



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring
Attorney General

202 North 9th Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120

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 black ink, appearing to read "Susan B. Williams".

Date: November 4, 2021

Re: Amendments to the *Regulations Governing the Operation of Private Schools for Students with Disabilities* (8VAC20-671) and the *Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia to Conform Definitions of "Traumatic Brain Injury"* (8VAC-20-750) (Fast Track) (Action 5871 /Stage 9478)

I have reviewed the amendments to the regulations identified above in order to determine whether the State Board of Education (Board) has the authority to promulgate the regulations and if the regulations comport 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.

It is the view of this Office that the Board has the authority to adopt these fast-track regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Virginia Office of the Governor Executive Order 14 (2018), and that the Board has not exceeded that authority.

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