



# COMMONWEALTH of VIRGINIA

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September 14, 2015

Peter Blake  
Executive Director  
State Council of Higher Education for Virginia  
James Monroe Building  
101 North 14<sup>th</sup> Street  
Richmond, Virginia 23219

**Re: Virginia Graduate and Undergraduate Assistance Program Regulations  
(8 VAC 40-90)**

Dear Mr. Blake:

The State Council of Higher Education for Virginia ("SCHEV") has asked for a review of its authority to promulgate, amend and/or repeal the above-referenced regulations.

Under Va. Code § 2.2-4000(B)(4), the repeal of these regulations is not subject to the Virginia Administrative Process Act because the agency action relates to grants of state funds. Virginia Code § 23-9.6:1(15) vests SCHEV with the authority to promulgate such regulations as may be necessary to carry out its powers and duties under the Code. Chapter 484, Acts of Assembly of 2014, repealed §§ 23-38.19:1 through 23-38.19:2 of Title 23 of the Code of Virginia, relating to the Virginia Graduate and Undergraduate Assistance Program. Given this repeal of the statutory basis for SCHEV regulations implementing the program, it is now necessary and appropriate, and within SCHEV's authority, to repeal the regulations cited above accordingly.

I further find that the repeal of the regulations is consistent with SCHEV's statutory grant of authority and is consistent with current statutes and regulations. The proposed repeal does not appear to conflict with state or federal statutes. And the proposed repeal appears to have no Constitutional defect.

If you require additional assistance on this matter, please do not hesitate to contact me.

Respectfully,

/s/

Mike F. Melis  
Assistant Attorney General