




COMMONWEALTH of VIRGINIA

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TO: MARGARET SCHULTZE, Commissioner
Virginia Department of Social Services

FROM: ERIC J. REYNOLDS 
Assistant Attorney General

DATE: June 8, 2017

SUBJECT: Periodic Regulation Review - 22 VAC40-690 (Virginia Child Care Scholarship Program)

I have reviewed the above-referenced regulation, which is undergoing a periodic review, to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the specified regulations and whether the specified regulations comport with applicable state law.

This regulation provides the requirements for the Virginia Child Care Provider Scholarship Program. The program provides tuition assistance to child care providers who enroll in courses specializing in child care and development. Such assistance is required under the federal Child Care and Development Block Grant.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the APA and Executive Order No. 17 (2014), and has not exceeded that authority.

If you have any questions or need additional information about these regulations, please contact me at (804) 786-3450.

cc: Kim F. Piner, Esquire
Attachment

Virginia Administrative Code
Title 22. Social Services
Agency 40. Department of Social Services
Chapter 690. Virginia Child Care Provider Scholarship Program

Part I
General Provisions

22VAC40-690-10. Definitions.

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

"Applicant" means any individual who is applying for a scholarship for college tuition.

"Child care program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period. Child care includes care provided in the child's own home as well as care provided outside of the child's home in settings such as a private home, child care center, school, camp, recreational facility, or religious organization.

"Child care provider" means a person who is currently employed or plans to work in a child care program.

"Colleges and universities" means those Virginia based public and private accredited institutions of higher learning approved by the State Council of Higher Education for Virginia. This includes all in-state accredited Virginia public colleges, universities, two-year colleges, and community colleges; and all accredited Virginia private not-for-profit and private for-profit colleges and universities.

"Course" means any undergraduate class that focuses on preparing students to be child care providers. The courses shall focus on children between birth and 12 years of age and be in the subject areas of care or development of children, the administration of child care programs, or basic language, math, and sciences skills needed to promote growth and development in children. The courses shall be approved by the department and taught by Virginia's public or private colleges and universities.

"Department" means the Virginia Department of Social Services.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from VR615-32-01:1 § 1.1, eff. July 1, 1992; amended, Virginia Register Volume 17, Issue 18, eff. September 1, 2001.

22VAC40-690-15. Purpose and intent.

The purpose of the Virginia Child Care Provider Scholarship Program is to provide tuition

assistance to child care providers. The intent of the program is to provide child care providers with a foundation in child care and child development. The anticipated benefit of an increased knowledge and skills base for child care providers will be an improved level of care provided to Virginia's children. This program is subject to the availability of funds.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 17, Issue 1, eff. September 1, 2001; amended, Virginia Register Volume 30, Issue 6, eff. January 2, 2014.

Part II

Administrative Procedures

22VAC40-690-20. Application process.

A. All persons interested in obtaining a scholarship must submit a scholarship application form to the Virginia Department of Social Services or its designee as indicated on the application.

Note: Applications are available through the Virginia Department of Social Services or the designated third-party administrator.

B. A separate application must be submitted for each semester.

C. Only complete applications, both initial and resubmitted, received by the deadline indicated on the application shall be considered.

D. Applicants shall verify that the selected courses are being offered by the selected college or university for the applicable semester prior to applying for scholarships.

E. The selection of courses or colleges and universities may not be changed once the scholarship has been awarded unless the selected class is full or has been cancelled.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from VR615-32-01:1 § 2.1, eff. July 1, 1992; amended, Virginia Register Volume 17, Issue 18, eff. September 1, 2001; Volume 24, Issue 24, eff. October 1, 2008.

22VAC40-690-30. Selection and eligibility.

A. Priority will be given to applicants currently employed in the field of child care. If funds remain available, the applications will be processed and scholarships awarded in order of date received.

B. In order for an applicant to be eligible for a scholarship, he must meet all of the following

criteria. The applicant must:

1. Be one of the following:
 - a. An employee of a child care program located in Virginia; or
 - b. Domiciled in Virginia as defined in § 23-7.4 of the Code of Virginia and (i) employed in a child care program outside of Virginia or (ii) have declared an intent to become employed in child care.
2. Select a department-approved course for which he has not previously received scholarship funds; and
3. Have no more than one occurrence of the following for courses for which the applicant received a Virginia Child Care Provider Scholarship:
 - a. Did not register for the course after receiving an award;
 - b. Did not complete the course and received a grade of "W" for withdrawal; or
 - c. Did not receive a passing grade.

In the event of such an occurrence, the department will not award future scholarships to an individual until the applicant reimburses the state for the course(s) tuition and fees that were paid to the college or university on behalf of the applicant.

C. An applicant does not have to be enrolled in or have already taken a course in early childhood education or a related major to be eligible for a scholarship.

D. Scholarships will only be awarded if the department has adequate information to process scholarship requests. The department must have received final course grades and payment information on courses that have been previously approved for scholarships. In addition, scholarships will be awarded on a conditional basis for those persons who are in jeopardy of becoming ineligible to receive a scholarship as specified in subdivision B 3 of this section. In these instances, the department will review enrollment and grade information when provided by the institution for the current enrollment period and if the applicant is in compliance with subdivision B 3 of this section, the scholarship will be fully awarded.

E. The scholarship will only pay tuition and the technology fee for each course.

F. Applicants shall not receive scholarships for more than two courses per semester.

G. Scholarships shall not be transferred between semesters or individuals.

H. Scholarships are awarded only for courses approved by the department. The department will determine whether a course meets the definition of a "course" as defined in 22VAC40-690-10.

I. Recipients may receive a total lifetime award of no more than the average tuition for eight community college courses or their monetary equivalent.

