



COMMONWEALTH of VIRGINIA
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Dr. Patricia I. Wright.
Superintendent of Public Instruction
Department of Education
Monroe Building
101 North 14th Street
Richmond, VA 23219

**Re: Regulations Governing Standards for State-Funded Remedial Programs
Participation (8 VAC 20-630-10 *et seq.*)**

Dear Dr. Wright:

You ask whether the Board of Education possesses the requisite authority to amend the above-referenced regulations.

Section 22.1-16 vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. In addition, § 22.1-199.2 specifically requires regulations in this area. Chapter 61 of the 2010 Acts of Assembly amended § 22.1-199.2 to remove certain reports previously required of local school boards. The proposed amendment to the regulation simply brings the regulation into compliance with the amended law. Thus, the Board's action in amending the regulation is exempt from Article 2 of the Administrative Process Act by virtue of § 2.2-4006.A.4.a. Accordingly, it is my view that the Board possesses the requisite authority to adopt and amend the above-referenced regulations.

The foregoing represents my personal view and is not an official opinion of the Attorney General. If you require additional assistance on this matter, please do not hesitate to contact me.

Yours truly,

Deborah A. Love
Senior Assistant Attorney General