



**COMMONWEALTH of VIRGINIA**  
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September 30, 2004

Dr. Jo Lynne DeMary  
Superintendent of Public Instruction  
Department of Education  
Monroe Building  
101 North 14<sup>th</sup> Street  
Richmond, VA 23219

**Re: Rules Governing Classification of Expenditures**  
**(8 VAC 20-210-10)**

Dear Dr. DeMary:

You ask whether the Virginia Board of Education possesses the requisite statutory authority to amend its regulations governing Classification of Expenditures

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. Additionally, § 22.1-115 directs the Board to prescribe listed major classifications for expenditures of school funds. In my view, therefore, the Board possesses the requisite authority to promulgate these regulations.

Certain agency actions are exempted from the requirements of Article 2 of the Administrative Process Act, §§ 2.2-4000 *et seq.* of the Code of Virginia. Among these are regulations that are “[n]ecessary to conform to changes in Virginia statutory law or the appropriations act where no agency discretion is involved.” Code § 2.2-4006.A.4.a. In my view, this proposed changes to this regulation fall within this exemption.

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

Sincerely,

Deborah Love Feild  
Senior Assistant Attorney General