



COMMONWEALTH of VIRGINIA
Office of the Attorney General
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MEMORANDUM

TO: Jim Chapman, Director
Office of Board Relations
Virginia Department of Education

FROM: Deborah A. Love *DAL*
Senior Assistant Attorney General

DATE: May 15, 2023

SUBJECT: Emergency Regulations to Amend the Licensure Regulations for School Personnel (8VAC20-23) to Extend the Expiration for Renewable Licenses

I have reviewed the proposed regulatory action described above in order to determine whether: (1) the State Board of Education (Board) has the authority to promulgate the regulations; (2) the regulations comport with applicable law; and (3) circumstances exist that render the promulgation of emergency regulations necessary.

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 § 22.1-298.1 of the *Code of Virginia* states in part that the Board “shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license.”

In addition, Section 2.2-4011(A) of the Code of Virginia states that “[r]egulations that an agency finds are necessitated by an emergency situation may be adopted by an agency upon consultation with the Attorney General, which approval shall be granted only after the agency has submitted a request stating in writing the nature of the emergency, and the necessity for such action shall be at the sole discretion of the Governor.”

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I have reviewed the Agency Background Document and the text of the proposed regulation, and it is my view that the circumstances support the promulgation of an emergency regulation. I further conclude that the Board of Education has the authority to promulgate this regulation and that the regulation does not conflict with applicable state law. To the extent that § 2.2-4011(A) requires the approval of the Office of the Attorney General, such approval is hereby granted.

If you have any questions or concerns, please feel free to contact me at the address above, by telephone at (804)786-3807 or by electronic mail at dlove@oag.state.va.us.