

COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: PETER BLAKE,
Director, State Council of Higher Education for Virginia

FROM: ALLEN T. WILSON *ATW*
Senior Assistant Attorney General

DATE: January 17, 2017

SUBJECT: Virginia Vocational Incentive Scholarship Program
for Shipyard Workers Regulations
Final Regulation 8VAC40-140

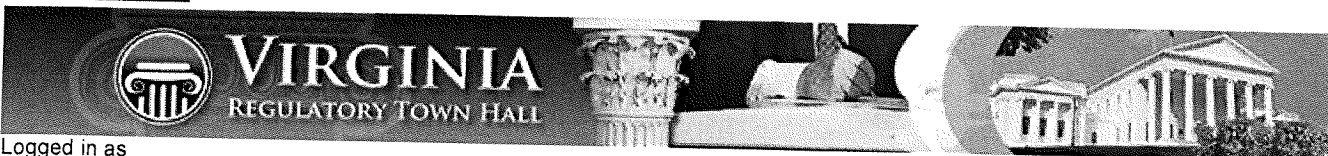
I have reviewed the above-referenced final regulation to determine if the State Council of Higher Education for Virginia ("Council") has the statutory authority to promulgate the final regulation and if this action by the State Board is exempt from the Administrative Process Act (APA).

It appears that the Council has the authority to promulgate the regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The changes to the regulations are necessary to reflect the changes in Code by the adoption Chapter 588 of the 2016 Acts of Assembly, which recodified the higher education title of the Code. Pursuant to § 2.2-4006(A)(4)(a) of the Virginia Code, this action by the Council is exempt from the requirements of the APA.

If you have any questions, please feel free to call me at 786-0095.

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Logged in as

Allen T. Wilson

Final Text

Action: Amend regulations to incorporate legislative mandate ...

Stage: Final

11/3/16 10:52 AM

8VAC40-140-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Apprenticeship program" means a three-year program combining educational instruction and on-the-job training that is established for the purpose of enhancing the education and skills of shipyard workers and that is registered with the Virginia Department of Labor and Industry.

"College" means Tidewater Community College.

"Council" means the State Council of Higher Education for Virginia or its designated staff.

"Eligible course of study" means an Associate in Applied Science degree program or an apprenticeship program registered with the Virginia Department of Labor and Industry.

"Program" means the Virginia Vocational Incentive Scholarship Program for Shipyard Workers.

"Scholar" means a recipient of program funds from the Virginia Vocational Incentive Scholarship Program for Shipyard Workers.

"Scholarship" means a grant from state funds appropriated for the Virginia Vocational Incentive Scholarship Program for Shipyard Workers.

"Shipyard worker" means any person employed full time on a salaried or wage basis whose tenure is not restricted as to temporary or provisional appointment at a ship manufacturing or ship repair company located in the Commonwealth of Virginia.

8VAC40-140-20. Use of funds.

A. The college shall establish and maintain financial records that accurately reflect all program transactions as they occur. The college shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all other institutional financial activity.

B. Funds may be paid to the college on behalf of shipyard workers who have been awarded scholarships pursuant to ~~§ 23-220.04~~ § 23.1-2912 of the Code of Virginia and this chapter. Funds also may be used by the college for the implementation and administration of the program. Funds used by the college to implement and administer the program shall not exceed in any given year 5.0% of that year's allocation for the program.

8VAC40-140-30. Application procedures and selection of scholarship recipients.

To apply for a scholarship under the program, a student must follow the procedures established by the college and approved by the council. Recipients will be selected by the college using a process approved by the council.

8VAC40-140-40. Eligibility criteria for an initial scholarship.

In order to receive a scholarship, the student must be:

1. A domiciliary resident of Virginia as defined in ~~§ 23-7.4~~ § 23.1-502 of the Code of Virginia and determined by the college,
2. Employed full time as a shipyard worker, and
3. Enrolled full or part time in an eligible course of study.

8VAC40-140-50. Renewability of scholarships.

Scholarships may be renewed for up to two academic years provided that the student continues to meet the initial eligibility criteria specified in 8VAC40-140-40 and maintains a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent at the completion of each academic year.

8VAC40-140-60. Scholarship conditions.

