

# Legislative Positions

of the  
Virginia School Boards Association

January 2022



**VSBA**

**Virginia School Boards Association**

Leadership • Advocacy • Support



## **About VSBA**

The Virginia School Boards Association is a voluntary, **self-supporting, and nonpartisan organization** whose primary mission is the advancement of education through the unique American tradition of local citizen control of, and accountability for, the Commonwealth's public schools. In this way, education policy is decided by local school boards that are directly accountable to the community. VSBA promotes the quality of education through services to local school boards. It represents school boards' interests before the legislature, state agencies, Congress, and other state and national regulatory bodies.

Membership of the VSBA includes all local school boards of Virginia. Founded in 1906, VSBA represents the Commonwealth's school boards, who in turn, govern the schools attended by 100% of the public school children in Virginia.

The mission of the VSBA is to provide member boards with services, training, and advocacy so that they may exercise effective leadership in public school governance on behalf of public education for all the children of the Commonwealth.

# **Legislative Positions of the Virginia School Boards Association**

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## **The Development of Legislative Positions by the Virginia School Boards Association**

All legislative position statements of the Virginia School Boards Association are approved by the Delegate Assembly of the Association at the Annual Convention which is held during the fall of each year. The Legislative Positions Committee is charged in the Bylaws of the Association with the responsibility to solicit and review legislative position proposals from member boards, preview and project future needs for legislation, and recommend new or modified legislative positions to the Board of Directors.

Each spring the Legislative Positions Committee contacts each school board in Virginia and asks for its recommendations on new legislative positions that should be considered by the Association. When sufficient time has elapsed, the Committee meets and reviews all suggestions. Legislative positions recommended by the Committee are then presented to the Board of Directors for approval and distributed to each school board and to the Delegate Assembly.

During the Delegate Assembly, all proposed new legislative positions are submitted for adoption or rejection by the Assembly which is composed of one person from each member school board, chosen as the official spokesman for his or her board. At this time any official delegate may submit for adoption any proposed new legislative position or may propose the alteration or deletion of an old position.

An officially adopted legislative position of the Association remains in effect until it is revised or deleted by official action. The Virginia School Boards Association is a voluntary association of member boards from diverse regions of the state with equally diverse problems and obligations. It would not be expected that all boards agree on specific legislative positions; however, it is believed that such statements of the Association, by the nature of their development, represent the majority opinion of school boards in Virginia. No school board in Virginia is bound by any legislative position of the Association.

The Virginia School Boards Association does not endorse candidates for public office or support the contribution of public funds to such candidates. The methods used by the Association in achieving its objectives are persuasion, the use of objective information, and logical steps in problem solving.

## The Development of VSBA Lobbying Positions, Testimony and Strategy

### VSBA Lobbying Process: Part I

Each year new board members ask how positions, testimony, and lobbying strategy are developed by the VSBA.

The VSBA Board of Directors has reaffirmed every four or five years since 1976, the policy and practice that is followed by the VSBA staff and leadership in their lobbying efforts on behalf of the membership. Based upon a process recommended in 1976 by Betty Blystone, a past VSBA President from Falls Church City, the following agenda item has been reaffirmed by the VSBA Board of Directors every 4-5 years:

*SUBJECT:* VSBA Lobbying Authority and Strategy

*RECOMMENDATION:* It is recommended by the President that the President, Legislative Positions or Federal Relations Committee Chair, and staff be authorized to develop lobbying strategies, to express the views of the Association, and to take appropriate action or make decisions related to legislative or state or federal policy issues based on explicit or implied VSBA Legislative Positions or past practice.

*RATIONALE:* This reaffirmation is sought every 4-5 years since 1976 as the membership of the board of directors changes. The key members of the Board and staff need the ability to interpret and make “on the spot” decisions during the hectic deliberations of the General Assembly/Congress or in between meetings of the Board of Directors. This authority has been reaffirmed every time since 1976. Without this authority, the VSBA would be rendered ineffective and reduced to a “monitoring” versus “lobbying” entity which was the case prior to 1976.

**It has been past practice for the staff (Executive Director) to inform and seek permission from the President to commit the VSBA to issues or to make decisions recommended by staff lobbyists and/or Legislative Positions/federal relations committee chairmen in all cases of an unusual nature, or if the issue is not clearly and specifically covered by existing Legislative Positions. There never has been any unilateral decision made by staff.**

ESTIMATED COSTS: None

LEGAL REFERENCE: VSBA By-laws:  
Article II (purpose 1, 2, 3)  
Article V, Sections 1, 3  
Article VIII, Sections 2-4  
Article X, and Article XI, Section 3  
Reaffirmed June, 2003

The reasons for this policy and practice are twofold. One, there are more than 1000 bills introduced annually related to education. Education bills usually comprise a large percentage of all bills annually introduced. Most bills (topics) are not known or printed until close to the day of “cross-over” (the House & Senate exchange of bills). Legislative committees and subcommittees meet at odd times (6:00 a.m., 10:00 p.m., on a minute’s notice, or without notice) and in odd places (conference rooms, offices, stairwells, restaurants, etc.). **It is impossible to consult the VSBA Board or the membership on hundreds of bills. So, over the years the VSBA has followed the practice originally presented by and adopted at the recommendation of former president Blystone, Falls Church.**

Second, the Executive Director and staff always have believed that they should not substitute their judgments for the elected leaders (VSBA Presidents, Legislative Positions Committee Chair and the members of the VSBA Board). **If a bill is not clearly covered by one of the Legislative Positions adopted by the VSBA Delegate Assembly or by a position statement adopted by the VSBA Board of Directors, it is the practice of the Executive Director to consult the VSBA President as to what should be both the position and testimony of the staff.** The VSBA staff makes no independent decisions or judgments about

any legislative issues. Perhaps that has been a major reason for the success of the VSBA, on behalf of local school boards, throughout the years.

## **The Development of VSBA Lobbying Positions, Testimony and Strategy**

### VSBA Lobbying Process: Part II

The VSBA Lobbying Process: Part I provides an explanation of staff lobbying, operational policy and process. That, however, is only half of the VSBA lobbying process story. Herein is a description of the “rest-of-the-story,” - the most important part of the lobbying story.

During the General Assembly session, VSBA Lobbyists and the Executive Director are in daily contact discussing the issues, the bills introduced and the VSBA policies that drive our testimony and lobbying efforts. They identify which lawmakers need to be contacted personally, which lawmakers’ legislative aides need to be contacted, and which lawmakers’ offices they need only to leave statements, position papers, etc. They then decide which of the VSBA staff will make contacts with appropriate lawmakers - the Executive Director usually via telephone, the Lobbyists personally - or **which lawmaker needs to be visited, written to or telephoned by local school board members**. In the latter case, board members from the hometowns/districts contact the lawmakers who author important bills or serve on the committee that will approve, kill or amend the bill are identified. The Executive Director and Lobbyists will call those board members and/or board chairmen from the school divisions represented by each lawmaker on the committee who are crucial votes for our position. They will explain to those board members the issue, the VSBA policy under which they operate, and the VSBA position as called for by that policy or as agreed upon by the VSBA President after consultation with VSBA staff as described in “VSBA Lobbying Process: Part I.” On some occasions the VSBA officers will have to be connected via telephone conference call to ascertain a VSBA position when policy does not clearly indicate a position.

Local board members are contacted by this process as a first means of direct contact. Indirectly, the VSBA Legislative Alert is e-mailed frequently during the session, briefly describing the issues and requesting local board members to call, write or visit personally their area lawmakers. The Alerts are received immediately by 75% of the board members.

Finally, special requests are made of local board members concerning crucial issues. They are encouraged to call or e-mail their lawmakers to make their positions known. Callers may leave messages for a VSBA staff member to call them for further information/explanations. VSBA officers and members of the VSBA Board of Directors may be called upon to make statements to legislative committees. Local board members from the hometowns/school divisions of the lawmakers hearing certain bills may be asked to call or e-mail their state legislator.

**The most effective lobbying is done by board members in their home districts directly with their lawmakers.** Experience has shown this to be the most effective lobbying process. **Lawmakers have little interest hearing from people who do not vote for them.** Board members are encouraged to meet with legislators at home prior to the General Assembly to discuss generic issues and at any other times—weekends/holidays that they are home.

**The “VSBA Take Your Legislator to School Month (VSBA TYLTSM)”, initiated in 2002 is always the month of November. Please reserve time during November to invite your state legislators to visit your schools to see your “needs” as well as your successes.**

Board members also are encouraged to contact and meet with their legislators during the first half of each session. **But the fact is, only after “cross-over day” (a) are all bills in final form known and (2) lawmakers can be pinned down to support or oppose bills.** Even then, it is not a precise act. Politics - the art of compromise - really begins to operate after “cross-over day.” The VSBA “Day-at-the-Capitol” is scheduled to coincide with the “cross-over day” so that school board members can have more interaction and influence during visits with their legislators in Richmond. No matter what a legislator in November or January told you, February and March are the times they need to be lobbied strenuously.

We hope that this overview sufficiently explains the work of the VSBA officers and staff in their efforts to involve local board members in the VSBA lobbying process.

## **Individual Member vs. School Board vs. VSBA Positions**

### VSBA Lobbying Process: Part III

The VSBA Delegate Assembly Handbook contains detailed explanations about the VSBA Delegate Assembly (VSBA's "legislative body" composed of representatives of the 132 member boards) and the VSBA lobbying process, as to how the Association determines its legislative positions. (See also the March and April 1996 VSBA Newsletters). These documents responded to questions about the VSBA governance structure and how VSBA legislative positions are determined. Following is a further explanation of how VSBA positions relate to differing legislative positions that local school boards and individual school board members may have.

In the spring of each year, the VSBA begins an eight-month process to determine statewide legislative positions for the next year. This process has numerous steps: (1) position proposals from member boards are solicited (usually in March or April); (2) the VSBA Legislative Positions Committee reviews them (July) and forwards the proposed new or modified positions to the VSBA Board of Directors, which (3) considers them (August) and recommends changes to the VSBA Delegate Assembly (November), which, in turn, (4) approves, deletes, revises and proposes changes to old and new legislative positions.

This process ensures two things: First, that each member school board has an opportunity to propose additions, deletions or changes to the VSBA Legislative Positions and secondly, that each member school board, through its discussion of VSBA position proposals prior to, and through its elected representative at the Delegate Assembly, has the opportunity to debate, agree, disagree and vote to support or oppose a particular legislative position statement.

**Just as actions taken by your local board, regardless of the vote tally, become official actions/positions of the board, actions taken by the VSBA Delegate Assembly become official actions/positions of the VSBA and its member boards.** This point is emphasized on p. 23 of *Virginia School Boards- A Manual for Virginia School Board Members*, which originally was developed by a local school board member and is provided to each new member when she/he comes on the local school board:

"Only the actions of the board determined and taken in legally held meetings have any validity or authority. The opinions and convictions of the individual members have weight only as they contribute to the discussions and considerations shaping the decisions of the board. Naturally, the several members will not think alike on all the subjects which will come before the board and it is not desirable that they should do so. The principle of majority rule must apply and does apply, but this should not result in the division of the board into majority and minority factions."

**No school board in Virginia is bound by any position of the Association.** Any board that wishes to adopt a legislative position differing from the actions taken by the VSBA Delegate Assembly needs only to meet after the VSBA Delegate Assembly meeting and adopt a local position. **Absent that action, and notification to VSBA, school boards that participate in the VSBA Delegate Assembly - even if they were on the losing side of a particular vote - will be represented as supporting the VSBA position.** If the Virginia General Assembly or the U.S. Congress enacts a law that is voted against by a state or federal lawmaker, it is still the law of the land, even in that lawmaker's jurisdiction, and every citizen must abide by the decision.

Similarly, VSBA positions duly adopted by the VSBA Delegate Assembly are the positions of all local school boards unless (here is where the VSBA differs in process from state and federal legislatures) a local board officially votes at a public meeting to adopt a different position. A local school board, then, can help strengthen the VSBA position by adopting the same or a similar

policy statement in its own legislative packet, or it can demonstrate its differences by adopting an opposing position.

**Expressions of support or opposition to issues by individual local school board members do not ever represent the positions of their own local school board or the VSBA.** *Virginia School Boards* goes on to address the occasions where individual members of the local board disagree with the majority and take it upon themselves to state their (minority) position.

“The broad powers and authority rest in the school board as a unit and no part of them rests in any member as an individual. The school board member as an individual has no official power. The only instance in which an individual member can exercise official authority is when the board, by official action, delegates one of its members to execute a specific action. In such a case, the authority is the board’s, delegated to the individual and applying to the specific action only.”  
(See, p. 10)

And,

“It must be repeated that these duties are those of the school board acting as a unit and not of the several members individually. On the other hand, individual members have the duty of giving proper thought and attention to all matters for which the board is responsible and of contributing properly to the consideration and discussions by which the board arrives at conclusions and takes appropriate actions.” (See, p.14)

(See also, § 22.1-71 of the *Code of Virginia*). It is expected that individual school board members, though they may be in disagreement with the majority opinion of their local school board or the VSBA, would support the local board’s and VSBA’s positions and represent them accordingly in public and in private.

*Approved by VSBA Board of Directors*  
3/21/97

## **Legislative Positions of the Virginia School Boards Association**

The following are the Legislative Positions of the Virginia School Boards Association, which have been adopted following the procedures described in the Delegate Assembly Handbook. When Positions are proposed, the proposing school board usually provides a rationale for the proposal. Those rationales are not part of the Legislative Position but are helpful in illustrating and providing background for the Position and are used for lobbying purposes. VSBA produces two versions of the Legislative Positions Handbook. Both are available on the VSBA website, [vsba.org](http://www.vsba.org), in the Legislative Services section of the Advocacy and Government Relations page [http://www.vsba.org/advocacy\\_government\\_relations/legislative\\_services/](http://www.vsba.org/advocacy_government_relations/legislative_services/). The abridged version contains only the Legislative Positions. The unabridged version contains the Positions and the rationales under “Background and Legislative History”.

### **1.0 Assessment and Accountability**

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#### **1.1 Elementary and Secondary Education Act of 1965 and Limited English Proficiency Programs**

The VSBA supports the goals of the federal Elementary and Secondary Education Act of 1965 (ESEA) (most recently re-authorized as the Every Student Succeeds Act (ESSA)) to ensure that every student receives a high-quality education. The VSBA also supports the following so that the Act may be appropriately implemented at all levels of accountability.

