



COMMONWEALTH of VIRGINIA
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October 11, 2012

Peter Blake
Executive Director
State Council of Higher Education
James Monroe Building
101 North 14th Street
Richmond, VA 23219

Re: Virginia Two-year College Transfer Grant Program Regulations (8 VAC 40-150)

Dear Peter Blake:

Your agency asks whether the State Council of Higher Education possesses the requisite authority to promulgate the above-referenced regulations.

Va. Code Ann. § 23-9.6:1(15) vests the State Council of Higher Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties under the Code. Under the statutory framework for the Virginia Two-year College Transfer Grant Program (program), Va. Code Ann. § 23-38.10:9 provides, "The Council shall promulgate regulations for the implementation of the provisions of this chapter and the disbursement of funds consistent therewith and appropriate to the administration of the program." Because the promulgation of regulations for the implementation of the program is expressly the responsibility of SCHEV, it is my view that SCHEV has the mandated authority to promulgate such regulations and amend them as necessary. Further, the 2012 Act of Appropriation, Chapter 3, Item 144 H.2 amended the definition of financial need. I find that it is necessary and appropriate to amend the regulations cited above accordingly.

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.

If you require additional assistance on this matter, please do not hesitate to contact me.

Respectfully,

Jake A. Belue
Assistant Attorney General