J. A recipient may use scholarship funds to attend any combination of Virginia public or

private accredited two-year or four-year institutions over a period of time.

K. All applicants will be notified in writing regarding the acceptance or denial of their application.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from VR615-32-01:1 § 2.2, eff. July 1, 1992; amended, Virginia Register Volume 17, Issue 18, eff. September 1, 2001; Volume 24, Issue 24, eff. October 1, 2008.

22VAC40-690-35. Appeal process.

A. Any person denied a scholarship who believes the denial was contrary to law or regulations may appeal the denial pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Section 2.2-4019 of the Code of Virginia provides the aggrieved party the right to request an informal conference. This request shall be made within 15 days of the date of denial. The informal conference is a fact-finding process and gives the aggrieved party an opportunity to present information that the denial decision was based on factual error or misinterpretation of facts. The aggrieved party may be required to provide verification of facts. The department then has 90 days from the date of the informal conference to issue its official decision in writing, including information concerning the aggrieved party's right to continue the appeal process pursuant to the Administrative Process Act. The informal conference may be conducted by telephone if both parties consent.

B. No person shall have a right to appeal any denial due to lack of scholarship funds, untimely application, or incomplete application.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 17, Issue 18, eff. September 1, 2001; amended, Virginia Register Volume 30, Issue 6, eff. January 2, 2014.

22VAC40-690-40. College and university agreements.

A. Colleges and universities will be notified in writing when scholarships are awarded to applicants planning to attend their institutions.

B. The department shall provide written procedures to all colleges and universities that have any student using scholarship funds regarding the operation of the scholarship program. The procedures shall address the areas of, but not be limited to, verification of Virginia residency, billing procedures, and provision of final course grades. Specifically, these institutions shall:

1. Determine whether applicants that are not employed in child care programs located in Virginia are domiciled in Virginia as defined in § 23-7.4 of the Code of Virginia and provide

the department with verification of such;

2. Provide the department each semester, but no later than at the time of billing, with the tuition rate category of each person for which the institution plans to bill or is billing the scholarship program.

3. Submit one bill to the department per institution per semester after the college's or university's published add/drop period has occurred. Colleges and universities shall submit a request for payment prior to the end of the semester for which the scholarship was awarded. Such request must be in a department-approved format; and

4. Provide the department with final course grades for classes paid for by the scholarship program within one month following the end of each semester.

C. All other eligible Virginia public and private colleges and universities may follow the procedures as outlined in subsection B of this section or place the responsibility on the student to seek reimbursement from the department.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from VR615-32-01:1 § 2.3, eff. July 1, 1992; amended, Virginia Register Volume 17, Issue 18, eff. September 1, 2001; Volume 24, Issue 24, eff. October 1, 2008.

22VAC40-690-50. [Repealed]

Historical Notes

Derived from VR615-32-01:1 § 2.4, eff. July 1, 1992.; repealed, Virginia Register Volume 17, Issue 18, eff. September 1, 2001.

22VAC40-690-55. Disbursement of funds.

For those institutions participating in the tuition reimbursement process, funds will be disbursed to the colleges and universities upon receipt of an invoice in accordance with the Commonwealth Accounting Policies and Procedures. In the event that a college or university does not choose to participate in the tuition reimbursement process, the funds will be disbursed to the recipient upon proof of tuition payment and course enrollment through the end of the college's or university's published add/drop period.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 17, Issue 18, eff. September 1, 2001; Errata, 17:21 VA.R. 3124 July 2, 2001; amended, Virginia Register Volume 24, Issue 24, eff. October 1, 2008.

22VAC40-690-60. Gathering and maintaining information.

A. The department will maintain identifying, employment, and educational information on all applicants for a minimum of five years. This information will be obtained from the applications and subsequent information submitted by the colleges or universities or recipients as requested.

B. Additional information may be requested of any applicant receiving a scholarship as the department deems necessary to carry out its accountability functions.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from VR615-32-01:1 § 2.5, eff. July 1, 1992; amended, Virginia Register Volume 17, Issue 18, eff. September 1, 2001.

22VAC40-690-65. Recipient responsibilities.

A. A recipient must submit final course grades for classes paid by the Virginia Child Care Provider Scholarship Program to the department within one month of completion of the course unless the college or university does so.

Note: All colleges and universities are requested to provide final course grades to the department for the classes paid by the scholarship program as outlined in 22VAC40-690-40 B 4. Grades will be used to determine eligibility as outlined in 22VAC40-690-30 B 3.

B. By accepting the award, the recipient agrees to participate in any surveys conducted by the department regarding the scholarship program and comply with any requests for additional information as stated in 22VAC40-690-60.

C. The recipient is responsible for all expenses related to taking the courses with the exception of the amount of the award, which only pays for tuition and the technology fee. The total lifetime award will pay the tuition and technology fee for a maximum of eight courses at the community colleges at the in-state tuition rate or the dollar equivalent of the total lifetime award, whichever comes first. Recipients shall be required to pay any additional tuition and technology fees that exceed the total lifetime award. Additional expenses for all recipients include, but are not limited to, other college or university fees, books, transportation, and child care.

Statutory Authority

§ 63.2-217 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 17, Issue 18, eff. September 1, 2001; amended, Virginia Register Volume 24, Issue 24, eff. October 1, 2008.

22VAC40-690-70. [Repealed]

Historical Notes

Derived from VR615-32-01:1 § 2.6, eff. July 1, 1992.; repealed, Virginia Register Volume 17, Issue 18, eff. September 1, 2001.

Forms (22VAC40-690)

Virginia Child Care Provider Scholarship Program Application, Form #032-05-0032-06-eng
(eff. 10/12)