- Flexible programs which encourage and enhance successful local practices and which emphasize the achievement of particular goals rather than rigid and inflexible “top down” or “one size fits all” reform models.
- Alignment of ESEA provisions with those found in other major federal education laws, such as the Individuals with Disabilities Education Act (IDEA).
- States and school divisions should be given greater flexibility over how to assess and measure achievement for all students with particular emphasis on students with disabilities and students with limited English proficiency to ensure that assessments fairly, accurately, and meaningfully measure student achievement. This would include the use of growth models that measure individual student progress rather than the proportion of students meeting a single standard.
- The United States Congress should encourage the United States Department of Education to work cooperatively with states that have a demonstrated record in the use of student accountability systems in improving student achievement and grant such states flexibility in aligning existing and proven state accountability systems with provisions under the ESEA.
- The United States Department of Education should publicly and transparently disclose every ruling made on state ESEA implementation plans and state requests for plan changes and waivers with waiver requests granted to individual states automatically extended to all states.
- The VSBA strongly supports an analysis of the state and local costs associated with the implementation of this federal mandate, and efforts to identify initiatives and conditions within ESEA that are not integral or necessary components of the Commonwealth’s own accountability programs.
- All states should establish a common definition and calculation of graduation rates to be based on the recommendation of the National Governor’s Association.
- Focusing interventions on positive supports to improve student achievement rather than on sanctions to punish underperforming schools.
- Tailoring interventions to better fit the circumstances under which schools fail to meet accountability benchmarks. States and local school systems decide among a continuum of interventions based on best practices and local experience.
- Recognition of exemplary school performance as well as the availability of resources to share proven best practices.

- VSBA opposes school reform models that rely on the removal of a principal as a requirement to turn around an underperforming school. In addition, VSBA opposes teacher and principal evaluation systems that solely link student scores on standardized tests to their performance.

The VSBA also supports expanding the exemption for limited English proficient (LEP) students in their first three (3) years of enrollment in the United States under the ESEA. Currently, USED requires all enrolled students to be included in state assessments and to include their scores in ESEA computations. The only exception is for LEP students in their first year of enrollment in a U.S. school, regardless of when they entered the country and their initial language proficiency. These students still must be assessed but their results are excluded from ESEA computations. Because students arrive in the U.S. at varying levels of English proficiency, and because LEP students learn English at different rates, it may not be educationally appropriate, nor a valid indicator of educational achievement, for LEP students with limited or no English proficiency to participate in regular English or mathematics state assessments within the first three years of their arrival in the US.

Specifically, the VSBA supports the following for LEP programs:

- The educational program for LEP students should develop all students' English language proficiency so that all students may participate in the regular classroom program;
- The VSBA opposes state mandates in areas of instructional choice that are properly made at the local school board level. For example, local school boards should not be prohibited from providing any specific programs of instruction, including foreign language immersion, which are designed to improve student language proficiency and academic achievement;
- The VSBA supports state provision of alternate assessments for LEP students that are linguistically appropriate and in the form most likely to yield accurate and reliable information on these students' mastery of subjects other than English, as authorized by the ESEA. Virginia has developed alternate mathematics and language arts tests and should develop alternate tests for the remaining subject areas and grade levels that are components of the state and federal accountability programs. These alternative forms of the content examinations are particularly critical in states for which native language assessment is impractical;
- More generally, the VSBA supports greater flexibility over how to assess limited English proficiency students to ensure that such assessment fairly, accurately, and meaningfully measures student achievement; particularly given scientifically-based research regarding the length of time it takes limited English proficiency students to attain language fluency; and
- The VSBA opposes shifting the cost of these mandated assessments to school divisions –the state should fund all LEP-related assessments in the same manner as the state funds other tests required for mandated accountability plans. Local school divisions should not have to incur the costs of assessments that fulfill state and federal mandates, particularly since the state has adopted a single, uniform language proficiency assessment for use in all school divisions.

Background and Legislative History: There is a growing awareness among Virginia's school divisions that certain components of the federal Elementary and Secondary Education Act of 1965 (ESEA) and its associated regulations come into conflict with well-established and proven components of Virginia's state accountability system based on the Standards of Learning. In addition, certain components of the way ESEA is being implemented appear to conflict with existing educational theory, research and practice. The policy also encourages the United States Department of Education, in its consideration and acceptance of state implementation plans to demonstrate greater flexibility towards states like Virginia that have a demonstrated record in the use of accountability systems to improve student achievement. The policy uses the formal name of the Act, the Elementary and Secondary Education Act, rather than the popular

name of the 2001 reauthorization of the Act (No Child Left Behind). USED decisions on state implementation and waiver requests should be transparent, with the automatic granting of waivers to all states when they are granted to a single state. Adopted 11/04; Amended 11/05, 11/06, 11/07, 11/08 (formerly Policy 2.15).

The VSBA supports the United States Supreme Court decision in *Lau vs. Nichols* (1974) that schools have an obligation to develop students' English language proficiencies so that they may participate in the regular classroom program. Further, the Code of Virginia sections 7.1-42 and 22.1-212.1 provide that English is the official language of the Commonwealth and that local school boards have no obligation to teach the standard curriculum, except courses in foreign language, in a language other than English. These sections of the Code stipulate that local school boards shall endeavor to provide instruction in the English language which shall be designed to promote the education of English-as-a-Second-Language students. The state should increase its fair share of the funding for such programs. The 2006 revision asked the state to develop alternate assessments for all state mandated assessments, not just those associated with NCLB (English and mathematics). The plain English mathematics assessment has been very successful and a similar test would be an asset in other subject areas as well.

The position emphasizes the need for adequate state funding for all LEP assessments, particularly since the new language proficiency assessment is mandated for use by all school divisions.

Updates to Position language reflect changes included in federal passage of the most recent reauthorization of the Elementary and Secondary Act of 1965 (now known as the Every Student Succeeds Act (ESSA) and removes references to issues that were more specific to the previous version of the Act (No Child Left Behind (NCLB)). Adopted 10/86; Amended 11/01, 11/03, 11/05, 11/06, 11/08, (Formerly Policy 2.13), 11/11, 11/17; Review Date: 2024.

## **1.2 Fair Assessment of Limited English Proficient Students**

Virtually every school division in Virginia educates students with limited English proficiency (LEP). The performance of LEP children on standardized tests required by federal accountability standards has direct consequences for the schools they attend, their school divisions and the Commonwealth of Virginia, namely:

- The education of LEP students requires additional classroom space, forcing school divisions to need to build additional classrooms or use portable classrooms;
- It costs an average 25% more to educate students who are English language learners, most of which cost is being provided by local divisions; and
- The Virginia Department of Education is able to provide only limited technical assistance to school divisions with fast growing numbers of LEP students due to the Department's small staff and budget.

The VSBA recommends that the General Assembly provide funding for:

- Improved state instructional and support resources to address the needs of English learners, particularly students who enter school with little or no formal education or language skills;
- The implementation of, and adequate state and federal funding for, a valid, reliable and accurate English language proficiency assessment based on Virginia SOL standards to be used statewide. Such assessments are costlier and more time consuming to administer than standard SOL tests, and should be funded accordingly;
- State funding for all federally mandated tests for LEP students, including the development and administration of a "plain English" version of every federally mandated test for LEP students;
- Improved statewide data collection to ensure accountability, including development of a timely and secure method for divisions to access English language proficiency assessment results to

facilitate efficient and appropriate educational placement for English learners transferring between Virginia school divisions; and

- State assistance with facility needs, and enhanced technical support for smaller school divisions including the establishment of a best practices center to collect and disseminate information about the most innovative and successful LEP programs already in place in school divisions throughout the Commonwealth.

The VSBA supports:

- Permitting local school divisions to use the WIDA (World-Class Instructional Design and Assessment) ACCESS (Assessing Comprehension and Communication in English State-to-State for English Language Learners) score of 5.0-6.0 on the Tier C test for English Language Learner (ELL) students as an alternative for fulfilling Virginia's requirement for a verified credit in the English Reading End of Course (EOC) Standards of Learning (SOL) test by substituting the WIDA ACCESS for ELLs assessment; and
- Development of "Total English Learner" reporting groups that would include current and successfully exited English learners to better reflect overall language proficiency.
- Alternate assessments accommodations for English learners that are linguistically appropriate and yield accurate information on a student's content knowledge; including expanded use of performance-based assessments, expanded use of competency provisions for the industry credential graduation requirement, as well as a pilot allowing assessment in languages other than English.
- Expanded availability of locally awarded verified credits to English learners as deemed appropriate by a student's English Learner Committee established under Department of Education guidance.

Background and Legislative History: Proposed update to LEP staffing funding request more generally supports increases in state resources aligned with local best practices, which may or may not reach the levels envisioned by current language (and which could impose a staffing mandate on some jurisdictions). Update accountability model to better reflect the successes of LEP program by accounting for students who have successfully exited from LEP programs based on their acquired language proficiency. Adopted 11/04; Amended 11/06, 11/08 (formerly Resolution 4.48); Amended 11/14, 11/15, 11/17, 11/18; 11/21; Review Date 2032.

### **1.3 State Testing and Coordination Support**

The VSBA supports the provision of Standards of Quality (SOQ) funding for local school divisions that supports the coordination and analysis of the required Standards of Learning (SOL) accountability program and NCLB testing while maintaining local flexibility. The SOL provides useful data that is used to compare the performance of Virginia's students with their peers across the nation. The Board of Education requires that information derived from the testing program may be incorporated into school performance report cards and the process for accrediting public schools, as well as be used for application of consequences to students, teachers, schools and school divisions.

The VSBA supports accountability and an effective and accurate program to assess progress in meeting the new SOL's and believes that accountability and effective performance assessment for both students and teachers demand that the assessment of course learning be provided in close time proximity to the completion of the course.

The VSBA supports end-of-course testing for credit-bearing courses designed to meet the Virginia SOLs and supports policies and practices to ensure that tests are administered judiciously and for purposes consistent with their intent.

The VSBA supports the need to monitor student achievement on a regular basis but emphasizes that the Board of Education should provide the frequent opportunity and adequate time for local school divisions to review and comment upon test instruments and testing criteria, and issues related to the purpose, validity, cost, implementation and administrative burden.

The VSBA urges the Board of Education to notify local school boards of significant changes to the required testing program at least two years in advance and to provide local school boards with 100% financial support necessary for all administrations of academic assessments mandated by the state accountability program.

A transience factor should be maintained by the state for determining pass rates for accreditation purposes, so that schools with highly transient populations will not be unduly penalized for the performance of students who have only been enrolled for a short time.

The VSBA urges the Board of Education and SOL Innovation Committee to offer possible remedies, such as establishing a threshold or guidelines, for how many opt-out students can be excluded from calculations for accreditation purposes. The current practice of giving a score of zero for those students unduly penalizes schools by reducing their overall score and holding them accountable for a decision that is ultimately within the control of the parent.

The VSBA reiterates support for norm-referenced, criterion-referenced and alternative assessments and the commitment to assist the Board of Education in establishing a testing program that provides accountability as well as opportunities for program improvement, diagnosis of individual student learning needs, remediation and appropriate adaptations for students with disabilities and students with limited English proficiency. The VSBA also supports the retention of appropriate and valid alternative assessments of student achievement, including paper and/or portfolio-based assessments.

Background and Legislative History: While the federally mandated expansion of the SOL program to grades 3-8, the accompanying disaggregation of test results by multiple student subgroups and the annual testing of all LEP students in English Language Proficiency, school divisions find themselves diverting resources from other important tasks to test coordination. Because no provision for meeting this need exists in the SOQ, often school counselors or reading teachers are spending significant portions of their time coordinating testing rather than providing direct services to students as required in the SOQ. Adopted 11/05 (formerly Policy 2.16). Adopted 10/82; Amended 10/82, 10/85, 10/87, 9/88, 11/91, 11/92, 11/97, 11/96, 11/99, 11/03 (formerly Resolution 4.1), 11/11; Amended 11/15; Review Date: 2022.

#### **1.4 Local School Board Role in State Testing**

Local school board members should be provided the opportunity to participate in all levels of development of any national test whether or not the measurement instrument is voluntary and any proposed national testing program should be accompanied with full federal funding.

Background and Legislative History: Adopted 11/91 (formerly Resolution 4.29). Review Date: 2024.

#### **1.5 Aligning State and Federal Accountability Programs**

While there are many similarities between the state and national accountability programs, there are also major differences, including whether students are held accountable, subjects and grade levels tested, standards for determining school success, and sanctions applied when schools do not meet standards. It will be complicated, burdensome, and expensive for schools and school divisions as well as the state to implement and comply with the requirements of these two accountability programs;

The VSBA urges the Board of Education to regularly review and revise the Standards of Accreditation so that the assessment accountability program mandated therein does not conflict with the implementation of the federally-mandated accountability program.

The Board of Education is urged to request the Governor and General Assembly to assist local school boards with realistic and sufficient state funding so that they may not only comply with all federal and state accountability requirements, but also provide the programs and services essential for all of Virginia's public school students to achieve educational success.

Background and Legislative History: Adopted 11/02 (formerly Resolution 4.46); Amended 11/11; Amended 11/15; Review Date: 2022.

## **1.6 Criteria on Effectiveness of Public Schools**

The Standards of Quality (SOQ) require the Superintendent of Public Instruction to develop and the Board of Education to approve the criteria for determining the effectiveness of the Commonwealth's public schools. The SOQ and the Standards of Accreditation (SOA) include input and service delivery requirements for local schools and school divisions.

The Outcome Accountability Program (OAP) was developed for the purpose of measuring student outcomes. Measures other than test scores show a realistic picture of the accomplishments of school divisions and can lead to educational improvements when compared to a division's benchmarks.

The VSBA supports criteria for determining the effectiveness of schools which include a variety of input and outcome measures and do not result in a ranking of schools. The VSBA also supports that such criteria be developed and periodically reviewed with the significant involvement of local school boards and their communities before adoption by the Board of Education.

Background and Legislative History: Adopted 9/88; Amended 11/93 (formerly Resolution 4.21); Review Date: 2024.

## **1.7 Assessment Reform and Accountability Reform**

The VSBA supports the establishment of a balanced assessment and accountability system, as defined by local school boards, that utilizes a more complete picture of student learning by providing both measures of achievement (such as the Standards of Learning (SOL) tests) and state-approved, authentic measures of individualized student growth over time. Furthermore, the VSBA supports a reduction in the number of SOL tests to carefully selected grade-levels and content-areas to permit the reallocation of assessment dollars and instructional time. The Virginia School Boards Association also supports a comprehensive review of state content standards, curriculum guidelines, and assessments to ensure state policies promote culturally responsive educational practices free of systemic racism, discrimination, and background knowledge biases.

