



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Mark R. Herring

202 North Ninth Street
Richmond, Virginia 23219
804-786-2071
804-371-8947 TDD

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 Two-Year College Transfer Grant Program Regulations
Final Regulation 8VAC40-150

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.



Logged in as
Allen T. Wilson

Final Text

Action: Amend regulations to incorporate legislative mandate ...

Stage: Final

11/3/16 10:57 AM

8VAC40-150-10. Definitions.

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

"Academic year" means the enrollment period that normally extends from late August to May or early June and that is normally comprised of two semesters (fall and spring) or three quarters (fall, winter, and spring).

"Accredited institution" means any institution approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.) of Title 23 Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1 of the Code of Virginia.

"Approved course of study" means a curriculum of courses at the undergraduate level leading to a first bachelor's degree. Programs in the 39.xxxx series, as classified in the National Center for Education Statistics' Classification of Instructional Programs (CIP), provide religious training or theological education and are not approved courses of study.

"Award" means a grant from state funds appropriated for the Virginia Two-Year College Transfer Grant Program (CTG).

"Award year" means the 12-month enrollment period during which a college or university holds classes, normally comprised of (i) one fall semester, one spring semester, and a summer session or (ii) one fall quarter, one winter quarter, one spring quarter, and a summer session. For purposes of awarding funds for this program, the summer will be treated as a trailing term.

"Cost of attendance" means the sum of tuition, required fees, room, board, books and supplies, and other education-related expenses as determined by an institution for purposes of awarding federal Title IV student financial assistance.

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

"Domiciliary resident of Virginia" means a student who is determined by a participating institution to meet the eligibility requirements specified by ~~§ 23-7.4 § 23.1-502~~ of the Code of Virginia.

"Expected family contribution" or "EFC" means the amount a student and the student's family is expected to contribute toward the cost of college attendance. The EFC is calculated using information provided on the Free Application for Federal Student Aid. The institution may exercise professional judgment to adjust the student's EFC, as permitted under federal law, based on factors that affect the family's ability to pay.

"Financial need" means a maximum expected family contribution of \$8,000 based on a standard nine-month academic year. Beginning with students who are entering a participating institution as a two-year transfer student for the first time in

the fall 2012 academic year, and who otherwise meet the eligibility criteria of ~~§ 23-38.10-10~~ § 23.1-624 of the Code of Virginia, the maximum EFC is raised to \$9,000. Beginning with students who are entering a participating institution as a two-year transfer student for the first time in the fall 2013 academic year, and who otherwise meet the eligibility criteria of ~~§ 23-38.10-10~~ § 23.1-624 of the Code of Virginia, the maximum EFC is raised to \$12,000.

"First-time entering freshman" means a student attending any institution for the first time at the undergraduate level. Includes students enrolled in the fall term who attended college for the first time in the immediate prior summer term. Also includes students who entered with advanced standing (college credits earned before high school graduation).

"Free Application for Federal Student Aid" or "FAFSA" means the needs analysis form provided by the United States Department of Education, which is completed annually by students applying for federal Title IV student financial assistance and need-based financial aid programs sponsored by the Commonwealth of Virginia and that results in the calculation of the expected family contribution.

"Full-time study" means enrollment for at least 12 credit hours per semester or its equivalent in quarter hours at the undergraduate level. The total hours counted will not include courses taken for audit, but may include required developmental or remedial courses and other elective courses that normally are not counted toward a degree at the participating institution.

"Participating institution of higher education" or "participating institution" means a four-year public or private nonprofit accredited institution within the Commonwealth of Virginia whose primary purpose is to provide undergraduate collegiate education and not to provide religious training or theological education.

"Program" means the Virginia Two-Year College Transfer Grant.

"Quarter" means a division of an academic year approximately 10 to 11 weeks in length from the first day of classes through the last day of exams for the fall, winter, and spring enrollment periods.

"Satisfactory academic progress" means acceptable progress towards completion of an approved course of study as defined by the institution for the purposes of eligibility under § 668 of the Federal Compilation of Student Financial Aid Regulations.

"Semester" means a division of an academic year approximately 15 to 16 weeks in length from the first day of classes through the last day of exams for the fall and spring enrollment periods.

"Student" means an undergraduate student who is entitled to in-state tuition charges pursuant to ~~§ 23-7.4~~ § 23.1-502 of the Code of Virginia.

"Summer session" means a division of an award year consisting of one or more summer sessions normally extending from late May to August, exclusive of the participating institution's fall, winter, and spring terms.

"Term" means the fall semester or quarter, winter quarter, spring semester or quarter, or summer session.

8VAC40-150-20. Institutional application to participate.

In order to participate in the program, institutions not previously approved by the council to participate must file a formal application with the council no later than January 31 of the calendar year preceding the calendar year in which fall semester or quarter awards would first be available to students. Virginia public four-year

institutions and accredited private institutions participating in the Virginia Tuition Assistance Grant Program need not apply.

Applications shall be addressed to the council and shall include:

1. Estimates of the number of students who would be eligible to receive awards under the program in the first and second year of participation;
2. A copy of the Fiscal Operations Report and Application to Participate in Federal Student Financial Aid Programs (FISAP); and
3. Certifications from the institution's chief executive officer that the institution:
 - a. Meets eligibility requirements for participation;
 - b. Will furnish whatever data the council may request in order to verify its institutional eligibility claims;
 - c. Will promptly notify the council within 30 days following any change in governance or mission that may affect the institution's status as an eligible institution; and
 - d. By its governing body, has authorized its adherence to the requirements of this chapter, as the same are now constituted or hereafter amended, until such time as the institution may withdraw from participation in the program.

