



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

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MEMORANDUM

TO: Emily V. Webb, Director
Office of Board Relations
Virginia Department of Education

FROM: Deborah A. Love *DAL*
Senior Assistant Attorney General

DATE: August 17, 2022

SUBJECT: Amendments to VAC 20-23-360: Licensure Regulations for School Personnel
(Changes to ASL national certifications)

I have reviewed the amendments to the regulations identified above in order 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, pursuant to § 22.1-253.13:2 of the *Code of Virginia*, the Board of Education has the authority to establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel; § 22.1-298.1 of the Code authorizes the Board of Education to promulgate regulations related to the requirements for the licensure of teachers and other school personnel required to hold a license.

It is the view of this Office that the Board has the authority to adopt these fast-track regulations, subject to compliance with the provisions of Article 2 of the Administrative

Process Act and Virginia Office of the Governor Executive Order 14 (2018)¹, 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)786-3807 or by electronic mail at dlove@oag.state.va.us.

¹ This Executive Order has been replaced by Executive Order 19 (2022), which by its terms applies to regulatory activity initiated on or after July 1, 2022. The subject regulation was initiated prior to July 1, 2022, and so is not governed by EO 19 (2022).