State SOL content standards, curriculum guidelines, and assessments should strike an appropriate balance between a broad overview of a subject area, in-depth exploration of components within and interrelationships between subject areas, and the acquisition and mastery of literacy, collaboration, critical analysis, creative thinking, problem solving, and communication. Comprehensive reform should refocus the state's assessment system as a tool to help evaluate students' acquisition of subject knowledge and skills; address concerns about the frequency of standardized student testing; and should recognize the interrelationship between assessments, school and school division accountability, and individual student progress and graduation requirements. All End-of-Course Standards of Learning Assessments may be performance-based.

Background and Legislative History: The Commonwealth's current practice of administering as many as four achievement (SOL) tests each and every year in grades 3-8 is decidedly unbalanced. Pass rates and standard scores on achievement (SOL) tests administered at one moment in time do not provide this information and cohort based statistics such as the Student Growth Percentile (SGP) are woefully inadequate. With greater emphasis on student academic

growth as a component of a teacher’s professional evaluation, a balanced approach using multiple measures over multiple years will dramatically increase reliability when making value-added determinations about schools, programs, and professional educators. The time has come to re-examine the current assessment system. Adopted 11/13; Amended 11/14; 11/19; 11/20; Review Date: 2027.

### **1.8 Local Control of SOL Testing**

The VSBA supports local school division control of SOL testing windows. Local school boards should have the flexibility to provide opportunities for early SOL test administrations; to allow for retaking of tests not passed during the same school year; and to assess students based on mastery of course content and not solely upon reaching a particular number of instructional clock hours.

Background and Legislative History: The proposal requesting additional flexibility in the administration of SOL’s is based on the state’s increasing reliance on using standardized test scores for “high stakes” outcomes (school accreditation, teacher evaluations). The appropriateness of reliance on SOL scores on such decisions is a separate matter, but a least a grant of additional flexibility given current state policy choices will give students the best chance to demonstrate content mastery and in turn more appropriately measure both school and teacher performance. Furthermore, when students complete SOLs successfully earlier in the year, school divisions can move beyond the focus of SOLs to teach those students project-based learning. Adopted 11/13; Review Date: 2026.

### **1.9 Expedited Retakes of All SOL Exams**

The VSBA supports expedited retakes in all SOLs and in all grades.

Background and Legislative History: Currently, only high school credit End of Course tests are eligible for expedited retakes. Legislation that would allow all students taking SOLs to take expedited retakes was proposed in the 2013 General Assembly (SB1162), but was left in the House Committee on Appropriations. All students taking SOLs should be allowed expedited retakes in the same criteria that exist under law for high school students now. Adopted 11/13; Review Date: 2026.

### **1.10 Virginia Alternative Assessment Program**

Remove the 1% cap on participation in the Virginia Alternative Assessment Program.

Background and Legislative History: The Virginia Alternate Assessment Program (VAAP) is available to students with significant cognitive disabilities in grades 3 through 8 and high school who are working on academic standards that have been reduced in complexity and depth. In order for a student to qualify for participation in the VAAP, the student’s IEP Team must determine that a student is eligible based on answering specific questions for each content area being considered. If the IEP team is able to document that an individual student meets all established participation criteria, then that student qualifies to participate in the VAAP.

Currently, school divisions must adhere to a 1% cap for participation in the VAAP. Specifically, school divisions are limited to VAAP participation for only 1% of all students being tested in the testing grades of 3 through 8 and 11. Divisions may apply for exception to the 1% cap; however, in order to receive approval, small division must meet each of the following three criteria: 1) have less than or equal to 1,500 students in the test grades; 2) have less than or equal to 15 students in the VAAP, and 3) have a division VAAP participation rate that is less than or equal to 2%.

This cap results in small schools and divisions who happen to have a large number of students with significant cognitive disabilities being penalized when accreditation ratings are calculated. If

a division has fewer than 1,500 students in the testing grades and has more than 15 students participating in the VAAP, then the passing scores are overturned (failed) for all VAAP students in excess of the cap. When school accreditation ratings are calculated, the school and division receive failing scores for each VAAP in excess of the cap, even though the VAAP actually earned a passing score. In a small school and division, the impact of each individual student's scores on the overall accreditation rating is significant. The overturned VAAP scores could, quite literally, result in a school that has met the pass rate for full accreditation losing full accreditation status simply due to the overturned scores.

While it is understood that the 1% cap exists in order to prevent excessive and inappropriate use of the VAAP, it is our stance that rather than imposing an arbitrary cap, each school and division should be able to present evidence, upon request, that clearly documents that each student participating in the VAAP meets all established criteria. If the schools and division can provide documentation to show that each individual student with significant cognitive disabilities participating in the VAAP meets the criteria and is, therefore, an appropriate participant then the passing scores for that VAAP should be upheld in every sense, including when calculating accreditation ratings. Adopted 11/17; Review Date: 2024.

### **1.11 Graduation and Completion Index and Dropout Rate Calculation for English Learners**

The Virginia School Boards Association supports:

- Adjusting Graduation and Completion Index (GCI) and dropout rate calculations for English learners, such that English learners who have not yet completed 4 semesters of enrollment in Virginia public schools would be eligible for a one-time adjustment out of the 4-year GCI and dropout rate calculations.
- Allowing English Learners who have a WIDA ELP Level of 3 or 4 who arrive in a Virginia high school for the first time in the second semester of an academic year to delay their addition to a GCI cohort until the following year.

Background and Legislative History: An ever increasing number of students enter Virginia Schools with both limited English language skills as well as limited formal schooling of any kind, including many older students. The proposed changes would help to adjust the state's calculation of the Graduation and Completion Index to better reflect where many English Learners start their schooling in Virginia as well as how long it takes to acquire both English language skills as well as content knowledge. Language taken from *Fairfax County School Board 2018 State and Federal Legislative Program*, Item S14 and S15, Standards of Accreditation and Standards of Learning. Adopted 11/18; Amended 11/19; Review Date: 2026.

### **1.12 Attendance Requirements for Accreditation**

The General Assembly should direct the Board of Education to remove attendance under 8 VAC 20-131-380 as a measurement of School Quality for accreditation.

Background and Legislative History: Establishing absent students as a measure of accreditation as defined "as those who are enrolled in a given school who miss 10% or more of the school year, regardless of reason" unfairly discriminates against school with high transient minority populations, at-risk students, and working students. Adopted 11/19; Review Date: 2026.

## **2.0 Early Childhood Education**

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### **2.1 Early Childhood Developmental Programs and Funding for At-Risk Three- and Four-Year Olds**

The General Assembly has found quality preschool programs to be an effective mechanism for assisting students at-risk of school failure and helping ensure that Virginia's children will reach adulthood with the skills necessary to succeed in the twenty-first century.

Early childhood developmental programs may be more appropriately provided by existing programs or through interagency cooperation. Many at-risk children are already being helped through established Head Start and Preschool Disabled Programs.

Shortages of public school facilities in many areas will be furthered with projected growth in the preschool population. These challenges will impact educational budgets, which cannot absorb the added costs of early childhood developmental programs.

To address these concerns and to adequately provide early childhood development programs, the VSBA supports the following:

- School divisions using Head Start funds should be allowed to access their state allocation;
- The provision of voluntary programs for three- and four-year-olds should be a local prerogative with the exception of programs for at-risk three- and four-year-olds;
- The concept of developmental preschool programs for at-risk four-year-olds, but emphasizes that preschool services should not be mandated as a responsibility or a financial burden of local school boards; and
- An amendment to the state budget that would eliminate any inequities regarding the State Program for Three- and Four-Year-Olds.
- In the absence of full funding for early childhood programs, the state should pay particular attention to minimizing both program start-up costs (including facilities costs) and any required local match for localities.

Background and Legislative History: The proposed amended position supports a focus on two areas commonly cited as local impediments to expansion of early childhood programs in the absence of full state funding - program startup costs (including facilities costs) as well as local matching requirements. For example, Federal Head Start only requires a 20% match, whereas the state requires a match based on Local Composite Index (capped at a maximum of 50%). Adopted 10/87; Amended 9/88 (formerly Resolution 4.17). Adopted 11/98; Amended 11/00, 11/05 11/13 (formerly Resolution 4.41); Review Date: 2026.

## **2.2 Virginia Preschool Initiative (VPI) Funding**

The VSBA supports an adjustment or elimination of the local school division budgetary match currently required to receive Virginia Preschool Initiative (VPI) funding to allow school divisions to expand preschool opportunities without negatively impacting funding for other programs and services.

Background and Legislative History: Adopted 11/15; Review Date: 2022.

## **2.3 Virginia Preschool Initiative (VPI) Student Eligibility Criteria**

The VSBA supports revised legislation to permit local school divisions receiving Virginia Preschool Initiative (VPI) funds to exercise increased flexibility with student eligibility criteria.

Background and Legislative History: Current legislation restricts VPI eligibility criteria to children who meet one of four criteria: 1) family income at or below 200 percent of poverty; 2) homelessness; 3) student's parents or guardians are school dropouts; 4) family income is less than 350 percent of federal poverty guidelines in the case of students with special needs or disabilities. Limiting student eligibility exclusively to these four criteria is too restrictive, and will exclude children who are equally at-risk and in need of services.

Currently, up to 15% of the program’s actual VPI slots may be filled with locally established criteria. We support revised legislation that permits VPI programs increased flexibility in filling VPI slots using locally established criteria so as to meet the unique needs of at-risk children in the community. Adopted 11/16; Review Date: 2023.

### **3.0 Education Technology**

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#### **3.1 Educational Technology Funding**

Educational technology, including electronic information systems and sources, is an important element of cost-effective quality public education. The state should assume a leadership role in developing a technology funding formula that will provide predictable and continuing revenue for the acquisition, maintenance and replacement of educational technology, and for support personnel to train and assist in the use of educational technology. Such funding should be sufficient to improve and enhance classroom instruction, to fulfill mandates for virtual instruction and online assessment, as well as to assist with the state and federally-mandated collection and reporting of student achievement and teacher quality data.

The current state-provided “technology-refresh” funding program is insufficient to keep up with the growing number of digital devices in the schools and the end-of-life cycle of equipment replacement. These technology needs include everything from basic network infrastructure (both wired and wireless) – to servers and related equipment – to student computers, tablets, and other devices. Further, it is recommended by the Education Superhighway and the State Educational Technology Directors Association that our schools be at 1.0 Mbps of internet bandwidth per student by 2018. Currently, the infrastructure does not exist for all schools in the Commonwealth to meet this goal. Further, the cost to fill the gap between what exists and what is required is too large for school divisions to fund at the local level alone. VSBA supports statewide initiatives that would help business and schools throughout the Commonwealth to have high speed/broadband access at cost-competitive prices (such as the aforementioned goal of 1.0Mbps). Finally, if the Commonwealth requires school divisions to provide a specified bandwidth capacity per student, appropriate funding shall be provided to reimburse localities for the increased cost.

The state should fund the implementation of the extensive data collection, cleansing, warehousing, tracking, and reporting requirements placed on the State Department of Education and all local school divisions by state and federal assessment and accountability mandates. Moreover, such funding should be included in the Standards of Quality. The state should also provide funding and technical expertise to address the cyber and data security needs of school divisions associated with such data collection mandates.

Background and Legislative History: The VSBA recognizes the importance of instructional technology to providing quality education. The state should assure equality of educational opportunity among students by supporting localities in their efforts to provide universal and affordable access to educational technologies, such as computers, the Internet, and distance learning. The VSBA supports continued research and development of learning technologies that are instructionally sound, cost effective, and improve student performance. Educational technology is an effective and efficient means of assisting local school boards in achieving pupil and program equity, fiscal responsibility, instructional accountability, staff productivity, satisfactory school-community-home communications, and energy conservation. This vital element of public education requires a substantial and consistent investment. The VSBA recognizes and supports the state’s recent efforts to fund technology through the technology grants program, the six-year technology plan and the approval and funding of high school technology resource assistants. However, consistent revenue sources must be identified if school divisions are to sustain adequate technology plans necessary to meet the technology competencies required of students in the Standards of Learning. With regard to these goals, the VSBA supports an increase in the level of technology funding, technology resource assistants in

middle and elementary schools, as well as in high schools, and the development of a technology funding formula that will provide a predictable funding source and demonstrate a permanent commitment by the state to support technology through the Standards of Quality.

The VSBA also supports collaborative programs among school divisions to create, distribute and integrate educational technology into the curriculum. Such efforts can reduce costs and minimize disparity among school divisions. The VSBA opposes the imposition of state and federal requirements on local school boards regarding policies governing student access to the Internet and the use of software or filtering or blocking technologies to restrict the availability of internet information. These decisions, which have fiscal and instructional implications, properly belong with the local school board. Position requests additional state funding support for the many technology-related mandates created by the General Assembly (examples: newly required virtual course for graduation; expansion of on-line SOL testing to all grade levels; ongoing state encouragement to provide virtual options for education).

As Virginia faced the challenge of balancing the budget following the Recession of 2008, policymakers made deep cuts to funding for our schools. Eight year after the advent of the recession, state per pupil funding remains below pre-recessionary levels. As a result, school divisions have a difficult time budgeting for the ever-changing technology needs in our students' classrooms. The current state-provided "technology refresh" funding program is insufficient to keep up with the growing number of digital devices in the schools and cycle equipment replacement. These technology needs include everything from basic network infrastructure (both wired and wireless) – to servers and related equipment – to student computer, tablets, and other devices. Additionally, a recent survey conducted by the Virginia Department of Education determined that the needed bandwidth (the total information flow in a given time on a telecommunications medium) for voice, video, and data to be transmitted from most of Virginia's schools is insufficient. In fact, while 36% of schools in the Commonwealth are a 10-50kilobits per second (Kbps – thousands of bits per second) or .01-.05 megabits per second (Mbps – millions of bits per second) of Internet bandwidth per student, it is recommended by the Education Superhighway and the State Educational Technology Directors Association that our school be at 1.0Mbps of Internet bandwidth per student by 2018. The cost to fill the gap between what exists and what is required is too large for school divisions to fund at the local level along. Adopted 10/81; Amended 10/87, 9/88, 12/90, 11/95, 11/97, 11/98, 11/99, 11/00, 11/03, 11/13, 11/16, 11/21 (formerly Policy 3.7) 11/16; Review Date: 2030.

