

00-075

EDUCATION: BOARD OF EDUCATION — STANDARDS OF QUALITY.

Board of Education, and not Attorney General, has been delegated authority to determine whether Virginia law permits enrolled, full-time public school student to transfer credit for courses completed outside public school system that offers similar courses.

The Honorable Emily Couric
Member, Senate of Virginia

October 30, 2000

You ask whether Virginia law permits an enrolled, full-time public school student to transfer credits from courses completed outside the school system when the school system offers similar courses. Because the General Assembly clearly has delegated the decision-making authority on this matter to the Board of Education, I have followed the practice of other Virginia Attorneys General of declining to render an official opinion pursuant to § 2.1-118, when the request requires an interpretation of a matter reserved to another entity, such as the Board of Education.

You advise that a constituent has contacted you regarding concerns about state policy governing the transfer of credits to a student's public school record. Correspondence enclosed with your letter notes that the constituent requested the public school system to accept the transfer credits of her child for foreign language courses taken at an accredited university that awards "Carnegie" units. The school principal approved the child's request to complete a correspondence course in a foreign language that was not offered at the child's school. Similar requests made by other parents were not approved because the courses their children sought to take were offered in the regular school schedule. The Department of Education advises that Virginia's standards for accreditation allow the principal to approve correspondence courses that are not available through the school's course schedule. You relate that your constituent, acting on behalf of other parents, challenges the Department's interpretation of the accrediting standards relating to the transfer of credit for courses offered at the school. The Department maintains that children enrolled in Virginia's public schools may not transfer credits for courses taken outside the school. The Department also maintains that the accrediting standards provide opportunities for students to take courses outside their schools, with the permission of the school principal.

You relate that the Department advises that regulations governing the transfer of credits apply only to students who transfer to a public school in the Commonwealth, either from another school division or from a school outside the Commonwealth. The Department also advises that a student enrolled in a public school in Virginia, who is taking courses

and earning credit in that school, clearly is not a transfer student. The Department states that no Virginia law governs this matter. Finally, the Department advises that the issue of students' taking correspondence courses clearly is governed by the regulations authorizing credit for certain off-site instruction, and is subject to the approval of the principal under certain conditions, and not by the regulations governing transfer of credit.

Section 22.1-8 of the *Code of Virginia* vests the general supervision of the public school system in the Board of Education. Furthermore, § 22.1-16 permits the Board to "promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of [Title 22.1]." Section 22.1-253.13:4(C) requires local school boards to award diplomas to students

who earn the units of credit prescribed by the Board of Education, pass the prescribed tests, and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made for students who transfer between secondary schools and from nonpublic schools or from home instruction as outlined in the standards for accreditation.

Pursuant to its authority, the Board of Education has established regulations governing the standards for accreditation in Virginia's public schools.¹ The Board regulations authorizing the transfer of credits and credit for off-site instruction provide, respectively:

A secondary school shall accept credits received from other accredited secondary schools, including summer schools, special sessions, schools accredited through the Virginia Council for Private Education, and educational programs operated by the state. Credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted.^[2]

Students may enroll in and receive a standard or verified unit of credit for supervised correspondence courses in subjects *not available* to them through the school's schedule with prior approval of the principal. Credit shall be awarded for the successful completion of such courses when the course is equivalent to that offered in the regular school program and the work is done under the supervision of a licensed teacher, or a person eligible to hold a Virginia license, approved by local school authorities. Verified credit may be earned when the student has passed the [Standards of Learning]^[3] test associated with the correspondence course completed.^[4]

Having noted the above, I also note that a 1987 opinion of the Attorney General concludes that, in rendering official opinions pursuant to § 2.1-118, the Attorney General has declined to render such opinions when the request (1) does not involve a question of law, (2) requires the interpretation of a matter reserved to another entity, (3) involves a matter currently in litigation, and (4) involves a matter of purely local concern or

procedure.⁵ Prior opinions also conclude that a request for an official opinion made pursuant to § 2.1-118 concerning the propriety of the actions of another entity interpreting matters reserved solely to it is not subject to review by the Attorney General and must be treated as the binding determination with regard to the matter.⁶

Consequently, I must respectfully decline to render an official opinion regarding whether Virginia law permits an enrolled, full-time public school student to transfer credit for courses completed outside the school system when the school system offers similar courses.⁷ The General Assembly clearly has delegated such decision-making authority to the Board of Education.

¹See 8 VAC 20-131-10 to 20-131-340 (West Supp. 1999).

²8 VAC 20-131-60(A).

³See §§ 22.1-253.13:1 to 22.1-253.13:8 (establishing standards of quality for Virginia's public schools).

⁴8 VAC 20-131-180(B) (emphasis added).

⁵1987-1988 Op. Va. Att'y Gen. 489, 490, and opinions cited therein.

⁶Op. Va. Att'y Gen.: 1997 at 10, 12; *id.* at 133, 134; 1987-1988 140, 141; *id.* at 352, 352.

⁷The Supreme Court of Virginia has held that "the practical construction given to a statute by public officials charged with its enforcement is entitled to great weight ... and in doubtful cases will be regarded as decisive." *Bed Company v. Corporation Commission*, 205 Va. 272, 275, 136 S.E.2d 900, 902 (1964).