



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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MEMORANDUM

To: Emily V. Webb, Director
Office of Board Relations
Virginia Department of Education

From: Susan B. Williams
Senior Assistant Attorney General

A handwritten signature in blue ink, reading "Susan B. Williams".

Date: October 4, 2021

Re: Amendments to the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* to Comport with Legislation passed by the General Assembly during 2021 Special Session I [8 VAC 20 - 81] (Exempt Action) (Action 5847 / Stage 9433)

I have reviewed the version of the final regulation identified above that was submitted to the Virginia Regulatory Town Hall on September 27, 2021 at 3:53 pm in order to determine whether the State Board of Education (Board) has the authority to promulgate the regulation and if the regulation comports with applicable state law.

Pursuant to § 22.1-16 of the *Code of Virginia*, the Board has authority to promulgate regulations to carry out its statutory powers and duties. In addition, pursuant to § 22.1-216 of the *Code of Virginia*, the Board of Education has the authority to promulgate regulations related to special education programs for children with disabilities. Finally, these amendments to the regulations are required by Chapter 170, Chapter 451, and Chapter 109 of the *2021 Special Session I Acts of Assembly*.

It is the view of this Office that the Board has the authority to promulgate this final regulation, subject to compliance with Virginia Office of the Governor Executive Order 14 (2018), and that the Board 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 pursuant to *Code of Virginia* § 2.2-4006 (A)(4)(a).

If you have any questions or concerns, please feel free to contact me at the address above, by telephone at (804) 371-8721 or by electronic mail at swilliams@oag.state.va.us.

cc: Deborah A. Love, Senior Assistant Attorney General/Section Chief