

Agency Response

The Department of Planning and Budget (DPB) Economic Impact Analysis (EIA) notes that certification and religious exemption fees are increased in the proposed regulations over those collected by the Board of Education. The State Council of Higher Education for Virginia (SCHEV) reiterates that an increase in fees is necessary for several reasons. Unlike the Board of Education, SCHEV oversight of private and out-of-state postsecondary education (POPE) is not funded by the General Assembly. POPE oversight is funded solely by certification and exemption fees collected from schools operating in the Commonwealth. Like the Board of Education, SCHEV continues to process over 300 annual certification applications, initiates action against schools failing to recertify, investigates schools operating illegally, manages the Student Tuition Guaranty Fund (STGF), manages records for closed schools, investigates complaints against postsecondary schools, and promulgates regulations and policies.

Unlike the Board of Education, SCHEV provides publicity and promotes awareness of postsecondary education in the Commonwealth. These efforts include contributions to the “Opportunities” publication, an information guide for students and parents, and the maintenance of an online database allowing students to research schools under SCHEV oversight. SCHEV also conducts random and periodic audits of certified schools and retains more staff for POPE oversight than the Board of Education. SCHEV has eliminated at least six fees collected by the Board of Education. These include fees for change of location, addition and deletion of programs, addition of branch campuses, additional space approvals, and catalog review. Thus, the overall increase in fees is

required to offset the costs of additional functions as well as the elimination of certain fees and the lack of direct funding from the General Assembly.

The EIA also claims that the increase in fees for smaller postsecondary schools will have a disproportionate effect on small businesses. DPB further claims that the eight largest schools will see a decrease in total fees paid, while the smallest twenty schools will see sharp increases in total fees. Careful consideration of the data compiled by DPB shows, however, that breakdown depends on including payments into the STGF. (See the far right column of Table 2 of the EIA.) As noted in the EIA, SCHEV has eliminated payments into the STGF in favor of surety bonds and letter of credit. For this reason, SCHEV believes that fee comparisons based on STGF payments are not relevant to the current circumstances.

Further consideration of the EIA (see the second column from the right in Table 2), shows that certification fees have increased for *all but two* existing schools. Under the Board of Education fee structure, the largest school paid over forty times more for certification than the smallest school. This disproportionate sharing of certification costs is not supported by differences in effort required by SCHEV. In fact, agency experience has shown that larger schools are more likely to submit complete certification packages requiring little input from SCHEV staff. Smaller schools, on the other hand, are more likely to submit incomplete or inaccurate certification packages requiring significant effort from SCHEV staff. In effect, the previous fee structure was unfair in that it charged less to schools that were more likely require increased resources from SCHEV. Thus, SCHEV's proposed fee structure spreads to burden of increased fees to almost all

certified schools and at the same time softens the inequitable characteristics of the Board of Education fee structure.

In addition to the equitable grounds offered, the proposed fee structure is preferable to the prior structure because it is easier to administer and provides for more stable budget estimates. Under the previous fee structure, certification fees from just one school accounted for over 18 % of all fees collected and certification fees from just two schools accounted for almost 27 % of all fees collected. (See Table 1 of the EIA). Thus, under the previous fee structure, closure or relocation of one or two schools could severely compromise or cripple SCHEV's oversight efforts. This danger is particularly acute for SCHEV where additional funding from the General Assembly is not available. Under the proposed fee structure no single school accounts for more 1^{1/2} % of all fees collected. In this way, the proposed fee structure prevents the SCHEV budget from becoming too heavily dependent on any single school.

The proposed fee structure is generally easier to administer and permits more accurate budget estimates because it uses a stepped fee schedule rather than the one directly related to gross tuition receipts. Gross tuition receipts vary from year to year and the stepped fee structure provides some insulation from this variation by reducing fees only when a school drops below a specified threshold.

SCHEV maintains that an overall increase in certification fees is necessary in light of its new functions and the lack of funding from the General Assembly. Further, SCHEV maintains that the proposed fee structure is preferable because it more equitably spreads costs of certification and because it provides more stability to the SCHEV budget.