



COMMONWEALTH of VIRGINIA
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Jason S. Miyares

To: James Chapman, Director
Office of Board Relations
Virginia Department of Education

From: Deborah A. Love *DAL*
Senior Assistant Attorney General/Chief

Date: August 31, 2024

Re: Proposed Amendments to the *Regulations Governing Special Education Programs for Students with Disabilities* to Comport with Chapters 468 and 502 of the 2024 Acts of Assembly (8VAC20-81-10, -110)

I have reviewed the amendments to the regulations identified above 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, the Board has the duty to “prepare and supervise the implementation by each school division of a program of special education.” See Code of Virginia § 22.1-214. Lastly, I note that these changes are required by Chapters 468 and 502 of the 2024 Acts of Assembly.

It is my view that the Board has the authority to promulgate this final regulation, and that the Board has not exceeded that authority. It is also my view that this noncontroversial regulatory action may proceed on fast-track adoption pursuant to *Code of Virginia* § 2.2-4012.1.

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.