### **3.2 Educational Technological Equipment and Grants Programs**

The VSBA recognizes the significant instructional improvements and gains in student achievement that can result from the appropriate use of educational technology. Many school divisions are striving to provide students with instruction in the use of technological equipment as computer-assisted instruction is a viable teaching tool. However, school systems are often unable financially to equip their schools with the necessary equipment.

The VSBA supports legislation which would provide incentives to companies donating computers, other state-of-the-art technological equipment, training programs and maintenance services to elementary and secondary schools, including programs for students with disabilities, preschool through age twenty-two.

The VSBA requests the Governor and the General Assembly continue the Educational Technology Grants Program and initiate other programs of assistance so that all local school divisions in the Commonwealth are able to develop and sustain adequate and equitable educational technology plans.

VSBA supports the usage of Virginia Public School Authority (VPSA) funds to lease technology refresh equipment. The usage of these funds should not be limited to only the purchase of such devices.

The VSBA supports identifying a consistent source of revenue for such programs, and that they not rely on a limited and non-recurring source such as bond proceeds.

The VSBA supports such programs that are structured so as to place minimal restrictions on local school divisions related to the use of educational technology assistance, thus allowing the divisions to follow their locally developed, individualized technology plans in meeting specific school and program needs, and that they also be structured so as to prohibit the supplanting of these funds dedicated to the improvement of educational technology.

Background and Legislative History: Adopted 10/82; Amended 10/83, 10/84, 10/86, 10/87 (formerly Resolution 4.8). Adopted 11/95; Amended 11/00 (formerly Resolution 4.32); Amended 11/14; Review Date: 2027.

### **3.3 Enrollment Cap for Virtual Virginia**

Virginia's school divisions continue to face drastic budget cuts at both the state and local levels and are faced with the possibility of eliminating classes, especially Advanced Placement (AP) courses.

Technology and online courses such as Virtual Virginia can provide a cost-saving alternative for school divisions. Virtual Virginia (online course offerings) has a cap on the number of students in the Commonwealth that can enroll in its online courses. The enrollment cap in Virtual Virginia should be increased from its present capacity to accommodate more advanced students to participate in advanced courses in a cost-effective manner.

Background and Legislative History: Owing to continuing and drastic budget cuts, school divisions are faced with possibly eliminating classes, especially AP courses. It would be cost effective for VDOE to increase the enrollment cap in Virtual Virginia from its present capacity to accommodate more advanced students. Advanced students, in particular, would benefit from increased opportunities for college-bound courses, and increasing the opportunities for advanced courses would be cost effective for all parties. Adopted 11/10; Review Date: 2027.

### **3.4 Cost/Benefit Analysis of Virtual Education**

The VSBA proposes that the General Assembly authorize an evaluation and cost-benefit analysis of virtual course offerings in Virginia local school divisions and at the state level. This study would include Virtual Virginia, as well as other locally developed programs.

Background and Legislative History: The purpose for the evaluation and cost-benefit analysis is to establish the current state of virtual education in Virginia, and the wide range of courses available to students across the state. The cost-benefit analysis would quantify the cost for virtual courses correlated to type and conduct a qualitative and quantitative assessment of the associated learning outcomes based upon the cost and type of virtual course. Adopted 11/13; Review Date: 2026.

### **3.5 Funding for Model Virtual Education Programs**

The VSBA proposes that the General Assembly adopt legislation establishing a Pilot Model Virtual Learning Program to provide support and grant funded incentives for local school divisions in Virginia to offer innovative K-12 virtual education programs which could serve as models for programs in other school divisions.

Background and Legislative History: It is critical that local school divisions have the flexibility and resources to provide innovative education programs to meet unique and diverse student

needs. With a pilot program to support selected school divisions' choice of the best virtual learning delivery model for their locality, the General Assembly could provide financial incentives and resources to foster design and implementation of a variety of different programs that meet the needs of the local community, provide research on best practices, and demonstrate successful outcomes that could be replicated in school divisions throughout Virginia. Adopted 11/13; Review Date: 2026.

### **3.6 Funding for Virtual Programs**

VSBA opposes the transfer of local, state, and federal funds when the resident school division offers a full-time virtual school program but the student elects to enroll in a program offered by another school division. Additionally, VSBA opposes the transfer of local funding when the resident school division doesn't offer a full-time virtual school program and the student chooses to enroll in a full-time virtual program outside of the school division of residence.

VSBA encourages the Board of Education to develop regulations and standards of accreditation for virtual school courses and programs to ensure high-quality instruction and curriculum.

Background and Legislative History: Adopted 11/14; Review Date: 2028.

### **3.7 STAR Program Expansion**

The VSBA encourages the General Assembly and Superintendent of Public Instruction to facilitate the expansion of the Virginia Student Training and Refurbishment Program (STAR) in Virginia's school divisions.

Background and Legislative History: Adopted 11/14; Review Date: 2028.

### **3.8 Educational Technology Staffing**

To enable higher levels of student achievement and engagement, the use of technology within school divisions has grown. VSBA recognizes that technology personnel are key to the successful integration of technology in schools. Therefore, VSBA supports an increase in staffing prescribed by SOQ's to better match the current level of technology in school divisions for support of on-line testing requirements and the expansion of e-Learning as well as 1:1 initiatives and the state-sponsored backpack program. To help school divisions fund the staffing required to successfully support technology at the building level where it is critically needed, we propose that the SOQs should stipulate the following staffing levels with funding to match: technical support is funded at a rate of one full-time equivalent position per school for those schools with 300 or more students plus one additional FTE for each 500 students above that in each schools. The current ratio of 1 FTE per 1,000 students for instructional technology resource teacher could remain.

Background and Legislative History: Adopted 11/15; Review Date: 2022.

### **3.9 Access to Electronic Textbooks and Adequate Connectivity**

The VSBA supports bills that promote access to electronic textbooks and adequate connectivity as follows:

- A. It shall be the policy of the Commonwealth that all textbooks approved by the Board for use in grades six through 12 shall be equally accessible to all students at school and in their residence.

- B. By July 1, 2022, every household in the Commonwealth shall have access to fixed broadband or wireless broadband connection service with unlimited data allowances and speeds of at least 10 Mbps download and 3 Mbps upload.
- C. The Commonwealth shall provide funding on a per-pupil basis to the local School Board for any student eligible for free or reduced meals to be provided free or reduced-price data access accordingly.

Background and Legislative History: The use of interactive textbooks is now prevalent throughout Virginia school divisions. Nevertheless, internet service is still not available to many households both in rural areas and geographic pockets within more populated regions. As a result, all students are not able to benefit from the use of some of the latest education technology. Adopted 11/20; Review Date: 2027.

## **4.0 Human Capital in Education**

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### **4.1 Teacher/Administrator Employment Contract Law**

Effective teachers are essential to providing a high quality education as required in the constitution of Virginia. There is a need for reasonable procedures and regulations for the removal of ineffective or incompetent instructional and administrative personnel as well as a need for reasonable procedures and regulations governing both release from and fulfillment of contractual obligations.

Such procedures and regulations must, at the same time, protect individual rights and the responsibility to ensure that every school and classroom is staffed by competent, qualified, and effective instructional personnel.

The VSBA supports continuing contract law and statutory grievance procedures that support local school board efforts toward the professionalization of the teaching and administrative workforce.

The VSBA supports laws and regulations affirming the local school board's authority to apply remedies appropriate under law or contract should a teacher breach a contract after the local school board or division superintendent has declined, on the grounds of insufficient or unjustifiable cause, to grant a request for release of contract

The VSBA supports a local option allowing separate contracts in a form prescribed by the Board of Education by the school board with employees receiving a monetary supplement for any assignment.

Background and Legislative History: Adopted 10/87; Amended 9/88, 12/90, 11/91, 11/92, 11/01 (formerly Resolution 4.19); Review Date: 2024.

### **4.2 Communications**

Local school boards should develop with all employees open systems of communications and procedures through which differences may be resolved without fear of reprisal.

Background and Legislative History: Effective communication procedures will assist in eliminating many of the misunderstandings which exist between local school boards and employees. A reasonable procedure whereby employees may have a voice in matters which are of concern to them without any fear of reprisal is essential to the success of any organization. Adopted 10/77 (formerly Policy 1.4); Review Date: 2024.

### **4.3 Collective Bargaining**

There should be no legislation which would permit or expand the authority of any school board to engage in collective bargaining (meet and confer) as defined by the National Labor Relations Act and its amendments.

Background and Legislative History: The outstanding progress made in public education in the past can be continued best through a cooperative approach without the detrimental effects of collective bargaining. The VSBA encourages each local board to develop a system of communication between the board and all employees in order that all employees may have a voice in matters which are of concern to them and opposes any attempts to weaken the current statutory prohibition on collective bargaining (meet and confer). Adopted 10/77; Amended 10/79, 11/99 (formerly Policy 1.3); Review Date: 2024.

### **4.4 Compensation and Employment of Employees**

The VSBA supports improvements in school employees' compensation and state funding support for such improvements.

Determination of all educational employees' salaries, benefits, and other employment factors is, and should continue to be, the responsibility of the local school board. Moreover, since all school divisions operate on a July 1 to June 30 fiscal year, all state legislation relating to educational salaries should be calculated and publicized on a July 1 basis.

Background and Legislative History: Although efforts have been made to increase school employee salaries, salary levels have not kept pace with the increases in educational responsibilities and professional training. A specific statewide mandated salary increase or pay plan would not be appropriate for all localities because cost-of-living, educational expenses, and other factors vary significantly throughout the Commonwealth. Further, any legislation which encourages an increase in salary or a pay-for-performance plan must provide adequate funding. The VSBA supports appropriate compensation for teachers and administrators and ongoing efforts by the state and local school divisions to validate different compensation plans that will improve the quality and professionalism of educators. The state is encouraged to provide financial incentives for localities in support of such efforts. Adopted 10/77; Amended 10/80, 10/83, 10/84, 10/86, 12/90, 11/99 (formerly Policy 1.5); Review Date: 2024.

### **4.5 Virginia Retirement System Contributions**

The Virginia Retirement System (VRS) has continued to increase the local employer contribution far above the Consumer Price Index (CPI). The systematic underfunding of VRS is a recognized challenge that developed over years. Attempts, however, to increase rates in amounts to resolve the funding issue in two or three years will unduly burden local school divisions and interfere with the local control of schools, its allocation of resources, and the general conduct of the schools under Article VIII, Section 7, of the Constitution of Virginia. A slower phased-in approach would make the increases with state fund balances should be considered as well. Moreover, attempts to credit temporary supplemental pay for retirement purposes should be rejected.

The VSBA urges the legislature to:

- Require VRS to demonstrate the fiscal reasons for each contribution rate change and disclose the effect of the rate change on local school board budgets in the fiscal year prior to the consideration of any employer rate increase, slow the planned VRS contribution increases to localities, and/or buy-down the proposed rate increases with state fund balances; and

- Refrain from imposing additional VRS cost increases on local school boards through mandates requiring employer payment of member contributions or payment based on compensation which includes salary supplements.

Background and Legislative History: Adopted 11/98; Amended 11/00 (formerly Resolution 4.42); Amended 11/15; Review Date: 2022.

#### **4.6 Revision of Teacher Employment, Grievances, Dismissal, and Suspension Articles**

Articles 2, 3, and 4, of Chapter 15 of Title 22.1 establish the laws for employment, grievances, dismissal, and suspension of teachers. These articles were first codified almost 50 years ago, prior to the Commonwealth’s drive for high academic standards, high student achievement, and educational accountability at the classroom, school division and state levels. Amended frequently over time, these articles have become increasingly difficult to understand as well as costly and time-consuming to administer and consequently may no longer achieve their intended aims.

Failure to achieve specific levels of achievement under state and federal laws results in consequences for schools, which consequences may be as severe as reconstitution including dismissal of the principal and teachers, and also for students who are not taught the essential academic knowledge and skills needed for success in life.

The VSBA urges the General Assembly to:

- Establish a joint subcommittee to evaluate the appropriateness and adequacy of the existing articles in terms of the goals and requirements of the state and federal accountability programs;
- Ascertain whether the articles and related agency regulations are consistent and are not excessive to achieving the legislative purposes;
- Recommend revision and reorganization of the articles for clarity and internal consistency; and
- Recommend revisions that balance the employment rights of teachers with the obligations of local school boards to implement the Standards of Accreditation, the Standards of Quality, and federal education laws.

Background and Legislative History: Adopted 11/04 (formerly Resolution 4.50); Review Date: 2024.

#### **4.7 Education of Teachers**

The need for excellent teachers is prevalent throughout the Commonwealth. Rigorous academic and experience standards are desired for those entering the teaching profession and mentoring and staff development programs are desired for those actively teaching so that all teachers may provide the Commonwealth’s students suitable instruction in both the Standards of Learning and the local curriculum.

The VSBA supports the following:

- Changes in the state teacher licensure requirements that will emphasize greater academic discipline and practical training experience;
- Increased funding for the Virginia Teacher Scholarship Loan Program to encourage individuals to enter the teaching profession in shortage areas and to remain in Virginia;
- State funding to local school divisions for staff development programs so that teachers have the skills to ensure that students are able to meet the new Standards of Learning and Standards of Accreditation;

- The allowance of alternative entry routes into the teaching profession to provide localities flexibility in hiring qualified persons who have not formally prepared for teaching careers;
- Increased state funding for the Beginning Teacher Mentor Program, with a greater stipend for mentors of teachers entering the profession through alternative routes who have not had practical training experiences prior to teaching, comparable to our Virginia college and university programs, and for mentors of teachers with provisional licenses;
- Substantial state awards for public school teachers who have earned certification from the National Board for Professional Teaching Standards as well as meaningful financial assistance from the state for those teachers pursuing such rigorous certification;
- Better coordinated credentialing standards between local school divisions and institutions of higher learning, which would allow both K-12 and higher education faculty to teach in mixed classrooms where students can earn both high school and post-secondary course credit as appropriate;
- Ongoing studies by the legislature or Board of Education to address the shortage of teachers in the state; and
- A comprehensive evaluation of initial teacher licensure and licensure renewal requirements, particularly in light of the piecemeal accumulation of legislative mandates for new licensure requirements over time.

Background and Legislative History: Licensed teachers graduating from Virginia's public colleges and universities being employed by public school divisions in Virginia should be prepared with current best practices. Recent General Assembly Sessions have seen adopted (as well as many debated but un-adopted) additions to teacher licensure and renewal requirements. Debates over those additions are typically focused on the appropriateness of the specific change, but are not usually conducted in the context of the totality of all requirements imposed on teachers. A comprehensive review is overdue based on the continued accumulation of requirements.