To receive initial and renewal scholarships, the student must enter into an agreement with the council through the college under which he agrees to:

1. Continue full-time employment as a shipyard worker until his successful completion of the eligible course of study;
2. Continue pursuing an eligible course of study;
3. Upon successful completion of the eligible course of study, work continuously in Virginia as a shipyard worker for the same number of years that he was the beneficiary of such scholarship;
4. Provide evidence of compliance with subdivision 3 of this section in the form of a statement from the human resources director of the shipyard in which the scholar is working, certifying that the scholar is employed full time as a shipyard worker; and
5. Repay the total amount of funds received, or the appropriate portion thereof, and any accrued interest, if he fails to honor the requirements specified in subdivisions 1, 2, and 3 of this section.

8VAC40-140-70. Scholarship amount.

A. In no case may a student receive a scholarship under the program that exceeds the cost of full tuition and required fees relating to the eligible course of study.

B. If a scholar withdraws from all courses during a term, the tuition refund policy in effect at the college will determine the portion of the award amount that must be reclaimed by the college.

8VAC40-140-80. Noncompliance with scholarship agreement.

A. A scholar found to be in noncompliance with the scholarship agreement entered shall:

1. Repay the amount of scholarship funds received, prorated according to the fraction of the work obligation not completed, as determined by the council;

2. Pay a simple, per annum interest charge of 5.0% on the outstanding principal as determined by the council; and
 3. Pay all reasonable collection costs as determined by the council.
- B. A scholar required to repay his scholarship shall:
1. Enter repayment status on the first day of the first calendar month after:
 - a. The council has determined that the scholar is no longer enrolled in an eligible course of study, but not before six months has elapsed since the scholar was enrolled in such course of study;
 - b. The date the scholar informs the council that he does not plan to fulfill the work obligation; or
 - c. The latest date on which the scholar must have begun working in order to have completed the work obligation within 10 years after completing the postsecondary education for which the scholarship was awarded, as determined by the council.
 2. Make monthly payments to the council that cover principal, interest, and any collection costs according to a schedule established by the council that calls for minimum payments of \$100 per month and to complete repayment within 10 years after the scholar enters repayment status.
- C. The interest charge specified in subdivision A 2 of this section accrues from:
1. The date of the initial scholarship payment if the council has determined that the scholar is no longer enrolled in an eligible course of study or completed an eligible course of study but never became employed as a shipyard worker; or
 2. The day after the last day of the scholarship period for which the work obligation has been fulfilled.
- D. The council shall capitalize any accrued interest at the time it establishes a scholar's repayment schedule.
- E. The council may approve less than \$100 minimum monthly payments or forgive partial interest charges due to extenuating circumstances.
- F. The council may approve a reduction in interest charges for scholars making consistent on-time monthly payments that meet or exceed the minimum required amount.
- G. A scholar is not considered in violation of the repayment schedule established by the council during the time he is:
1. Serving on active duty as a member of the armed services of the United States or serving as a member of VISTA or the Peace Corps for a period not in excess of three years;
 2. Accompanying a spouse who is serving on active duty as a member of the armed services of the United States or serving as a member of VISTA or the Peace Corps for a period not in excess of three years;
 3. Experiencing health conditions that impede his ability to perform requisite service in a shipyard setting for a period not to exceed three years;
 4. Unable to secure employment by reason of the care required by a disabled child, spouse, or parent for a period not in excess of 12 months; or
 5. Unable to satisfy the terms of the repayment schedule established by the council and is also seeking and unable to find full-time employment as a shipyard worker in Virginia for a single period not to exceed 27 months.

H. To qualify for any of the exceptions in subsection G of this section, a scholar must notify the council of his claim to the exception and provide supporting documentation as required by the council.

I. During the time a scholar qualifies for any of the exceptions specified in subsection G of this section, he need not make the scholarship repayments and interest does not accrue.

J. The council shall extend the 10-year scholarship repayment period by a period equal to the length of time a scholar meets any of the exceptions in subsection G of this section or if a scholar's inability to complete the scholarship repayments within this 10-year period because of his financial condition has been established to the council's satisfaction.

K. The council shall cancel a scholar's repayment obligation if it determines that:

1. On the basis of a sworn affidavit of a qualified physician, the scholar is unable to work on a full-time basis because of an impairment that is expected to continue indefinitely or result in death; or
2. On the basis of a death certificate or other evidence conclusive under state law, the scholar has died.

8VAC40-140-90. Responsibility of the college.

The college shall:

1. Comply with all requests from the council for reports or information necessary to carry out the operation of the program;
2. Retain a copy of each signed promissory note and send the original promissory note to the council; and
3. Notify the council if a scholar fails to meet the terms of the promissory note and enters repayment status.