



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

202 North Ninth Street
Richmond, Virginia 23219
804-786-2071
804-371-8947 TDD

Jason S. Miyares

To: James Chapman, Director
Office of Board Relations
Virginia Department of Education

From: Deborah A. Love *DAL*
Senior Assistant Attorney General/Chief

Date: August 31, 2024

Re: Revisions to the Align 8VAC20-790-40 to Chapter 286 of the 2024 *Acts of the Assembly*

I have reviewed the version of the final regulation identified above 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 § 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, the Board's statutory authority to adopt, develop, or amend regulations for child day programs is found in § 22.1-289.046(A) of the Code of Virginia. Moreover, this change is necessitated by Chapter 286 of the 2024 Acts of Assembly.

It is my view that the Board has the authority – and duty – to promulgate this final regulation, and that the Board has not exceeded that authority. It is also my view that this regulatory action is exempt from Article 2 of the Administrative Process Act pursuant to *Code of Virginia* § 2.2-4006 (A)(4)(a).

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.