With the passage of SB 1575 during the 2019 General Assembly Session, which creates a temporary solution for part of the issue but requires a more comprehensive Advisory Board on Teacher Education and Licensure study and solution. Would help to address increasing staff recruitment issues for more highly technical course work provided by both K12 and higher education and allow for granting appropriate student course credit at both levels under a single instructor. Adopted 10/86; Amended 10/87, 11/97, 11/99, 11/02, 11/07 (formerly Resolution 4.14); Amended 11/17; 11/19; Review Date: 2026.

#### **4.8 Teacher Preparation and Licensure**

The Board of Education should retain responsibility for establishing and maintaining general criteria for initial licensure and license renewal. The Board should assume all additional administrative procedures and costs for licensure and renewal.

Moreover, the Board should provide for individual waivers from specific licensure requirements that prohibit local school divisions from retaining otherwise qualified personnel who have demonstrated proficiency in the classroom and are teaching in a critical shortage area. Additionally, the Board will allow local school divisions to have the flexibility to establish alternative licensure criteria and metrics that will allow provisionally licensed teachers to receive their full professional license based on these locally designed, performance-based standards. These performance-based measures shall be approved by the Board and may serve as a local alternative to current assessments currently in existence.

The Board of Education should coordinate licensure and accreditation activities to prevent the listing of accreditation deficiencies for personnel whose licensure applications are in the state licensure office to be processed.

The Board of Education should work collaboratively with State Council of Higher Education for Virginia to assure that teacher preparation programs in Commonwealth colleges and universities are closely aligned with the knowledge and skills that teachers need to educate students. In particular, teacher preparation programs should include instruction and practicums aligned with the subjects and subgroups used to assess schools and school divisions under federal law. Targeted training should be provided to address the needs of gifted students, students with disabilities, students acquiring English proficiency, students in poverty, and students challenged by cultural, racial, and ethnic differences. The Virginia School Boards Association supports statewide study to determine consistency in public college and university requirements for students seeking to become licensed teachers including current best practices, knowledge, and skills sought by public divisions throughout the Commonwealth.

Background and Legislative History: The Board of Education provides a balance of educators and other professionals whose responsibility is to be current on all matters of teacher preparation. Hence, they are able to judge general criteria and standards required for all aspects of teacher licensure and specific standards for the criteria to be used in the evaluation for licensure in Virginia. Virginia school divisions want to retain the most capable teachers, particularly in critical shortage areas. However, in some instances, specific licensure requirements prevent them from doing so. A specific example is the requirement that all teachers pass the math portion of the Praxis I assessment. A waiver from this particular requirement should be provided to any foreign language teacher who has taught successfully in a division for three years, but who must be dismissed when the provisional license expires because of not passing the math Praxis, despite a shortage of teachers of that language in that division. The fastest growing subgroup in the Commonwealth is students who are not yet fluent in English. These students now reside in all parts of the Commonwealth, so school divisions across the state are increasingly in need of highly qualified teachers who are skilled at instructing second language learners. Unfortunately, many teacher preparation programs spend little or no time working with potential teachers on the needs of these students. Similarly, students with disabilities and students whose families are of lesser means live everywhere in Virginia and teaching them well requires specialized training.

The Commonwealth of Virginia is faced with a significant teacher shortage. Data from the Virginia Department of Education indicates that there has been a sharp decline in the number of students enrolled in teacher preparation programs during a time when student enrollment has increased. The most recent data from 2013-2014 indicate that Virginia colleges and universities produced only 3,924 students who completed a teacher preparation program. There are not enough graduates in Virginia to fill the openings across the Commonwealth. As a result, 5% of all Virginia teachers are not fully licensed. They are provisionally licensed and must attain passing scores on rigorous assessments (Praxis, Virginia Communication and Literacy Assessment-VCLA). Unfortunately, achievement gaps on these professional licensure exams mirror the achievement gaps between minority and Caucasian students that school divisions see on standardized assessments given in a K-12 setting. In Virginia, 89% of Caucasian candidates pass the VCLA, while only 60% of black students achieve success. For those who do acquire a provisional license, only 75.6% complete their licensure requirements within the three year time frame that is currently permitted. Again, there are racial disparities with this metric as 63.1% of black teachers who are provisionally licensed complete their requirements, while 77.5% of white teachers become fully licensed.

There are multiple factors that impact an individual's ability to perform on a standardized assessment. A person's ability is not always accurately measured by a traditional multiple choice assessment. Students and adults alike should have the option of demonstrating skill mastery using an alternative performance measure. Alternative, performance based assessments are currently available for the SOL. Likewise, alternative should be provided for teachers seeking licensure.

School Divisions across the Commonwealth are no longer able to provide every student with a highly skilled, qualified, and talented teacher. The teacher shortage in Virginia has reached a crisis phase. In addition to the shortage, the diversity of the teaching workforce does not come close to mirroring the diversity of our student body. To remedy this significant issue, school divisions need to ensure teacher quality, while at the same time, increasing the number of qualified candidates and increasing the diversity of the teacher workforce. The concept of alternative performance assessments has been applied to the accreditation process for the Standards of Learning. This same concept should be used for teachers as well. Licensed teachers graduating from Virginia's public colleges and universities being employed by public school divisions in Virginia should be prepared with current best practices. Adopted 10/77; Amended 10/82, 10/83, 9/88, 12/90, 11/00, 11/05 (formerly Policy 1.11); Amended 11/17; Review Date: 2024.

#### **4.9 Contract Notification**

Renewal and non-renewal of teacher contracts should take place within twenty working days following the appropriating body's approval of the local annual education budget.

Background and Legislative History: Currently, section 22.1-304 of the Code of Virginia requires teachers to be notified of their continued employment by April 15 of each year. This date requires such decisions to be made in advance of a funding decision on the local educational budget for the ensuing year. With 80-90 percent of a local school budget being made up of personnel costs, the April 15 decision date is an unrealistic one. Adopted 10/81 (formerly Policy 1.12); Review Date: 2024.

#### **4.10 Staff Preparation and Development**

Courses and in-service training taken for initial licensure, license renewal, and professional development shall be related to the developmental needs of students, to subject areas, to methods of instruction and classroom management, and/or to the professional responsibilities of the staff. The VSBA recommends that:

- Each school division be allocated funds to cover the full costs of any state-mandated program, including teacher, support staff, and administrator preparation and development;
- Teacher preparation and professional development programs include extensive practice-teaching internships, mentorships and/or other support programs to provide experiences for beginning teachers;
- An appropriate level of competence in the teaching of reading and writing, including their interdisciplinary use across the curricula, be demonstrated for licensure;
- A program of human relations education and multicultural awareness be required for licensure and for license renewal;
- A five-year degree program in library science be inaugurated in at least one institution of higher education;
- Funds shall be provided specifically for programs to upgrade instructional leadership and the management skills of school managers;
- State funds shall be provided for programs directed at improving writing skills;
- Local school divisions be provided opportunities for participation in the planning and implementation of statewide and regional staff development activities;
- The Licensure Regulations for School Personnel be reviewed and revised regularly with the involvement of local school divisions. In accordance with the Administrative Process Act, no licensure or endorsement areas should be deleted or added without public participation; and
- There shall be provision for local school divisions to participate fully in any state initiative leading to the restructuring of either teacher or administrator preparation programs.

Background and Legislative History: The Standards of Quality require that appropriate courses, or in-service activities and training, be provided for educational and support personnel. New thrusts in education will require additional training for personnel so that they will be equipped to deal efficiently with new activities essential to improving educational programs for the children of Virginia. State funds should be provided to support staff development in new and state-mandated curriculum areas, curriculum areas targeted for improvement, any restructuring initiatives, the licensure renewal process, and retraining programs directed at filling critical employment needs. Adopted 10/77; Amended 10/80, 10/82, 10/85, 10/87, 9/88, 12/90, 11/92, 11/93, 11/94 (formerly Policy 2.6), 11/16; Review Date: 2023.

#### **4.11 Minority Recruitment and Replacement**

All students should have the opportunity to work with and observe members of all minorities in positions of leadership; therefore, the VSBA supports minority recruitment and promotional practices, including college scholarships for minority students entering the teaching profession, that will result in a diverse work force in all job categories.

Background and Legislative History: Minority groups should be represented adequately in positions of responsibility at all levels in the public schools in Virginia. It also is desirable that students have the opportunity to work with and observe all members of all races in positions of leadership if they are to develop healthy and positive attitudes. Adopted 10/77; Amended 12/90 (formerly Policy 2.5); Review Date: 2024.

#### **4.12 Teacher-Aide Positions**

A method for reimbursing school divisions for teacher-aide positions should be established.

Background and Legislative History: School divisions throughout the Commonwealth are using teacher-aides in increasing numbers, thus allowing a division to implement the current trend toward more flexible staffing. The Board of Education should recognize the value of teacher-aides through the establishment of an adequate level of financial support. Adopted 10/77; Amended 10/82, 11/91 (formerly Policy 2.8); Review Date: 2024.

#### **4.13 Awards for Teachers**

Local school boards may develop and implement policies regarding the acceptance by a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee.

Background and Legislative History: In 2001, the Code of Virginia was changed to exclude teachers or other employees of a local school board from the State and Local Government Conflict of Interest Act. The Code now reads “the provisions of the chapter shall not be construed to prohibit or apply to the acceptance by a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee.” Under the present Code, teachers and other employees of a local school board are allowed to accept payments from booster clubs, parents or others without oversight from the local school board. The legislation anticipated by this policy would allow local school boards to adopt policies prescribing reasonable terms and conditions under which such awards or payments could be made. This policy change would not REQUIRE that any local school boards adopt such policies. It would, however, allow local school boards that wish to adopt such policies to do so. Adopting such policies is presently prohibited by the Code of Virginia). Adopted 11/07 (formerly Policy 1.26); Review Date: 2024.

#### **4.14 Testimony of School Personnel**

The VSBA supports legislation to make changes in the system of subpoenaing school personnel in custody and visitation cases, such as: to require that the evidence of school personnel, taken

other than during school hours, be presented by deposition rather than by live testimony; to require the party that issues a subpoena to reimburse the school division for the cost of providing substitute personnel, if a deposition is not used; to provide for exemption of authentication by school personnel of subpoenaed certified student educational records; and, to prohibit subpoenas of school personnel in custody cases without prior approval by a court.

Background and Legislative History: School divisions need relief from the court system from the widespread practice of issuing subpoenas to school personnel to testify at child custody and visitation court hearings. In some school divisions, as many as 5 employees will be subpoenaed at the last minute to appear in Juvenile and Domestic Relations Court. In many of these cases, they wait all day to testify without being called upon at all. In many instances, the employee also is asked to act as an expert witness. The school division incurs added expenses for substitute personnel, and loss of valuable instructional time for what are private lawsuits. Efforts must be made to require the evidence provided by school personnel to be provided through a deposition when attorneys feel it necessary to submit their testimony rather than to appear in court, which interferes with the instructional day. In addition, school divisions need financial compensation by the party issuing the subpoena for the cost of providing substitute personnel. While VSBA can already lobby for this issue under the broad language and concepts of Policy 1.1 and Resolution 4.21, this policy, addressing the issue of teachers or other school employees being summoned to testify in court, assists VSBA lobbyists in providing testimony to legislators. Adopted 11/03 (formerly Policy 1.23); Review Date: 2024.

#### **4.15 Probationary Terms of Service for Teachers**

Local school boards have the right and duty to assess their teachers' ability to maintain an effective instructional program. There should be no legislation, regulation or required procedure which would interfere with or inhibit the exercise of this duty.

Background and Legislative History: One of the most critical decisions a school board must make is to extend continuing contract status to a probationary teacher. When a teacher receives a continuing contract, he or she also receives a property interest in the job itself which may only be removed by compliance with full due process procedures. Evaluation of a teacher's performance by any agency other than the local school board may result in conflicting assessments and unclear authority. Local school boards must protect their authority in this important area of employment. Adopted 10/85; Amended 12/90 (formerly Policy 1.13); Review Date: 2024.

#### **4.16 Employee Criminal Background Checks**

The VSBA supports legislation that provides state funding to conduct federal and state criminal background checks for all new employees and calls for the State Department of Education to establish a state "clearing house" for the results of such criminal background checks.

Background and Legislative History: Currently, all local school boards are required by law to check the Registry of Child Abuse and Neglect. Many school divisions additionally require federal and state criminal background checks. The state provides no funding for the cost of these checks, which may be paid by either the school division or applicant. Additionally, a prospective employee who applies with several school divisions may have multiple background checks initiated; each paid for separately. A central repository, established and maintained at the state level (DOE) for background check results, could provide a clearing house service which localities could access for results before initiating their own investigation; thus saving time and money. Adopted 11/99 (formerly Policy 3.12); Review Date: 2024.

#### **4.17 Drug Testing for Employees**

There exists a special need to ensure the safety and welfare of students and employees in a school. The General Assembly of Virginia has recognized the need for local school boards to

obtain personal information about an individual prior to employment. As a condition of employment, an applicant who is offered or accepts employment requiring direct contact with students must “provide written consent and the necessary personal information for the school board to obtain...a search of the registry of founded complaints of child abuse and neglect, maintained by the Department of Social Services....” (§ 22.1-296.4—Child Abuse and Neglect Data Required). This legislation indicates that there are instances in which the need for safety and welfare of students is a priority which supersedes the individual privacy of an applicant.

The VSBA supports legislation that permits, as a condition of employment, local school boards to require any applicant who is offered employment to submit to drug testing.

Background and Legislative History: Adopted 11/00 (formerly Resolution 4.45); Review Date: 2024.

#### **4.18 Superintendent Attendance at Meetings**

Section 22.1-69 of the Code of Virginia states that the superintendent or designee shall attend all meetings of the school board and the superintendent’s (or designee’s) attendance may be dispensed with at a special meeting of the school board upon an affirmative vote of a majority of the members. When this section is read together with the closed meetings statute in the Virginia Freedom of Information Act, it appears that the superintendent is required to attend such closed meetings.

The VSBA supports allowing, but not requiring, the superintendent to attend closed meetings of the school board.

Background and Legislative History: Adopted 11/98 (formerly Resolution 4.43); Review Date: 2024.

#### **4.19 Volunteers**

The VSBA believes that programs to promote volunteerism and reward and retain volunteers should be developed throughout the Commonwealth. In this period of limited resources, the services provided by volunteers are essential. The value of volunteerism is especially noticeable in many public school systems in the state. Volunteers perform services in the schools which would have to be provided otherwise by the government.

