



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	State Council of Higher Education for Virginia (SCHEV)
Virginia Administrative Code (VAC) Chapter citation(s)	8 VAC40-31
VAC Chapter title(s)	Chapter 31
Action title	Prohibition on Arbitration Agreements
Final agency action date	July 1, 2020
Date this document prepared	July 31, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia* (Virginia Code), the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory change will add a section to current regulations to incorporate requirements of Virginia Code § 23.1-230 B, enacted by the 2020 General Assembly (HB 375):
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1135>

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

A new Code section took effect on July 1, 2020, that provides that postsecondary schools that are certified by SCHEV may not condition the enrollment of a student on entering into an agreement that requires a student to arbitrate any dispute, or requires the student to resolve a dispute on an individual basis and waive the right to class or group action. Council staff determined that amendment of current regulations was necessary to conform to this change in the law and no agency discretion is involved. Therefore, action to amend the regulation is exempt pursuant to Virginia Code § 2.2-4006 A.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

SCHEV staff took action beginning on July 1, 2020, the date the new Code section became effective, to draft the appropriate language and begin the exempt regulation process. Such action is delegated to staff by Council and does not require Council resolution.