

Table of Changes from Council Approved Proposed Permanent Regulations 8 VAC 40-31 to Current Proposed Emergency Regulations 8 VAC 40-31

VAC Section	Changes	Effect
N/A	Insert Cover Sheet	N/A
N/A	Insert Table of Contents	N/A
<i>passim</i>	Replace "vocational" with "career-technical"	No substantive change. "Career-technical" is the preferred term.
8 VAC 40-31-60 (A)(3)	Removal of military exemption, as per change to Code of Virginia	Postsecondary programs offered on military bases in Virginia must be certified to operate.
8 VAC 40-31-60 (A)(11)	Schools of fine arts or other avocational courses which are conducted solely to further artistic appreciation, talent, or for personal development or information.	Clarifies that schools of fine arts and avocational courses are exempt from SCHEV oversight.
8 VAC 40-31-160(G)(1)	<p>1. <i>Institutions of higher education</i> Schools shall provide the results of an annual audited financial statement, or a reviewed financial statement, or a compiled financial statement. <i>Noncollege degree schools shall provide the results of an annual audited financial statement, reviewed financial statement, or a compiled financial statement or the school may elect to provide financial information on forms provided by SCHEV.</i></p>	The change allows non-degree schools to provide financial information on forms provided by SCHEV. The change also allows for compiled statements in addition to review or audited statements.
8 VAC 40-31-160(L)	Library resources shall be current, well distributed among fields in which the institutions offers instructions, cataloged, logically organized, and readily located. The school shall maintain a continuous plan for library resource development and support, including objectives and	Added language requires school to maintain current material and to institute plan for library resource development.

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	selections of materials.	
8 VAC 40-31-160(N)	<i>"N. Schools shall keep official transcripts for all teaching faculty to document that each has the appropriate educational credentials."</i>	Schools must now have proof that teachers have the required education.
8 VAC 40-31-170(E)	Certification is not transferable. In the event of a change of ownership of a certified school, the new owner or governing body must secure certification. The school must apply for certification within 45 <i>business</i> days following a change of ownership. During the 45 <i>business</i> day period and the time required for the council to process the new application, up to and not exceeding 90 <i>business</i> days, the old certification remains in effect provided that there are no changes in the academic or course work programs, policies, or financial considerations such that the change would constitute or create a violation of SCHEV's policies.	The change expands the time allowed for filing of a certification application following a change in ownership.
8 VAC 40-31-170(F)	SCHEV will process all applications and provide notice to applicants within 45 <i>business</i> days of receipt of a <i>complete application package</i> .	The change expands the time allowed for SCHEV to process certification applications and makes clear that this period runs only from the time a completed application is received.
8 VAC 40-31-180(B)(2)(b)	b. Out-of-state Institutions and Career-technical schools requesting certification must be accredited by an accrediting organization recognized by the United States Department of Education.	Clarifies that all out of state postsecondary schools must be accredited prior to obtaining SCHEV certification. This change is made because the current regulation conflicts with § 23-276.4(D) of the <i>Code of Virginia</i> .

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<p>8 VAC 40-31-180(B)(2)(c)</p>	<p>"c. Unaccredited in-state institutions and <i>existing out-of-state career-technical schools</i> must submit a plan of action for securing accreditation from an organization recognized by the United States Department of Education, including the name of the accrediting organization and timeframe. In order to remain eligible for certification, the postsecondary school must secure as a minimum, candidacy status or equivalent within three years of its initial date of certification, and initial accreditation no later than six years after initial certification.</p>	<p>Clarifies that existing out-of-state career-technical schools must provide either verification of accreditation or a letter of intent to seek accreditation in order to remain certified to operate in Virginia. This change is made because the current regulation conflicts with § 23-276.4(D) of the <i>Code of Virginia</i>.</p>
<p>8 VAC 40-31-180(B)(3)</p>	<p>A copy of the transacted surety instrument form.</p>	<p>SCHEV now requires the original surety form to be submitted with a certification application.</p>
<p>8 VAC 40-31-180(B)(6)</p>	<p>A copy of the school's certificate, <i>if incorporated</i>, from the State Corporation Commission providing authorization to transact business within the Commonwealth.</p>	<p>The change makes clear that the school need not provide proof of incorporation if the school is not incorporated.</p>
<p>8 VAC 40-31-180(B)(9)</p>	<p>9. For new postsecondary school applicants, the President or CEO shall provide a signed and notarized statement, which attests to any previous involvement in the operation of a postsecondary school, or any previous</p>	<p>The change increases reporting requirements regarding a school official's previous involvement with another postsecondary school. The change requires additional persons to be included</p>