At the same time that many schools and localities have a greater need for the services of volunteers, many forces serve as a deterrent to volunteering-such as the need for full-time employment and the decrease in the number of adults with school-age children. To offset factors which diminish and discourage volunteerism, plans which encourage voluntary participation-such as tax incentives, recruitment and training programs, recognition and reward ceremonies, should be established throughout the state.

In an attempt to increase the pool of individuals who may apply as a volunteer, school divisions in the Commonwealth of Virginia should consider applicants on a case by case basis who have a felony conviction but who have fulfilled their legal commitment to society. The application process would consider the type of crime committed, the duration of time since conviction and the volunteer role being requested. This action would address the inequity in the candidate volunteer pool of men of color in particular and provide a group of volunteers of all ethnicities and genders who would be good mentors for the students at high risk in our schools.

Background and Legislative History: Adopted 10/83 (formerly Resolution 4.12); Amended 11/20; Review Date: 2027.

#### **4.20 Advisory Committees and Commissions**

Advisory committees and commissions are regularly appointed to engage in major policy studies and reviews which impact on national and state education policies affecting local school divisions, and the operations and governance of local school divisions. Such advisory committees and commissions carry considerable influence with the Congress of the United States, and the General Assembly of Virginia.

The VSBA supports the inclusion of school board members on all advisory committees and commissions which impact on local school division policy-making and operations.

Background and Legislative History: The United States has 5 percent of the world population, yet approximately 25 percent of its prisoners. More than 60 percent of the people in prison are people of color. For black males in their twenties, one in every eight is in prison or jail on any given day. This inequity is a problem being actively discussed in our country now, but many school districts continue to perpetuate this problem by denying individuals with a history of felony conviction the option to apply as a volunteer in schools. The Lynchburg City School Board has enacted a formal process to screen applicants with felony convictions that excludes individuals who have a history of crimes against children or violent crimes with final determination made by the superintendent. We recognize that the safety of the children in our schools is the primary responsibility of our board, but we also believe this policy promotes equity in our volunteer pool and demonstrates appropriate respect to all individuals who desire to help our students succeed.10/82; Amended 9/88, 11/91 (formerly Resolution 4.7); Review Date: 2024.

#### **4.21 Conflicts of Interest**

The VSBA supports an amendment to Section 2.2-3119 of the Code so that, in school divisions serving population of 10,000 or fewer, relatives of school board members who do not live in the same household could be employed as substitute teachers and paraprofessionals.

Background and Legislative History: Many small, rural counties and towns have populations of 10,000 or fewer. In such divisions, the potential employment population is much smaller than in larger school divisions. In order to meet the requirements of No Child Left Behind to employ “highly qualified” paraprofessional and substitute teachers, it may be necessary to employ certain relatives of school board members. Current Virginia law (§ 2.2-3119) prohibits hiring of relatives of school-board members, but there is precedent in the Virginia Code for making an exception in purchasing processes for a town whose population is less than 10,000. This policy is based on incorporating the exception for small towns already in the Code in § 2.2-3110(A), (B). Adopted 11/03 (formerly Policy 1.22); Review Date: 2024.

#### **4.22 Tax Relief for Teachers**

The Virginia School Boards Association supports tax relief for teachers and requests that the General Assembly create a new Virginia Subtraction from Taxable Income Base of up to \$750 (this is the amount above the federal amount to bring the total to \$1,000). Virginia subtractions are defined in Virginia Code § 58.1-322.C “[t]o the extent included in federal gross adjusted income, there shall be subtracted:” Under 58.1-322-C is a list of subtractions 58.1-322.C.1-58.1-322.C.34.

Background and Legislative History: As budget cuts have created strains in schools throughout the country, many educators have opened their own wallets to make sure students continue to have the classroom resources they need. Virginia’s teachers often spend several hundred dollars a year purchasing supplies for their classrooms. Adopted 11/10; Review Date: 2024.

#### **4.23 Expansion of the Virginia Human Rights Act**

The VSBA requests the expansion of classifications contained in the Virginia Human Rights Act, Code of Virginia §§ 2.2-3900 and 2.2-3901, to include sexual orientation and gender identity and to further amend the Code of Virginia, § 22.1-78, to allow local school boards to similarly expand the protected classifications contained in local school board policies and regulations.

Background and Legislative History: Several local school boards support the expansion of protected classifications that are currently contained in existing local school board policies. It is uncertain whether or not expanding the protected classifications to include gender orientation and gender identity is permitted within the *Virginia Human Rights Act*. Clarifying legislation will ensure that all persons in all categories have equal protection.

Sexual orientation and gender identity discrimination have been part of American society for decades, and while increased social awareness and some successes in the judicial system have improved the situation, many people still face significant obstacles at work related to sexual orientation and gender identity. The Commonwealth should do all that it can to protect these individuals from discrimination. Adopted 11/11; Amended 11/19; Review Date: 2026.

#### **4.24 Conversion of Accrued Sick, Personal, and Vacation Leave for VRS Years of Service**

The VSBA supports legislative or process changes that would permit local school divisions to allow retiring employees to purchase VRS credited years of service through redemption of accrued leave (personal, sick, vacation). This would provide incentive for teachers and staff to be fully engaged in their final year of employment.

Background and Legislative History: Many local school divisions experience retiring senior administrative and instructional staff accessing existing leave policies during their final semester or year on the job, leaving many absent from duties due to usage of their accrued leave. Typically, the unused leave is paid as a fraction of the per diem salary, and the leave is taken to gain the maximum financial benefit, thereby costing the local school division the loss of experienced and critically important administrative and/or instructional services.

This position intends to increase the likelihood that senior staff will work out their final year at the same level of involvement which earned them the large accrued leave. The purchase of VRS credited service by application of unused leave might be beneficial to all parties. Adopted 11/16; Review Date: 2023.

#### **4.25 State Police Requirements for Providing Information on Fingerprint Checks**

When school divisions conduct required criminal fingerprint checks, that the state require the state police to provide all available information.

Background and Legislative History: Current Virginia Code requires all school divisions to run fingerprint checks for new hires through the state police. The state police only provide the location, arrest, date, and municipality of the offense that “may be a barrier crime to employment.” The state police do have information on the offense and possible adjudication; however, when asked to provide, the state police contact has responded that they are not required to provide that information by the Code of VA and it would be extra work to do so. But for school divisions, this requires a substantial amount of research for these offenses. Cooperation from law enforcement agencies and the courts is needed to effectively complete the background checks of potential and current employees. Adopted 11/17; Review Date: 2024.

#### **4.26 Amend Virginia Code to Allow Full-Time Employment of Retired VA Law Enforcement Officers in School Security**

VSBA supports amending the Code of Virginia (§§ 51.1-155, 51.1-206, and 51.1-217) relating to the Virginia Retirement System to permit retired law-enforcement officers to be hired in full-time school security positions without loss of retirement benefits.

Background and Legislative History: Currently, Virginia VRS appears to penalize school and divisions and counties from hiring these individuals. Current law limits retired Virginia police officers to a maximum of 80% of full-time employment after qualifying for retirement. Allowing retired police officers to be hired for full-time school security positions is especially valuable given this year's passage of legislation enabling school divisions to hire armed School Security Officers. Former law-enforcement officers, who already know local schools and communities, can provide immediate safety benefits. Facilitating their employment must be a top legislative priority. Adopted 11/18; Review Date: 2025.

### **5.0 School Board Authority and Governance**

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#### **5.1 Local School Boards' Constitutional Responsibility**

School board members are constitutional officials and school boards should not be replaced by local units of government or the Commonwealth of Virginia and elected school boards should be treated in the same manner as other elected local governing bodies and boards are under the Code of Virginia. The power of school boards to provide daily supervision of schools was affirmed by the State Supreme Court in *School Board v. Parham*, 218 Va. 950 (1978). The VSBA opposes interference in the day-to-day activities of school boards and superintendents as they perform their constitutional responsibility.

Background and Legislative History: Adopted 9/88; Amended 12/90, 11/93, 11/21 (formerly Resolution 4.22); Review Date: 2035.

#### **5.2 Financial and Administrative Impact of Legislation, Regulations, and Guidelines**

State and federal legislative bodies and regulatory agencies should determine the full financial and administrative impact on local school divisions and allow adequate time for public review before taking action on proposed legislation, regulations, and guidelines related to education. The impact and effectiveness of existing legislation, regulations, and guidelines should be periodically assessed to determine the need for revision, refinement, or relaxation of same. Decision-makers should balance proposed changes against the potential disruption in students' learning that may result from any abrupt or repeated changes.

Background and Legislative History: Often legislation, regulations, and guidelines are approved and enforced without adequate study of the effect on ongoing educational programs or the availability of revenue to support their implementation. As a result, well-intentioned actions often are ineffective or counter-productive. Adopted 10/77; Amended 10/80, 10/81, 12/90, 11/96 (formerly Policy 1.1). The authority and discretionary powers of local school boards are increasingly limited by federal and state legislation and agency directives. Members of the VSBA should avail themselves of the opportunities provided to inform their representatives of the financial and programmatic effects of federal and state intervention. Adopted 10/77; Amended 10/80, 10/82, 9/88 (formerly Policy 3.1); Review Date: 2028.

#### **5.3 Twenty-first Century Communication for School Boards**

Where a quorum of a public body is physically assembled at one location for the purpose of conducting a meeting, additional members of such public body may participate in the meeting through telephonic or video means provided such participation may be heard by the public, as authorized under the Virginia Freedom of Information Act. A quorum may be accounted for via

an electronic roll call.

The VSBA supports expanded authority to conduct electronic communication meetings, including changes to Virginia's law to allow local school boards to conduct public electronic meetings without the quorum of the public body or any member of the governing board physically assembled at one location when the Governor has declared a state of emergency and the nature of the declared emergency makes it impractical or unsafe for the board to assemble in person. The VSBA also supports adjusting the threshold for meeting requirements to adjust based on a governing board's size rather than the current standard of more than two members meeting, regardless of a board's size.

The VSBA supports revision of the records management regulations issued by the Library of Virginia, especially those regulations regarding the management and retention of school board e-mail, in order to achieve a suitable balance between access to and archiving of public records and the resources required for compliance.

Background and Legislative History: Local school board members, upon occasion, are unable to be physically present at a business or other meeting of the board because of work location or travel or temporary home confinement, for some examples. Nevertheless, the school board member who must be physically absent may be able to participate electronically. It is in the interest of the school division and the local community that as many board members as possible participate as the board conducts business or oversees school division programs and functions. Adopted 11/04 (formerly Policy 1.24); Sections of the current state Library Board regulations and their interpretations regarding the management and retention of e-mail sent to public officials including local school board members exceed what may reasonably be considered efficient and economical. To-the-letter implementation of the current regulations detracts from school board operational efficiency. Staff and financial resources are diverted to compliance with the regulations to the detriment of instruction and other areas of school board responsibility. It is not the intention of this policy to eliminate or restrict the electronic archiving of e-mail. Under a 2013 Virginia Code amendment, a "personal matter" can support a school board member's request to participate in a board meeting from a remote location. However, no member can use this option more than two times per year. Extending this option to additional meetings would enhance participation at particular meetings, but also make it feasible for those frequently affected by business travel or family care obligations to engage in public service, and thereby greatly expand the range of talents available for each public body's decision-making. This would modernize, clarify and simplify the conditions under which a member of a school board or other local public body may participate in a meeting from a remote location. It would bring meetings of local public bodies into closer alignment with long-recognized best practices for meetings of boards of directors in the private sector. With this change, members of such a body could participate in meetings while continuing to meet business travel or family care obligations. Even if the change were adopted, several required conditions would still protect the integrity of the meeting, including: a quorum must be present at one site; the public must be able to hear the remote participant and other members of the body have to consent to the off-site participant's inclusion in the meeting. On April 22, 2020, the General Assembly adopted Budget language that allowed local bodies to meet electronically to conduct normal business in light of the coronavirus pandemic. While this will help localities and school boards continue to conduct business in the short-term, Virginia's open meeting laws should come into alignment with modern technology and not require additional Executive or General Assembly action to allow local governments to operate in the event that they are unable to meet during a state of emergency. Current law is based on a single number, meaning that a much higher percentage of the total board for smaller boards can meet versus larger boards. Example: a meeting of 2 members of a 5-member board represents 40% of that board while a meeting of 2 members of a 12-member board represents only 17% of the larger board. Adjusting the threshold for larger boards would address this inequity and increase operational efficiency without sacrificing transparency for board actions. Adopted 11/04, 11/13 (formerly Policy 1.25); Amended 11/20; 11/21; Review Date: 2034.

## 5.4 Compensation of School Board Members

Local school board members should have the right to determine, by public vote of the school board, their compensation within the monetary limits established by law.

Background and Legislative History: During each session of the General Assembly, various “local bills” are introduced to amend the statutes pertaining to the compensation of school board members in Virginia. There appear to be growing inequities in the compensation of school board members in the various localities of the state. School board salaries should be the same as are their locally elected counterparts, and should be addressed in the same statute. Oversight of both local governing bodies then will be a function of the General Assembly and not of one locally elected body over another locally elected body. Adopted 10/77; Amended 11/94, 11/00 (formerly Policy 1.6); Review Date: 2028.

## 5.5 Local Choice Health Benefits for School Board Members

The VSBA supports legislation that will allow local school board members to continue their health benefits program under guidelines for all employees as outlined by VRS retirement requirements to wit:

- Age 50 – 10 years service; and
- Age 55 – 5 years service.

Background and Legislative History: This proposal would mirror the plan available to current employees. Adopted 11/07 (formerly Policy 1.27); Review Date: 2028.

## 5.6 Suspension and Expulsion of Students and Exemptions to Public Notice Requirements under FOIA

The statutory authority of local school boards to suspend, expel, and exclude students from school attendance should not be in any way diminished or infringed. Moreover, local school boards should be authorized in the Code of Virginia to adopt regulations permitting the board to choose specified alternative procedures in cases of suspension, expulsion, and exclusion.

The General Assembly should enact legislation exempting meetings of the school board’s student disciplinary committee from the public notice requirements of the Freedom of Information Act (FOIA).

