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MEMORANDUM

TO: Jenna Conway
Superintendent of Public Instruction
Virginia Department of Education

FROM: J.C. LaRiviere
Assistant Attorney General

DATE: July 27, 2026

SUBJECT: Certification of Regulations Governing Pupil Transportation (8VAC20-70) [Amend]
– Fast-Track

I have reviewed the amendments to the 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 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, Code of Virginia § 22.1-176 and § 22.1-177 authorize the Board to promulgate regulations concerning the transportation of pupils and “make regulations relating to the construction, design, operation, equipment, and color of public school buses and shall have the authority to issue an order prohibiting the operation on public streets and highways of any public school bus that does not comply with such regulations.” Further, the proposed regulatory action aligns with the Code of Federal Regulations 49 CFR § 380.605 by requiring instructors to hold a commercial driver’s license with endorsements that either meet or exceed the level of the course for which they provide instruction. The proposed regulatory action also aligns with Section 10.4.3 of the Department of Motor Vehicles Commercial Driver’s License Manual by requiring school bus drivers to keep hazard lights on while crossing railroad tracks.

It is my view that the Board has the authority to adopt these fast-track regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Virginia Office of

the Governor Executive Order 17 (2026), and that the Board has not exceeded that authority. The changes do not conflict with federal or state law.

If you have any questions or concerns, please feel free to contact me at the address above, by telephone at (804) 371-0667 or by electronic mail at JLaRiviere@oag.state.va.us.