



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

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## MEMORANDUM

**To:** Melissa L. Luchau  
Director for 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:** November 29, 2016

**Re:** Final Regulation 8 VAC 20-22 Licensure Regulations for School Personnel (*Exempt Action*)  
(Action 4685 /Stage 7724)

I have reviewed the final regulations identified above 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 the *Code of Virginia* §22.1-16, the Board has authority to promulgate regulations to carry out its statutory powers and duties. Additionally, pursuant to the *Code of Virginia* §22.1-298.1, the Board has the authority to prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license.

It is this Office's view that the Board has the authority to promulgate this final regulation, subject to compliance with Virginia Office of the Governor Executive Order 17 (2014), and that the Board has not exceeded that authority. It is also this Office's view that this regulatory action is exempt from Article 2 of the Administrative Process Act. In accordance with the provisions of §2.2-4006(A)(4)(a), the proposed amendments to these regulations are necessary to conform the regulations to changes in Virginia statutory law, and such amendments only align the regulations with the changes made by the 2016 General Assembly through the adoption of HB 842. Moreover, the Virginia Board of Education had no discretion.

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](mailto:swilliams@oag.state.va.us). Thank you.

cc: Ronald C. Forehand, Sr. Assistant Attorney General and Section Chief  
Mona H. Siddiqui, Assistant Attorney General