Applications must be approved and all documents must be on file before any funds are disbursed.

8VAC40-150-30. Eligibility criteria for an initial award.

In order to receive an award, the student must:

1. Be a domiciliary resident of Virginia;
2. Be a first-time entering freshman no earlier than fall 2007;
3. Have received an associate's degree at a Virginia two-year public institution of higher education;
4. Have a cumulative grade point average of at least 3.0 on a 4.0 scale upon completion of the associate's degree program;
5. Have enrolled into a participating institution by the fall or spring term following completion of the associate's degree;
6. Be enrolled for full-time study in an approved course of study;
7. Have applied for financial aid by completing the FAFSA by the institution's published deadline;
8. Demonstrate financial need; and
9. Have complied with federal selective service registration requirements, unless the following apply:
 - a. The requirement to register has terminated or become inapplicable; and
 - b. The student shows by preponderance of the evidence that failure to register was not a knowing and willful failure to register and that the student complies with federal selective service registration requirements prior to disbursement of funds.

8VAC40-150-40. Amount of awards.

Awards are subject to the following limitations:

1. Standard awards are set at a maximum of \$1,000 per award year, which is allocated at \$500 per term for up to two terms per award year. For institutions not on a semester-based calendar, council staff will determine an equivalent award per term.
2. An additional \$1,000 per year is available to students enrolled into an eligible science, teaching, engineering, mathematics, or nursing degree (STEMN) program, which is allocated at \$500 per term for up to two terms per award year. For institutions not on a semester-based calendar, council staff will determine an equivalent award per term.
3. If the general appropriation is insufficient to provide a full award to all eligible students, then the awards for all students shall be reduced proportionately.
4. Degree programs eligible for the additional amount will be identified in the council's guidance document: CTG Addendum Eligible STEMN Degree Programs.
5. Eligibility for the additional STEMN award must be checked prior to each disbursement of funds.
6. An award received by a student under the program is applied to the student's tuition and fees and cannot be prorated or reduced by the institution except in cases when the award, when combined with all other financial assistance (exclusive of the student's EFC), exceeds the student's cost of attendance.
7. CTG recipients must have their state need-based financial aid eligibility reduced by the amount of the CTG award. For purposes of recalculating eligibility for the Commonwealth Award or Virginia Guaranteed Assistance Program (VGAP) grant, the student's tuition and fees are reduced by the amount of the CTG award. These adjusted tuition and fees are then used to recalculate the CTG recipient's cost of attendance used to determine the student's eligibility for the Commonwealth Award or VGAP. In no case should a student's CTG and Commonwealth Award combine to exceed tuition and fees or the CTG and VGAP combine to exceed tuition, fees, and a book allowance.

8VAC40-150-50. Refund of awards.

A student who receives an award and who, during a term, withdraws from the institution that made the award must surrender the balance of the award. The tuition refund policy in effect at the institution will determine the amount that must be reclaimed by the institution.

8VAC40-150-60. Summer session awards.

Institutions may elect to award during trailing summer sessions as long as the student does not exceed the maximum annual award amount specified in 8VAC40-150-40.

8VAC40-150-70. Renewability of awards.

Awards may be renewed for a maximum of two award years. Students shall be limited to a total period of no more than three award years ~~or 70 attempted credit hours~~. Awards may be renewed provided that the student continues to be enrolled full-time in an approved course of study, maintains domicile in Virginia per ~~§ 23-7.4~~ § 23.1-502 of the Code of Virginia and annually:

1. Applies for financial aid by completing the FAFSA by the institution's published deadline;
2. Demonstrates continued financial need;

3. Maintains a grade point average of at least 3.0 on a 4.0 scale; and
4. Maintains satisfactory academic progress.

Students transferring from one participating institution to another shall be considered renewal students if they received an award during the prior year provided they met renewal criteria.

Students who do not initially receive an award may be considered for renewal awards provided that they meet initial eligibility criteria and continue to meet renewal criteria.

Once a student loses his classification as CTG-eligible, the student cannot reestablish such eligibility.

8VAC40-150-80. Use of funds.

A student may receive funds through one institution only. If a student is enrolled concurrently at two participating institutions and there is a formal consortium agreement in place, the student may receive funding based on the combined enrollment.

8VAC40-150-90. Responsibility of the council.

The council shall collect such student-specific information as is necessary for the operation of the program and other information deemed necessary by the council.

8VAC40-150-100. Responsibility of participating institutions.

A. Virginia public two-year colleges shall verify that the student meets the program's academic portion of the initial eligibility criteria, which includes:

1. Initial enrollment as a first-time entering freshman no earlier than fall 2007;
2. Receipt of an associate's degree; and
3. Cumulative grade point average of at least a 3.0 on a 4.0 scale upon completion of an associate's degree program.

B. Participating institutions shall:

1. Verify students meeting initial and renewal eligibility criteria not otherwise verified by the two-year college;
2. Provide reports by term to the council indicating the number of eligible students enrolled;
3. Provide annual reports to the council that will include, but not be limited to, information describing the students served, the awards received, and the number and value of awards;
4. Upon request by a student transferring to another participating institution, forward information about the student's CTG eligibility;
5. Establish and maintain financial records that accurately reflect all program transactions as they occur. The institution 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; and
6. Ensure that all unused funds are returned to the council no later than the end of the fiscal year or 20 working days after receiving written request from the council, whichever is sooner.

