



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
Senior Assistant Attorney General

DATE: July 13, 2017

SUBJECT: Regulations Governing the Certification of Certain Institutions to
Confer Degrees, Diplomas and Certificates
Final Regulation 8VAC40-31

I have reviewed the above-referenced proposed fast-track regulatory action to determine if the State Council of Higher Education for Virginia (“Council”) has the statutory authority to promulgate the 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 comply with statutory mandate created by the adoption Chapter 298 of the 2017 Acts of Assembly. This action appears to be noncontroversial and may be promulgated as a fast-track regulation pursuant to Virginia Code § 2.2-4012.1.

It should be noted that if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Department shall (i) file notice of the objection with the Registrar of

Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in the APA.

If you have any questions, please feel free to call me at 786-0095.