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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: Revisions to the Align 8VAC20-23-90 to Comply with Chapter 183 of the 2024 *Acts of the Assembly*

I have reviewed the version of the final regulation identified above 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 § 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 is required to “establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.” *Code of Virginia* § 22.1-253.13:2 (A). Moreover, the Board has the duty to “prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license.” *Code of Virginia* § 22.1-298.1 (B). Lastly, these regulatory changes are required by Chapter 183 of the 2024 Acts of Assembly.

It is my view that the Board has the authority – and duty – to promulgate this final regulation, and that the Board has not exceeded that authority. It is also my view that this regulatory action is exempt from Article 2 of the Administrative Process Act pursuant to *Code of Virginia* § 2.2-4006 (A)(4)(a).

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.