



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

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## 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 that reads "Susan B. Williams".

**Date:** December 19, 2019

**Re:** Revisions to the *Regulations Governing the Testing of Sight and Hearing of Pupils* [8 VAC 20-250-10]  
(Action 5386 / Stage 8761) (Fast Track)

I have reviewed the version of the revisions to the regulation identified above that were submitted to the Virginia Regulatory Town Hall on December 5, 2019 at 12:28 pm in order to determine whether the State Board of Education (Board) has the authority to promulgate the regulation and if the regulation comports with applicable state law.

Pursuant to the *Code of Virginia* § 22.1-16, the Board has authority to promulgate regulations to carry out its statutory powers and duties. In addition, § 22.1-273 of the *Code of Virginia* specifically requires that the testing of the sight and hearing of public school students occur within time periods and at grade levels provided in regulations promulgated by the Board of Education.

It is the view of this Office that the Board of Education has the authority to revise these regulations using the fast-track process, 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](mailto:swilliams@oag.state.va.us). Thank you.

cc: Deborah A. Love, Senior Assistant Attorney General/Section Chief