



**COMMONWEALTH of VIRGINIA**  
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December 23, 2004

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

**Re: Procedures for Adjusting Grievances**  
**8 VAC 20-90-10 *et seq.***

Dear Dr. DeMary:

You ask whether the Board of Education has the requisite authority to amend the above-referenced regulations, and whether the proposed amendments are exempt from the full regulatory process of the Virginia Administrative Process Act, §§ 2.2-4000 *et seq.* of the Code of Virginia.

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 § 22.2-308 directs the Board to prescribe a grievance procedure.

The proposed changes incorporate changes made to the Code of Virginia, as well as making technical corrections. As such, it is my view that under § 2.2-4006.A, the amendments are exempt from Article 2 of the Administrative Process Act.

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