Background and Legislative History: The Standards of Quality require local school boards to adopt policies establishing standards of student conduct and attendance and enforcement procedures to ensure that public education is “conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.” Furthermore, the Code of Virginia gives local school boards the authority to suspend and expel students from school attendance. The VSBA strongly supports maintaining this clearly established authority of a local school board to suspend, expel and exclude students in conformance with due process procedures and based on the facts of each case. These sanctions are critical to maintaining safe educational environments and guiding students in developing appropriate behavior and personal accountability. The VSBA also supports the provision of options in the Code of Virginia that permit local school boards to adopt those procedures best suited for handling student discipline in each division. Adopted 11/96; Amended 11/97, 11/99, 11/01 (formerly Policy 1.19). The General Assembly has mandated that the disciplinary committee shall consist of at least three members of the school board. This requires notification of a public meeting. These meetings are closed, but there is nothing to prevent members of the public who attend from knowing who the students are who will be discussed. This notice requirement, and subsequent attendance by some members of the public, violates a student’s right to privacy. Adopted 11/02 (formerly Policy 1.21); Review Date: 2028.

## 5.7 Fiscal Authority of School Boards

Local appropriating bodies should allocate and appropriate, on an annual lump-sum basis, all public school funds each July for the succeeding fiscal year. The VSBA supports a legislative study to explore the subject of fiscal autonomy for elected local school boards.

Background and Legislative History: The Code of Virginia permits local appropriating bodies to appropriate public school funds either in a lump sum or divided into eight major classifications prescribed by the Board of Education. The VSBA supports elimination of the option to appropriate funds by classification. Because the classifications are so broad, little fiscal control is gained by the appropriating body if funds are appropriated in this manner. Further, local school boards are better able to plan and to make adjustments for the instructional program and personnel costs when funds are appropriated on an annual lump-sum basis. Many local school boards in the Commonwealth still are required to make appropriation requests to appropriating boards on a month-to-month basis, or for some other term less than a year. Such short-term appropriations are unrealistic because the vast majority of local school board expenditures are for personnel who can be effectively contracted only on an annual basis. Basic school laws should encourage school boards to plan goals and programs in long-range terms. Appropriations on a month-to-month or any other basis shorter than annually frustrates this objective. These fiscal practices contribute to friction between boards without any positive benefit to either a local school board or local appropriating board. Adopted 10/77; Amended 10/80, 12/90, 11/96 (formerly Policy 1.2). Since 1912, when the General Assembly provided for local referenda on the direct election of school board members by voters, the citizens of Virginia overwhelmingly have supported changing from appointed to elected school boards. Currently, 108 of the 134 local boards in Virginia are elected in whole or in part. Fiscal independence logically accompanies direct election because it is necessary to ensure the responsiveness of local boards to constituents. It is not appropriate or practical for an elected school board to be subject to the budgetary and taxing decisions of another elected body. Constitutional amendments should be made to authorize the establishment of independent school divisions governed by elected school boards with powers to appropriate funds, impose taxes and borrow money for school purposes. The VSBA will continue to support and initiate legislation to authorize a state study of fiscal autonomy for elected local school boards. Adopted 11/96; Amended 11/99 (formerly Policy 1.20); Review Date: 2028.

## 5.8 School Law Procedures

Local school boards should make every effort to extend due process to students and employees. The school board, however, should retain the right to use all appropriate legal, administrative and investigative tools in matters related to public employment.

Any uniform grievance procedure should make allowance for variations by local school divisions. The question of what constitutes a justifiable grievance should not be subjected to the grievance procedure. Compulsory binding arbitration should not be a part of the grievance procedure.

Background and Legislative History: Due process of law is guaranteed to citizens of the United States by the Fifth and Fourteenth Amendments to the Constitution of the United States. School boards can avoid much costly and time-consuming litigation by protecting the Constitutional rights of students and employees as they have been delineated by the Supreme Court of the United States and the General Assembly of Virginia. Adopted 10/77; Amended 10/85 (formerly Policy 1.8). Any procedure adopted by the Board of Education for all school divisions should allow for local variations to meet local conditions so long as such variations do not violate the spirit of the basic procedure. Consistent with VSBA policy on due process, local school boards may avoid costly and time-consuming litigation by protecting the constitutional rights of their employees. The 1991 General Assembly enacted legislation requiring local school boards to administer a grievance procedure for nonprofessional school personnel. However, due to the nature of their employment, classified employees should not, in effect, be granted continuing

contract status. Local school boards should provide an avenue for employees to resolve their conflicts. In order to conduct the grievance process fairly, the Virginia Code should allow the school board to deliberate in closed session to reach decisions on grievability, regardless of whether the presentation of arguments is made in public session. In current law, the grievable issue does not always gain an exemption as a personnel matter Adopted 10/77; Amended 12/90, 11/92 (formerly Policy 1.9). Compulsory binding arbitration removes from school boards the power to make some of the decisions which they are required by law to make as the representatives of the communities they serve. Adopted 10/77 (formerly Policy 1.7); Review Date: 2028.

## **5.9 Right of School Boards to Implement Education Reforms**

The VSBA believes that all public schools should be freed from regulations impeding education reform. The power to operate, maintain and supervise public schools in Virginia is within the exclusive jurisdiction of local school boards and is granted to them by the Constitution and the Code of Virginia.

Local school boards have the sole prerogatives to:

- Decide to create or not create best practices, magnet schools, vocational schools, charter schools and other innovative schools/programs;
- Evaluate their operation and effectiveness, de-certifying any which fail to meet the terms of their existence;
- Set certain educational standards and outcomes; and
- Determine attendance, employment, fiscal and other policies of these schools are the sole prerogatives of local school boards.

There should be no changes to the charter school law unless initiated by local school boards through the VSBA and there should be no appeal allowed to any entity, in accordance with existing charter school law (22.1-212.10), of the local school board decision to establish such schools/programs.

The VSBA will monitor all legislation affecting these innovative schools/programs as it is introduced to the General Assembly and will oppose any plan that would:

- Lead to segregation by race, socioeconomic class or disability;
- Divert state funding away from regular public schools;
- Offer waivers of certain state regulations to these schools, including, but not limited to, required testing, reporting and other requirements in the Standards of Accreditation, without offering the same waivers to regular public schools;
- Fail to guarantee equal access for all students;
- Vest final authority for establishing such schools/programs, regionally or locally, in any body other than the local school board; or
- Exempt such schools/programs from submitting an assessment/ evaluation plan with its application as one condition for approval.

The VSBA supports innovative efforts directed at improving all public schools and opposes all measures that would divert such comprehensive efforts to ensure the best education possible for each child in the Commonwealth.

Background and Legislative History: 11/98; Amended 11/01, 11/02 (formerly Resolution 4.38); Review Date: 2028.

## **5.10 School Board Training**

The Standards of Quality require each state and local school board member to participate in training programs dealing with personnel, curriculum, and current education issues as a part of board service. Most new school board members can benefit from training in education law or

the many operational and substantive issues which they will be called upon to address. In addition, it is very difficult for experienced board members to keep abreast of constant changes in education law and state and federal mandates pertaining to schools. It is essential that school board members work together to provide good management and sound academic guidance for the public schools.

The VSBA supports the state requirement for board education but believes that the scope, extent, and nature of training must be determined by local school divisions.

Background and Legislative History: Adopted 10/86; Amended 10/87, 9/88, 12/90 (formerly Resolution 4.15); Review Date: 2028.

### **5.11 Scheduling of Elections**

The primary location of polling places in the Commonwealth of Virginia is the public schools. Because of the General Assembly action, public schools are not permitted to open prior to Labor Day of any given year as the opening days of any school year may create unforeseen problems and adjustments.

The VSBA requests that the Virginia General Assembly refrain from scheduling any elections on dates which coincide with the opening or first day of any school year.

Background and Legislative History: The amendment removes legislative position language that specifically addresses the restrictions on school systems for opening school before Labor Day. The removed language is the basis for Legislative Position 5.13 that specifically addresses the pre-Labor Day opening restrictions. Adopted 12/90; Amended 11/91 (formerly Resolution 4.27), 11/11; Review Date: 2026.

### **5.12 Unexpended Funds**

Unexpended funds at the end of each fiscal year should be retained in the existing school fund balance, not subject to reappropriation as “new fiscal year” funds, instead of being returned to the local appropriating bodies.

Background and Legislative History: Currently, Virginia Code § 22.1-100 requires that any school board funds that are unexpended at the end of the fiscal year must be returned to the local appropriating body. Having the option of deciding to hold on to reversion funds would enhance the ability of school boards to enter into more long-range planning as well as provide boards the ability to maintain a reserve or contingency fund as a hedge against future budget shortfalls or emergencies. It would also encourage a culture of fiscal prudence, as school divisions would not be subject to the “use it or lose it” perception that now exists under the current statute. Adopted 11/10; Amended 11/19; Review Date: 2026.

### **5.13 Scheduling of School Opening**

The VSBA requests that the Virginia General Assembly rescind the restrictions upon the opening of school before Labor Day.

A pre-Labor Day opening would allow local school systems to effectively schedule all mandatory instructional, professional development, and teacher work days, and allow for the scheduling of additional instructional days in advance of mandatory assessment windows.

Furthermore, a pre-Labor Day opening would provide greater flexibility in calendar creation, and accommodate unique local conditions, regional programs, and state and federal holidays.

Background and Legislative History: The new proposed legislative position removes language from the former Legislative Position 5.11 (formerly entitled, **Scheduling of Elections and**

**School Opening)** and focuses entirely on eliminating the existing restrictions placed on school systems on the opening of school before Labor Day. The current Legislative Position 5.13 notes the numerous benefits for all school systems that would be associated with eliminating the restrictions. Adopted 11/11; Review Date: 2024.

#### **5.14 Changing Board Procedures in the Event of a Tie Vote**

The VSBA requests changes in the Code of Virginia, § 22.1-75 Procedure in case of tie vote, that will provide for the following of Robert's Rules of Order Newly Revised in addressing such situations.

Background and Legislative History: Currently the Code of Virginia can cause local school boards to delay decisions when a tie vote occurs. The use of Robert's Rules of Order Newly Revised in resolving tie votes will allow local School Boards to operate in a smooth and efficient manner without delaying actions. Adopted 11/11; Review Date: 2024.

#### **5.15 Land Acquisition**

The VSBA supports changes to the Code of Virginia that would permit a local school board to purchase real estate without the possibility of the property being subject to unrecorded equitable servitudes, easements, negative easements and the like.

Background and Legislative History: Adopted 11/15; Review Date: 2022.

#### **5.16 Division Boundaries and School Board Consent**

That VSBA opposes any legislation or executive branch action that would empower any agency or department of the Commonwealth to alter any school division boundaries within the Commonwealth without the consent of the local school boards of all impacted school divisions.

Background and Legislative History: During the 2021 General Assembly session, legislation was introduced (and later withdrawn) to empower the Virginia Board of Education to alter school division boundaries. A similar recommendation relating to reconfiguration of school boundaries was included in the recent report of the African American Superintendents Advisory Council. Current law requires the consent of impacted school divisions' boards and that should remain the applicable law. Adopted 11/21; Review Date 2028.

### **6.0 School Business Issues**

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#### **6.1 Local School Boards Procurement Exemptions**

All local school boards should be exempt from mandatory participation in centralized purchasing by the county administrative officer.

School boards should retain the ability to voluntarily enter into cooperative purchasing agreements with other government entities when those agreements are financially beneficial, help to increase efficiency and/or reduce administrative costs. Voluntary cooperative purchasing agreements should also be free of arbitrary restrictions on the use of this potentially beneficial and cost saving practice.

Local school boards of school divisions with fewer than 5,000 pupils in average daily membership should be exempt from the provisions of the Virginia Public Procurement Act in making routine purchases of materials and services.

Background and Legislative History: Section 15.2-1231 of the Code of Virginia permits the Board of Supervisors in any county employing a chief administrative officer to establish a central

purchasing arrangement which should include the school system along with the departments of county government. The VSBA supports legislation which would leave to all local school boards the final decision as to whether or not they will participate in such an arrangement. Adopted 10/77, 11/02 (formerly Policy 1.10). The Procurement Act occupies approximately 53 pages of the Code of Virginia. School divisions with small pupil enrollments and limited administrative staff are experiencing a heavy burden in maintaining compliance with the provisions of the Act. Adjustments to the Act which allow for simplified purchasing procedures will result in more efficient operation of these school divisions. In addition, the Procurement Act § 2.2-4300 should be amended to allow interviews to rank firms for competitive negotiation to be held in closed session so that those interviewed second, third, etc., would not benefit from hearing the questions asked of the first. Adopted 10/85; Amended 12/90 (formerly Policy 1.15). Amended 11/14; Review Date: 2028.

## **6.2 Unemployment Compensation**

There should be no legislation that would provide unemployment compensation benefits to employees between academic terms or years or during school vacations or school holiday periods. Additionally, state and federal law should be amended to eliminate the eligibility of substitute teachers and other temporary employees to receive unemployment compensation.

Background and Legislative History: A federal law (amending the Internal Revenue Code of 1986, Section 3304) passed in late 1991 gives states the option of providing unemployment compensation to nonprofessional school employees despite their expectation to return to work. The provision also would allow teachers to receive unemployment insurance payments for weeks not worked during school year holidays. In a period when schools are experiencing increased demands and decreased revenues, this is an inappropriate time to ask school divisions to pay more in noninstructional and nonessential costs. This provision provides benefits beyond the employment terms originally agreed upon. On the average, it would cost school divisions hundreds of thousands of dollars for these employees who do not work between academic terms or years or during school vacations or school holiday periods. Substitute teachers are hired on a temporary basis to fill in for regularly employed teachers. They accept employment knowing that it is temporary. To accord them unemployment compensation benefits unnecessarily raises the cost of education. Substitute teachers should not be eligible for unemployment compensation. Adopted 10/85; Amended 11/92, 11/01 (formerly Policy 1.14); Review Date: 2028.

## **6.3 Insurance Programs**

Every possible avenue of assistance should be explored, including a statewide plan of self-insurance, to help local school boards properly to place and to finance insurance covering property, liability, theft, hospitalization, errors and omissions, and worker's compensation.

Background and Legislative History: It is sometimes difficult for local school boards to place and to finance insurance covering property, liability, employee theft, hospitalization, errors and omissions and worker's compensation. The VSBA should continue to explore and offer every possible avenue of assistance, including various tort and statewide self-and group-insurance plans, so that local boards are ensured continuance of affordable insurance coverage of all types. Adopted 10/77; Amended 10/86, 12/90 (formerly Policy 3.3); Review Date: 2028.

## **6.4 Sale of School Board Property**

School boards should be permitted to sell surplus real property and retain the proceeds from such sales, with proceeds accruing to a capital improvement fund. School boards should not be subject to automatic mechanisms transferring title to local appropriating bodies for property deemed vacant or unused.

