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TO: Christopher E. Piper
Commissioner
Virginia Department of Elections

FROM: Carol L. Lewis
Assistant Attorney General 

DATE: August 3, 2021

SUBJECT: *Requirements for Third Parties Mailing and Assembling Absentee Ballots*, 1 VAC
20-70-90

I have reviewed the proposed regulation under 1 VAC 20-70-90, regarding requirements for third parties mailing and assembling absentee ballots. This regulation was approved by the State Board of Elections. In my view as counsel to the State Board of Elections, it has the authority to promulgate this regulation pursuant to Virginia Code § 24.2-103. This action is exempt from the operation of the Administrative Process Act under Virginia Code § 2.2-4002(B)(8), as it relates to the conduct of elections. The proposed regulation does not appear to conflict with the Constitution of the Commonwealth of Virginia, or any federal or state law currently in effect.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed amendment.