

EDUCATION: STANDARDS OF QUALITY - GENERAL POWERS AND DUTIES OF SCHOOL BOARDS.

Local school board must abide by legislative mandate to allow transfer of credits earned in private school or through home instruction toward award of high school diploma, subject to conditions prescribed by Board of Education. Local school board may not impose requirements inconsistent with standards of accreditation promulgated by Board.

The Honorable Joe T. May

Member, House of Delegates

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You ask whether there is any statutory requirement for a local public school district to award high school credit to a student transferring to a public school from a private or home school for academic work completed in such school.

Section 22.1253.13:4(C) of the *Code of Virginia* provides, in part:

Each local school board *shall* award diplomas to all secondary school students, *including students who transfer from nonpublic schools or from home instruction*, who earn the units of credit prescribed by the Board of Education, pass the prescribed literacy tests,^[1] 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 of accreditation.* [Emphasis added.]

Generally, a statute's plain meaning and intent should govern.² Additionally, the use of the word "shall" in a statute indicates that the General Assembly intended its terms to be mandatory.³ The proviso in § 22.1253.13:4(C) that a local school board "shall award diplomas" to all secondary school students, including those who transfer from private schools or were home instructed, is, therefore, a legislative mandate, subject to the conditions provided in the statute.

The Board of Education "is empowered to determine and prescribe standards of quality governing the school divisions in Virginia, subject to revision only by the General Assembly."⁴ Section 22.1-253.13:4(C) specifically provides that the standards of accreditation prescribed by the Board take into account students who transfer to public schools from nonpublic schools or from home instruction. The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature.⁵ Furthermore, a statute that is plainly expressed needs no interpretation or construction.⁶ Therefore, it is within the discretion of the Board of Education to determine the manner by which credits are transferred between secondary schools and from nonpublic schools or home instruction.⁷

Although § 22.1253.13:4(C) permits additional requirements as prescribed by a local school board, with approval by the Board of Education, local school boards are empowered to operate public schools and determine the studies to be pursued "[i]nsofar as not inconsistent with state statutes and regulations of the Board [of Education]."⁸ Accordingly, it is my opinion that a local school board may not impose requirements inconsistent with the standards of accreditation promulgated by the Board.

Based on the above, it is my opinion that § 22.1253.13:4(C) provides the statutory requisites by which a local school board must abide, for the allowance of credits earned in a private school or through home instruction, respectively, to be applied toward the award of a high school diploma.

¹See § 22.1253.13:4(B) (requiring local school boards to award Literacy Passports to students who pass literacy tests established by Board of Education).

²See 1996 Op. Va. Att'y Gen. 183, 184.

³See 1996 Op. Va. Att'y Gen., *supra*; *id.* at 20, 21.

⁴19861987 Op. Va. Att'y Gen. 198, 198.

⁵See *Turner v. Commonwealth*, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983).

⁶See 1996 Op. Va. Att'y Gen., *supra* note 2, at 184.

⁷Pursuant to § 22.1253.13:3(B), the Board of Education has proposed regulations containing, among others, provisions governing procedures for accreditation. See, e.g., proposed 8 VAC 20-13060 stating: "A secondary school shall accept credits received from other accredited secondary schools, including $\frac{1}{4}$ schools accredited through the Virginia Council For Private Education $\frac{1}{4}$." 13:21 Va. Regs. Reg. 2617, 2625 (1997).

⁸Section 22.179(5).