



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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MEMORANDUM

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

From: Susan B. Williams
Assistant Attorney General

A handwritten signature in black ink, appearing to read "Susan B. Williams".

Date: March 1, 2018

Re: Proposed *Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia* [8 VAC 20 - 750] (Action 4336 /Stage 7894)

I have reviewed the version of proposed regulation identified above that was submitted to the Virginia Regulatory Town Hall on February 14, 2018 at 4:01 PM 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 the *Code of Virginia* § 22.1-16, the Board has authority to promulgate regulations to carry out its statutory powers and duties. In addition, § 22.1-279.1:1 of the *Code of Virginia*, which was enacted by the 2015 General Assembly, specifically requires the Board to promulgate regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that are consistent with the Board's *Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations* and the Fifteen Principles contained in the U.S. Department of Education's *Restraint and Seclusion: Resource Document*.

It is the view of this Office that the Board has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Virginia Office of the Governor Executive Order 17 (2014), 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) 371-8721 or by electronic mail at swilliams@oag.state.va.us. Thank you.

cc: Carrie S. Nee, Senior Assistant Attorney General/Section Chief