



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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MEMORANDUM

TO: MELISSA L. LUCHAU
Director for Board Relations
Virginia Department of Education

FROM: NOËLLE L. SHAW-BELL
Assistant Attorney General III

DATE: August 1, 2013

SUBJECT: Fast-Track Repeal of Regulation 8 VAC 20-640-10
Regulations Governing Substitute Teachers

I have reviewed the attached fast-track regulation to determine if its repeal exceeds the statutory authority of the State Board of Education (Board) and if the fast-track process for this repeal comports with applicable state law.

Pursuant to Virginia Code § 22.1-16, the Board has authority to promulgate regulations to carry out its statutory powers and duties. Pursuant to the legislative changes made to the Virginia Code § 22.1-302(B), the Board's mandate to promulgate this regulation has been removed. Furthermore, the requirements of the regulation have now been placed in the Code, eliminating the need for the regulation.

It is this Office's view that the State Board of Education has the authority to repeal this regulation, pursuant to the fast-track process, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 14 (2010), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-0006.

cc. Ronald C. Forehand, Sr. Assistant Attorney General and Section Chief