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	<p>involvement by any <i>administrator, owner, controlling shareholder, or member of the schools governing board</i> in the operation of a postsecondary school. As a minimum this statement shall include the name(s) of previous school(s), the dates of the involvement, the positions held within the school, the location, the status (open/closed, and accredited/nonaccredited) of the school, <i>any known violation of financial aid rules by the school, any known violations of the policies of an accreditor of the school, any bankruptcy filings by the school,</i> and conviction or civil penalty levied by any legal entity in connection with this or any other educational entity he/she was employed by or invested in.</p>	<p>in the disclosure. Disclosure of this information may not effect approval for certification but may trigger a future audit, as permitted in regulations.</p>
<p style="text-align: center;">8 VAC 40-31-210</p>	<p>"In considering an a school's application, the council shall not take into account either duplication of effort by public and private schools in Virginia or need within the Commonwealth for the course for degree credit, program of study, or degree program for which certification is sought."</p>	<p>This change has no effect on the substance of the regulation. It is made to correct an error in grammar.</p>
<p style="text-align: center;">8 VAC 40-31-240</p>	<p>"Upon the determination of the council that any school, or its agents or representatives, is in violation of this chapter, the council may institute a proceeding in equity to enjoin the violation. It shall not be necessary for the council to allege or prove an inadequate remedy at law in that proceeding. In the civil proceeding, the</p>	<p>The State Council of Higher Education may not seek a monetary penalty for violations of its regulations. This change was required by the Attorney General's Office because the statute cited does not authorize recovery of a monetary penalty. However, a Code change for the 2006 General Assembly has been submitted to</p>

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	council may also sue for and recover a monetary penalty if no criminal prosecution is instituted as provided by § 23-276.12 (B) (C) of the Code of Virginia."	provide SCHEV with monetary recovery authority. If approved by the General Assembly, SCHEV will seek to return this language to the regulations.
8 VAC 40-31-320	Pay an annual fee of \$300.00 <i>per school represented</i> for each registrant.	Clarifies that agents must pay \$300 for each school they represent
Schedule A	The previous version charged existing vocational schools collecting less than \$150,000 in gross tuition a flat annual fee of \$1500. The new version charges an annual fee of \$1500 for existing vocational schools collecting gross tuition greater than \$100,000 but less than or equal to \$150,000. The new version charges an annual fee of \$1000 for existing vocational schools collecting gross tuition greater than \$50,000 but less than or equal to \$100,000. The new version charges an annual fee of \$500 for existing vocational schools collecting gross tuition less than or equal to \$50,000.	A new fee structure was created to address concerns from smaller career-technical schools that felt that were unfairly impacted by the increased fee structure. The fees are the same for degree and non-degree schools based on gross tuition, which is fairer. Unaccredited degree schools and out-of-state vocational schools will pay a slightly higher fee until they reach accreditation status., which may serve as an incentive for them to expedite their accreditation application.
Schedule A	The explanatory language accompanying the "Late Fee" is to clarify that \$1000 is the maximum late fee collected.	Included for clarification only.
Schedule A	Added a returned check fee of \$35.	Applicants whose checks are returned by the bank unpaid are charged \$35. (See § 2.2-614.1(c) for statutory authority.)

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N/A	Change name of certifying regulatory coordinator from Rick Patterson to Linda Woodley	N/A
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Submitted by: _____
Coordinator, Private and Out-of-State Postsecondary Education

Approved by: _____
Academic Affairs and Planning Director

Approved by: _____
Executive Director