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MEMORANDUM

TO: Harold W. Clarke, Director
Virginia Department Corrections
P.O. Box 26963
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FROM: Phillip O. Figura
Assistant Attorney General

DATE: 1/19/2022

SUBJECT: Periodic Review Regulations Governing Public/Private Joint Venture Work Programs
Operated in a State Correctional Facility 6 VAC 15-28

In response to a request from the Virginia Department of Corrections, I reviewed 6 VAC 15-28 to ensure statutory authority for the regulations on Public/Private Joint Venture Work Programs Operated in a State Correctional Facility. This is a periodic review is exempted from Article 2 of the Administrative Process Act.

Upon review of the aforesaid, these regulations were established under authority of § 53.1-5 and 53.1-45.1 of the Code of Virginia which were amended by the 2003 Acts of the General Assembly to divest the Board of the authority to promulgate these regulations. As a result, the Board of Local and Regional Jails no longer has the authority to promulgate regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility. Given this, I find that the statutory authority for 6 VAC 15-28 no longer exists and this regulation is no longer needed. This action is exempted from Article 2 of the Administrative Process Act to conform to changes in statutory law pursuant to Virginia Code § 2.2-4006(4)(a).

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action