



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

**Kenneth T. Cuccinelli, II**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

October 5, 2010

Dr. Andrew Fogarty  
Interim Director  
State Council of Higher Education  
James Monroe Building  
101 North 14<sup>th</sup> Street  
Richmond, VA 23219

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

Dear Dr. Fogarty:

You ask whether the State Council of Higher Education possesses the requisite authority to promulgate the above-referenced regulations.

I find that Va. Code Ann. § 23-276.3 vests the State Council of Higher Education with the authority to promulgate "such regulations as may be necessary to implement the provisions of this chapter." I also find that the proposed regulations are consistent with the statutory grant of authority to promulgate them, are consistent with the statutes, and are internally consistent. The proposed regulations do not appear to run afoul of state or federal statutes. I further find that the proposed regulations have no Constitutional defect.

The foregoing represents my view as your legal counsel but is not an official Opinion of the Attorney General. If you require additional assistance on this matter, please do not hesitate to contact me.

Respectfully,

Jake A. Belue  
Assistant Attorney General