



STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

PRIVATE POSTSECONDARY EDUCATION (PPE)

Guidelines and Approval Process for Exemption from Certification for Postsecondary Schools Otherwise Subject to Regulation Effective Date: June 1, 2018

I. Authority

Pursuant to Virginia Code § 23.1-219(A)(3), without obtaining the certification of the Council or a determination the activity or program is exempt from such certification requirements, no postsecondary school shall offer degrees, courses for degree credit, programs of study leading to a degree, or courses for non-degree credit, either at a site or via telecommunications equipment located within the Commonwealth. Code of Virginia § 23.1-226 defines exceptions to the certification requirement for activities or programs offered by postsecondary schools are exempt from the provisions of Title 23.1 Chapter 2, Article 3 of the Virginia Code.

The Virginia Administrative Code (8VAC40-31-60) further defines additional types of programs, degrees, diplomas, and certificates that are exempt from council action.

II. Purpose

The State Council of Higher Education for Virginia provides these guidelines for clarity concerning programs and courses that qualify for exemption from the certification requirements, and to delineate the process for receipt, review, and approval of the exemption.

III. Definitions

For purposes of this guidance document, the following definitions will apply:

"Benevolent order" means a charitable organization is exempt from paying federal income taxes under § 501(c) (3) of the Internal Revenue Code.

"Civic organization" (or club) means any local service club, veterans' post, fraternal society or association, volunteer fire or rescue groups, or local civic league or association of 10 or more persons not proprietary but operated exclusively for educational and charitable purposes, including the promotion of community welfare, and the net earnings are devoted exclusively to charitable, educational, recreational or social welfare purposes.

"Continuing or professional education" means those classes, courses, and programs designed specifically for individuals who have completed a degree in a professional field that (i) are intended to fulfill the continuing education requirements for licensure or certification in such professional field, (ii) have been approved by a legislatively or judicially established board or

agency responsible for regulating the practice of the profession, and (iii) are offered exclusively to an individual practicing in such professional field.

“Fraternal organization” means a group based on a common bond in which members meet for a mutually beneficial purpose of a social, professional, academic or religious nature.

"Non-college degree school" means any person or other entity that offers courses or programs of study that do not lead to a degree.

"Postsecondary school" means any institution of higher education or non-college degree school offering formal instructional programs with a curriculum designed primarily for students who have completed the requirements for a high school diploma or its equivalent. "Postsecondary school" includes programs of academic, vocational, and continuing professional education, except courses or programs of continuing professional education set forth in §23.1-226 (B)(4) "Postsecondary school" does not include avocational and adult basic education programs.

“Professional body” means an organization or group comprised of members of a particular professional field.

“Professional field” means an occupation that requires both the completion of an academic degree and licensure or registration to be eligible for employment in the occupation.

“Professional practice” means to be engaged in a licensed or registered professional field.

“Trade association” means an organization created by businesses that operate in a specific industry and whose main focus is collaboration between companies.

IV. Qualifying Exemptions

Defined in the Code of Virginia

1. A professional or occupational training program subject to the approval of
 - (i) a regulatory board pursuant to Title 54.1 of the Code of Virginia, or
 - (ii) another state or federal governmental agency so long as the school is not seeking degree-granting status.
 - To qualify for this exemption, the entity must submit evidence of a valid and current approval by the appropriate board or agency.
 - Examples of boards listed under Title 54.1 include, but are not limited to: Barbers and Cosmetologists, Contractors, Dentistry, Nursing, Polygraph Examiners, Real Estate Brokers, and Pharmacy.
 - Example of a state agency that approves training programs: Virginia Department of Criminal Justice Services.
 - Example of a federal agency that regulates training programs exempt from certification: Federal Aviation Administration.
2. Any course or program of instruction provided or approved by any professional body, fraternal organization, civic club, or benevolent order for which the principal purpose is continuing or professional education or a similar purpose and for which no degree credit is awarded.
 - To qualify for this exemption:

- The course or program offered by the entity must meet the definition of “continuing or professional education” (see definitions under item III above), and;
 - The entity providing the course or program must qualify as a professional body, fraternal organization, civic club, or benevolent order (see definitions under item III above).
- 3. Any course or program offered through approved multistate compacts, including the Southern Regional Education Board's Electronic Campus.
 - To qualify for this exemption, the entity must submit proof of approval from a multistate compact.
- 4. Any course offered and delivered by a postsecondary school solely on a contractual basis for which no individual is charged tuition and there is no advertising for open enrollment.
 - To qualify for this exemption, the postsecondary school must provide training solely on a business to business basis; will not advertise for open enrollment, and will not accept self-paying students.
- 5. Any school, institute, or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects relating to the trade, business, or profession represented by such association.
 - To qualify for this exemption:
 - The entity offering the course or program must qualify as a trade association(see definitions under item III above); and,
 - The course or program must be related to the business or trade represented by the organization.
- 6. Tutorial instruction delivered and designed to supplement regular classes for students enrolled in any public or private school or prepare an individual for an examination for professional practice or higher education.
 - To qualify for this exemption, the tutorial instruction must specifically target:
 - Public or private secondary school students seeking supplemental instruction; or,
 - Individuals who have completed a degree in a professional field and seek tutorial instruction for an exam that will enable them to enter professional practice (see definition of “professional practice” in item III above); or
 - Students seeking tutorial instruction for exams required for undergraduate or graduate school admission.

Defined in Virginia Administrative Code

- 7. Any course or program of study conducted on a not-for-profit basis by firms or organizations for the training of their own employees only, provided that such instruction is offered at no charge to such employees and with no advertising for open enrollment.
- 8. Schools of fine arts or other avocational courses that are conducted solely to further artistic appreciation, talent, or for personal development or information and programs that prepare individuals to teach such pursuits.
- 9. Any postsecondary school whose primary purpose is to provide religious or theological education.
 - To qualify for this exemption the postsecondary school shall only award degrees, diplomas, or certificates reflect the school's primary purpose is religious education.
 - See also Code of Virginia § 23.1-226(C), and 8 VAC 40-31-50.

V. Guidance on SCHEV Approval of Certification Exemption

Pursuant to Virginia Code § 23.1-219(A)(3), without obtaining a determination an activity or program is exempt from certification, no entity shall offer degrees, courses for degree credit, programs of study leading to a degree, or courses for non-degree credit, either at a site or via telecommunications equipment located within the Commonwealth.

Applying for qualifying exemptions 1-8

To secure an exemption from the certification requirements, entities that will provide courses, programs or training and also meet one or more of the exemption categories described under qualifying exemptions 1-8 in this document must submit an “*Application for Certification Exemption*” to the division of Private Postsecondary Education for review and approval.

State Council of Higher Education for Virginia
ATTN: Private Postsecondary Education
James Monroe Building, 9th Floor
101 North Fourteenth Street
Richmond, Virginia 23219-3659

SCHEV staff will review and communicate approval (or disapproval) within 30 days from receipt of the application.

Any changes, revisions, or additions to the program offerings by the entity for which exemption of the certification requirements was made, will necessitate a new review and approval by SCHEV.

Applying for exemption as a religious exempt school

To secure a certification exemption as a religious exempt school, described under qualifying exemption 9 in this document, the school shall submit a “*Request for Name Acknowledgement for Religious Exempt Institutions*” and an “*Institutional Application for Religious Exemption*” to the SCHEV division of Private Postsecondary Education for review and approval.

SCHEV staff will review and communicate approval (or disapproval) within 45 days from receipt of the application.

Any changes, revisions, or additions to the program offerings approved for certification exemption will necessitate a new review and approval by SCHEV.