



# COMMONWEALTH of VIRGINIA

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March 24, 2015

Peter Blake  
Executive Director  
State Council of Higher Education for Virginia  
James Monroe Building  
101 North 14<sup>th</sup> Street  
Richmond, Virginia 23219

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

Dear Mr. Blake:

The State Council of Higher Education for Virginia ("SCHEV") has asked for a review of its authority to promulgate and amend the above-referenced regulations.

Virginia Code § 23-9.6:1(15) vests SCHEV 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, Va. Code § 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 2013 Act of Appropriation, Chapter 806, Item 144(H)(2), amended the definition of "financial need" and, in 2014, the General Assembly amended the eligibility criteria in Va. Code § 23-38.10:10(A). I find that it is necessary and appropriate to amend the regulations cited above accordingly.

I further 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 conflict with state or federal statutes. And the proposed regulations appear to have no Constitutional defect.

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

Respectfully,

A handwritten signature in blue ink, appearing to read "Mike F. Melis".

Mike F. Melis  
Assistant Attorney General