



## Virginia Department of Planning and Budget **Economic Impact Analysis**

---

### **8 VAC 40-31 Regulations Governing the Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates**

**State Council of Higher Education for Virginia**

**Town Hall Action/Stage: 4821 / 8684**

June 16, 2020

---

### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 298 of the 2017 Acts of Assembly<sup>1</sup>, the State Council of Higher Education for Virginia (SCHEV) proposes a number of disclosures to be included in the enrollment agreement signed by the student and by an authorized representative of the school.

### **Background**

Chapter 298 of the 2017 Acts of Assembly requires all postsecondary schools certified by SCHEV<sup>2</sup> to enter into an enrollment agreement with students and directs SCHEV to prescribe disclosures to be included in such an agreement. Accordingly, SCHEV proposes a number of disclosures to be included in such an agreement including transferability of credits to other institutions, right to cancellation, refund policies, and the grievance process.

### **Estimated Benefits and Costs**

The proposed regulation will make sure that students are provided with information on transferability of credits to other institutions, right to cancellation, refund policies, and the grievance process and that the school will have evidence that it has provided such information to the students. The main benefit of such disclosures is to make sure all parties have the same access to information and allow them to make informed decisions.

---

<sup>1</sup> <https://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0298&171+ful+CHAP0298>

<sup>2</sup> These postsecondary schools subject to certification are private institutions and generally offer two-year programs such as Strayer University, DeVry University, Bryant and Stratton College, etc. A list of these postsecondary institutions can be found under “Private and Out of State College & Universities Certified to Operate in Virginia” at <https://www.schev.edu/index/students-and-parents/explore/virginia-institutions>.

The proposed regulation, however, is unlikely to have a significant economic impact upon promulgation for two reasons. First, SCHEV has always encouraged institutions to have enrollment agreements as a best practice. As a result, at least 90% of regulated institutions are estimated to currently have enrollment agreements.<sup>3</sup> Second, those that do not have enrollment agreements are not expected to incur significant costs to provide disclosures because they likely readily have the information to be disclosed. For example, some of the information that is to be disclosed is already disclosed to students by other means (such as in a catalog) or they are already available on other agency websites (such as pass rates for first time test takers for nursing licensure), or the school already has an existing policy on the issue. Therefore, provision of required disclosures should not impose significant costs on the schools.

### **Businesses and Other Entities Affected**

There are approximately 300 regulated postsecondary institutions in Virginia. In 2018, there were 38,476 new students enrolled in those institutions. No regulated postsecondary institutions appear to be disproportionately affected.

### **Small Businesses<sup>4</sup> Affected:**

#### Types and Estimated Number of Small Businesses Affected

Approximately 80 of the 300 regulated postsecondary institutions may be small businesses.<sup>5</sup>

#### Costs and Other Effects

The proposed amendments would require regulated postsecondary institutions to disclose certain information to the students. However, since most of the schools already have an enrollment agreements with students and those that do not have such agreements readily have the information that would need to be disclosed, the proposed amendments do not appear to have a significant adverse impact.<sup>6</sup>

#### Alternative Method that Minimizes Adverse Impact

---

<sup>3</sup> Source: SCHEV

<sup>4</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>5</sup> Data source: Virginia Employment Commission

<sup>6</sup> Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

The proposed amendments do not appear to have a significant adverse impact.

### **Localities<sup>7</sup> Affected<sup>8</sup>**

The proposed regulation applies statewide. The proposed amendments do not introduce costs for local governments.

### **Projected Impact on Employment**

No significant impact on employment is expected.

### **Effects on the Use and Value of Private Property**

No significant impact on the use and value of private property is expected. No impact on real estate development costs is expected.

### **Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

---

<sup>7</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>8</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.