Board of Visitors to adopt the new weapons and space regulations effective March 15, 2013 and repeal the existing 1995 regulation (8 VAC 90-10) effective the same date.

TABS:

A. Proposed Virginia Commonwealth University Weapons Regulation
B. Proposed Virginia Commonwealth University Space Regulation