



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Leonard G. Cooke, Director
Department of Criminal Justice Services

FROM: James Towey
Assistant Attorney General

DATE: April 9, 2004

SUBJECT: Regulations Relating to School Security Officers – 6 VAC 20-240-10 *et seq.*

In response to a request from the Department of Criminal Justice Services (“Department”) regarding the adoption of regulations pursuant to Virginia Code § 9.1-102(45), I am of the opinion that these regulations qualify as “emergency regulations” pursuant to Virginia Code § 2.2-4011(A)(i), given the existence of an imminent threat to public safety.

Virginia Code § 9.1-102 was amended by the 2002 Session of the General Assembly¹ to require the Department to establish compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers. A “school security officer” is defined by § 9.1-101 as an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students for violating the law or school board policies on school property or at school-sponsored events and who is responsible for ensuring the safety, security, and welfare of all students, faculty, staff and visitors to the school.

The training standards required to be established by § 9.1-102 shall include the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The training and certification will be administered by the Virginia Center for School Safety pursuant to § 9.1-184.

The legislation requiring the establishment of minimum training standards and in training curricula and certification requirements also provided that, effective July 1, 2002, no person employed by a local school board as a school security officer shall be eligible for appointment as a conservator for purposes of maintaining

¹ 2002 Va. Acts c. 836.

safety in a public school. Consequently, since that date, and without the promulgation of the regulations mandated by § 9.1-102(45), the qualifications, training, and standards for school security officers have been determined separately by each individual school division. While some school divisions have instituted extensive oversight of their school security officers, other school divisions have provided little or no oversight at all. Promulgation of the regulations pursuant to § 9.1-102(45) will ensure that uniform standards are applied to all school security officers throughout the Commonwealth. The immediate promulgation of regulations will improve public school safety by implementing uniform qualifications, training, and standards for all school security officers. Such promulgation will also serve to protect students and faculty against incompetent or unqualified persons performing the functions of school, security officers.

Thus, upon review of the above-referenced provisions of the Virginia Code as well as the proposed regulations submitted, in light of the imminent threat to school safety raised by the Department without their promulgation, and in accordance with Executive Order 21 (2002), it appears that the Department has the authority to implement the proposed regulations as “emergency regulations” pursuant to § 2.2-4011(A)(i).

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.