



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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MEMORANDUM

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TO: MELISSA L. LUCHAU
Director for Board Relations
Virginia Department of Education

FROM: WENDELL C. ROBERTS
Assistant Attorney General

A handwritten signature in blue ink, appearing to read "Wendell C. Roberts", is written over the printed name of the sender.

DATE: April 16, 2014

SUBJECT: Repeal current; Promulgate New *Regulations Governing the Operation of Private Schools for Students with Disabilities. 8 VAC 20-671 et. seq.*

I have reviewed the proposed regulation, the text of which was electronically mailed to me on March 13, 2014, to determine if the State Board of Education (Board) has the authority to promulgate the regulation and if the proposed regulation comports with applicable state law.

Pursuant to Virginia Code § 22.1-16, the Board has authority to promulgate regulations to carry out its statutory powers and duties. Additionally, pursuant to the Virginia Code §§ 22.1-323, and 323.1, the Board has authority to issue full, provisional, and conditional licenses to operate day and residential schools in Virginia for students with disabilities.

It is this Office's view that the State Board of Education has the authority to promulgate this permanent proposed regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 14 (2010), and has not exceeded that authority.

If you have any questions, please feel free to call me at 804-371-8721.

cc. Ronald C. Forehand, Sr. Assistant Attorney General and Section Chief
Noelle Shaw-Bell, Assistant Attorney General III