



COMMONWEALTH of VIRGINIA
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March 18, 2004

Dr. Jo Lynne DeMary
Superintendent of Public Instruction
Department of Education
Monroe Building
101 North 14th Street
Richmond, VA 23219

Re: Proposed Regulations for Scoliosis Screening Program

Dear Dr. DeMary:

You ask whether the Virginia Board of Education possesses the requisite statutory authority to promulgate the above proposed regulations concerning the screening of public school students for scoliosis.

Chapter 894 of the 2003 Acts of Assembly (codified at § 22.1-273.1) directs local school boards to implement programs for either parental education about scoliosis, or the regular screening of students. The chapter provides:

Within the time periods specified in regulations promulgated by the Board of Education, each school board shall provide parent educational information or implement a program of regular screening for scoliosis for pupils in grades five through ten, unless such students are pupils admitted for the first time to a public school who have been so tested as part of the comprehensive physical examination required by § [22.1-270](#) or the parents of such students have indicated their preference that their children not participate in such screening. Local school boards shall develop procedures for parents to indicate such preference.

The Board of Education shall promulgate regulations for the implementation of such screenings, which shall address, but shall not be limited to, requirements and training for school personnel and volunteers who may conduct such screenings; procedures for the notification of parents when evidence of scoliosis is detected; and such other provisions as the Board deems necessary. Local school divisions may seek volunteers from among professional health care providers.

This enactment grants the Board of Education sufficient statutory authority to promulgate the proposed regulations, which I have reviewed. In my judgment, the proposed regulations are within the authority delegated to the Board of Education, and address the areas required by the statute.

The foregoing represents my views and does not constitute an official opinion of the Attorney General. If you require additional assistance from me on this matter, please do not hesitate to contact me.

Sincerely,

Deborah Love Feild
Assistant Attorney General