



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

To: Melissa L. Luchau
Director for Board Relations
Virginia Department of Education

From: Mona H. Siddiqui *Mona Siddiqui*
Assistant Attorney General

Date: June 10, 2015

Re: Proposed Regulation 8 VAC 20-81-30 Regulations Governing Special Education Programs for Children with Disabilities in Virginia. Responsibilities of Local School Divisions and State-Operated Programs (*Exempt Action*)

Proposed Regulation 8 VAC 20-81-90 Regulations Governing Special Education Programs for Children with Disabilities in Virginia. Termination of Special Education and Related Services (*Exempt Action*)

Proposed Regulation 8 VAC 20-81-100 Regulations Governing Special Education Programs for Children with Disabilities in Virginia. Free Appropriate Special Education (*Exempt Action*)

(Action 4308, Stage 7136)

I have reviewed the proposed regulations, the text of which was electronically mailed to me on June 3, 2015, to determine whether the State Board of Education (Board) has the authority to promulgate the regulation and if the proposed regulation comports with applicable state law. Pursuant to the *Code of Virginia* §22.1-16, the Board has authority to promulgate regulations to carry out its statutory powers and duties. Additionally, pursuant to the *Code of Virginia* §22.1-215, the Board has authority to promulgate regulations governing responsibilities of local school divisions and state-operated programs relating to virtual school students, and prescribe by regulation the requirements for high school equivalency examinations.

It is this Office's view that the Board has the authority to promulgate this proposed regulation, subject to compliance with Virginia Office of the Governor Executive Order 17 (2014), and has not exceeded that authority. It is also this Office's view that this regulatory action is exempt from Article 2 of the Administrative Process Act. In accordance with the provisions of §2.2-4006(A)(4)(a), the proposed amendments to these regulations are solely to align them with the changes made to the 2014 General Assembly by the adoption of HB 1086 and HB 1007. The Virginia Department of Education had no discretion.

If you have any questions or concerns, please contact me at the address above, by telephone at (804) 786-1068 or by electronic mail at msiddiqui@oag.state.va.us. Thank you.

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

Wendell C. Roberts, Assistant Attorney General