Background and Legislative History: Recent amendments to the Code of Virginia (Section 22.1-129) permit a school board to sell its surplus real property and to retain all or a portion of the proceeds of such sale upon approval of the local appropriating body and after the school board has held a public hearing on such sale and retention of proceeds. Proceeds must accrue to a capital improvement fund which shall only be used for new school construction, school renovation, and major school maintenance projects. The VSBA encourages the increased involvement of school boards in the local appropriating body's decision-making process relating to the sale or disposition of surplus school property and the assignment of proceeds. This recommendation simply clarifies that school boards should remain ultimately responsible for the property under their authority and should not be subject to any mechanism to automatically transfer title to local appropriating bodies if a property is deemed "vacant" or "unused". The current procedure for a transfer of property from a school board to a local appropriating body involves mutual consent of both boards. The recommendation is in response to HB2157 in 2005 (Nutter), that would have said that any school board property vacant or "unused" for six months would be reverted to the local appropriating body automatically. HB2157 was a general response to a very specific dispute between a school board, the board of supervisors, and developers in a county, and should not be the impetus for statewide legislation. School board property may remain vacant for long periods of time for a variety of reasons (such as awaiting the approval of capital financing, etc.) and should not be subject to artificial use deadlines. Adopted 10/82; Amended 11/95, 11/05 (formerly Policy 3.8); Review Date: 2028.

## **6.5 Public-Private Partnerships in K-12 Education**

The General Assembly enacted The Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA), finding that there are inadequate resources to develop education facilities (including school buildings and any functionally related facilities and land) and technology infrastructure (including, but not limited to, telecommunications, automated data processing, word processing, and management information systems); and, that there is demonstrated evidence that public-private partnerships can meet the needs for such facilities and infrastructure by improving the schedule for delivery, lowering the cost, and providing other benefits to the public.

Over many years public institutions of higher learning and private companies have established and maintained mutually beneficial public-private partnerships in a number of areas of great value to the public such as technology, science, service delivery, and training. General Assembly support and facilitation of similar public-private partnerships between Virginia businesses and the K-12 public education system have the potential to improve the delivery of public education programs and services while reducing educational costs in addition to promoting technological innovation and economic development. Examples of opportunities for such partnerships include the establishment of next generation vocational centers, development of innovative instructional materials and experiences, enhancement of data collection and transmission capabilities, and improved instructional and administrative management tools.

The VSBA supports the General Assembly taking prompt and positive action necessary to facilitate and encourage such public-private partnerships in K-12 education by removing any statutory and regulatory impediments to their functioning, providing economic incentives to businesses and school divisions for participation, and supporting pilot projects to demonstrate the value of such partnerships at the local, regional, and state levels.

Background and Legislative History: Adopted 11/03 (formerly Resolution 4.47); Review Date: 2028.

## **6.6 Private Sector Support of Public Education**

Local school boards and the Board of Education should establish mechanisms whereby the private sector can make contributions to the public schools. The VSBA believes that:

- Programs implementing business-industry liaison with the public schools should be encouraged at the state and local level;
- Contributions of services, supplies, equipment and other resources should be acceptable;
- Private sector contributions to a locality should not be subject to equalization or treated as an offset to state and local aid; and
- Equity concerns should be addressed by serving school systems without local private resources through state level programs, such as an adopt-a-business program, a school/business exchange program, or a foundation to fund incentive grants or underwrite specific projects.

Background and Legislative History: In the past few years business/industry/education partnerships have emerged in response to the public's concerns about the quality of schooling and the school system's success in preparing students for work. Business and industry support of education benefits the school systems and the students, as well as the private sector. Schools gain additional resources and community support. Students have access to current and relevant instruction, materials, and job information. The private sector gains through increased visibility, positive community relations, development of a labor pool, and an improved climate for business. With increased attention to and debate surrounding public/private ventures, it is the VSBA's position that such partnerships should be entered into at the discretion of the local board. Adopted 10/84; Amended 12/90, 11/91 (formerly Policy 3.9); Review Date: 2028.

## **6.7 Regional Cooperative Programs and Facilities**

The VSBA supports regional cooperation among all educational units and entities in the programming, instruction, and use of facilities.

Background and Legislative History: The provision of cooperative programs on a regional basis is one way in which the local school divisions can offer high quality instructional services. Where such regional programs and facilities are essential to cost effectiveness, state law, policy, and regulations should permit and encourage the establishment of cooperative programs and facilities. Adopted 10/81; Amended 12/90 (formerly Policy 2.11); Review Date: 2028.

## **6.8 School Bus Purchases**

Certain legislative proposals would require school bus manufacturers to have an independent distributor or dealer. School boards already have the option to purchase through a dealer or directly from a manufacturer. Enactment of this law will result in destroying the wholesale purchasing power of school boards, increasing the costs of buses through the use of third parties, and thus, increasing the costs to taxpayers.

The VSBA opposes any legislation which would limit the wholesale purchasing power of school boards.

Background and Legislative History: Adopted 10/80; Amended 10/83 (formerly Resolution 4.4); Review Date: 2028.

## **6.9 Distribution of USDA Commodities to School Divisions**

Under the current system of U.S. Commodity distribution for school lunch programs, commodities are delivered free by the Department of Agriculture to distribution points convenient for the school division to pick up and most school divisions contract with the state to have commodities delivered to individual schools by distributors. Some school divisions pick up commodities at such distribution points or obtain commodities by other means. Several school divisions have changed the manner in which they obtain commodities and all school divisions have that same option.

The VSBA supports a system of food distribution that allows individual school divisions to choose the most cost effective method for that locality.

Background and Legislative History: Adopted 10/83; Amended 12/90, 11/93 (formerly Resolution 4.9); Review Date: 2028.

## **6.10 Local Health Plan Choice**

The VSBA supports legislation that allows Local Boards (Divisions) to have the option to participate in the Commonwealth of Virginia's Healthcare Plan (COVA Care).

Background and Legislative History: Adopted 11/14; Review Date: 2028.

## **7.0 School Choice**

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### **7.1 Support for Private Education, Vouchers, and Tax Credits**

The VSBA believes that all public schools should provide a quality education for each student and that in meeting local educational needs, locally developed policies and program options which give parents the opportunity to select schools or programs for their children should be considered among a variety of possible educational strategies.

The VSBA opposes federal or state efforts to mandate school choice, including efforts to divert or condition funding from existing federal and state programs. The VSBA supports any plan allowing public, private or home-school students access to schools or school programs that assure the following:

- The plan does not foster racial, social, or economic segregation or segregation of children with disabilities;
- Financial and other administrative issues, such as transportation concerns, are addressed. The VSBA believes local school divisions should not be required or asked to assume the liabilities and burdens of transporting nonpublic school students;
- The plan is not part of a federal or state voucher or scholarship program to finance non-public education;
- Students are required to make at least a one-year commitment to a school or program of choice to afford stability of school management;
- Full state reimbursement is made to school divisions for each student who is admitted; and
- No state mandate is created and that decisions regarding access to public school by non-public school students remain prerogatives of the local school board.

Private and home schools have no direct accountability to taxpayers for their use of tax revenues because they are explicitly excluded from public accountability under both state and federal law. With vouchers and tuition tax credits, private and home schools would have an advantage in competition with public schools because they can be selective in admissions and can refuse to provide services which public schools by law must provide. Vouchers and tuition tax credits for private and home schools could result in fewer existing state and federal funds appropriated to support public school programs.

The VSBA opposes any federal or state voucher and tuition tax credit legislation and any legislation that would provide vouchers or tuition tax credits for elementary and secondary private and home-schooled school students. The VSBA also opposes measures requiring the transfer of local taxpayer funds to other jurisdictions or to private providers should a student choose to enroll in a virtual program outside of their home school division.

Background and Legislative History: A mandate requiring public school divisions to transport nonpublic school students would greatly increase the administrative difficulties of operating the school transportation system. Additional burdens placed on the division would include: the need

for more buses; greater fuel consumption; longer bus rides for public school students; more paid hours for bus drivers on shared routes or increased personnel needs and costs for separate routes; accelerated wear and tear on buses resulting in additional maintenance costs and faster replacement of buses; and responsibilities of monitoring student behavior and implementing student discipline for nonpublic school students. Liability burdens also would increase under such a mandate. Local divisions would assume increased insurance costs associated with additional students, buses and personnel. Adopted 12/90 (formerly Policy 2.14); Adopted 10/81; Amended 10/83, 11/02, 11/03 (formerly Resolutions 4.5 and 4.6); Adopted 11/91; Amended 11/94, 11/96, 11/13, 11/14 (formerly Resolution 4.28); Review Date: 2026.

## **7.2 Non-Public School Students Participating in Virginia High School League activities**

The VSBA opposes non-public school students' participation in Virginia High School League (VHSL) activities.

Background and Legislative History: This legislative position was brought to the Delegate Assembly through a floor motion because the legislative proposal offered by the Legislative Positions Committee, as well as the existing VSBA legislative positions, did not clearly set out the association's stance on non-public school students participation in Virginia High School League activities. Adopted 11/12; Review Date: 2026.

## **7.3 Compulsory Attendance Requirement**

The VSBA supports amending the Code of Virginia to affirm that annual certification is required, by the student and their parents, for religious exemption from the compulsory attendance requirements.

Background and Legislative History: Adopted 11/14; Review Date: 2028.

## **8.0 School Construction, Renovation, and Modernization**

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### **8.1 School Facility Construction Funds and Financing**

Among the disquieting facts related to public school building conditions are that, to satisfy class size or space needs, approximately half of Virginia's schools use trailers as temporary classrooms-environments which are not conducive to learning, are not energy efficient, and cannot accommodate technology.

Student performance and building condition can be correlated as substantiated by a study conducted of rural Virginia high schools. Steps need to be taken to provide the availability of funds for new construction and renovations of public schools.

State funding is essential to the provision of sufficient, safe, and instructionally appropriate school buildings for all students. The Commonwealth of Virginia must recognize the impending crisis in school construction needs and implement a new strategy to assist localities in funding their school capital needs. The State's objective should be to provide revenue to fund at least 55 percent of localities' school construction needs over the next five years without reducing or modifying other sources of State aid to education.

The Virginia Constitution states that all students in the Commonwealth are entitled to "public schools of high quality." High quality in a competitive workforce environment must be defined as equivalent to the advantages available to students in wealthier parts of the state. "Public schools of high quality" must include facilities in addition to staffing because competitive STEM education and workforce development requires modern, industry- standard facilities. The manner in which inequalities are addressed in the distribution of basic aid for operational purposes is not replicated for capital project funding, leading to a perpetual violation of the spirit, if not the letter, of the Virginia Constitution. These systemic disadvantages lead to cycles of

inequities that have held back generations of historically marginalized Virginians. Therefore, the VSBA, supports legislation that supplements local tax-based funding distributed based on local needs and resource availability so that all school divisions can build industry-standard STEM facilities to provide modern workforce development opportunities for students regardless of their race, ethnicity, wealth, or other demographic characteristics.

The VSBA urges the Virginia General Assembly and the U.S. Congress to provide substantial and sustained funding to finance local school construction, renovation, and debt service costs with disbursements to local school boards.

The 1989 General Assembly passed legislation which related to the use of an escrow account on contracts of \$200,000 or more with a county, city, town, or other political subdivision directed for certain road-building and street-building projects. It is unclear whether this legislation applies to school boards and to school facility construction.

The VSBA urges the General Assembly to add an additional exclusion to the Code of Virginia to clarify that the Act does not apply to the construction of public school facilities.

The VSBA opposes the use of the Literary Fund of the Commonwealth for purposes other than the construction, alteration or expansion of school buildings as provided in Section 22.1-146 of the Code of Virginia. The VSBA supports passage of an amendment to Article VIII, Section 8 of the Constitution of Virginia to increase from \$80 million to \$200 million the principal required in the Fund before any use of the Fund for purposes other than school construction is made. The VSBA supports increasing the project limit to \$20 million and a school division's total allowable debt under this program to \$60 million and adjusting project and division allowances at least biennially to cover increased construction costs, inflation, etc.

Background and Legislative History: Article VIII, Section 8 of the Constitution of Virginia establishes a permanent and perpetual Literary Fund. Traditionally, the Literary Fund has been used to provide low interest loans to school divisions throughout the commonwealth for capital improvement and construction projects. Recently, Literary Funds have also been used to subsidize the interest rate on Virginia Public School authority loans available to school divisions for construction/capital improvement. As long as the principal of the Fund totals as much as \$80 million, the General Assembly may set aside all or any part of the additional dollars for public school purposes, including the teacher retirement fund. Since the 1980's, the General Assembly liberally has transferred dollars from the Literary Fund to the retirement fund. The result of these transfers was a reduction in the availability of loans for needed school construction projects. Since 1980 a total of \$736 million has been transferred out of the Fund by the General Assembly. The average waiting period for approval of a school improvement or construction loan is currently at least one year. Low interest Literary Fund loans and Virginia Public School Authority loans are the only sources of state assistance for local capital projects. These capital expenditures are a legitimate portion of the overall cost of education and, in the absence of direct state support, must be carefully protected. The 2006 revision addresses the problem of increased construction costs and increased need for new facilities, due to increased population and possibly the addition of pre-K classrooms to school operations and aging facilities, without any increase in project limits, during the same time. It also recommends a fix, so that this issue doesn't have to be addressed in the future. Adopted 11/96; Amended 11/98, 11/02, 11/03 (formerly Resolution 4.36); Adopted 12/90 (formerly Resolution 4.23); Adopted 10/86; Amended 12/90, 11/81, 11/06, 11/21 (formerly Policy 3.10); Review Date: 2031.

## **8.2 Lottery Funds for Construction**

Virginia School Boards are mandated with the education of their students and their funding is dependent on other bodies' appropriations. Numerous court cases have upheld school boards' authority to spend appropriated money.

Virginia Code § 22.1-100.1 allows for the local appropriating body to create an escrow account for the lottery proceeds that requires their approval for expenditure. Virginia Code § 22.1-175.5 allows for the local appropriating body to create an escrow account for grants for school capital projects that requires their approval for expenditure.

The VSBA opposes the shifting of Standards of Quality and other recurring cost programs into the state's lottery funded accounts which reduce general fund support for education. Lottery funds were intended to be discretionary, unencumbered funds to be used by localities for construction and other undesignated operating costs. The VSBA urges the General Assembly to restore total control of lottery monies and capital funds to school boards.

Background and Legislative History: Adopted 11/04 (formerly Resolution 4.49); Amended 11/11; Review Date: 2024.

### **8.3 School Facilities Funding**

Amend the Code of Virginia to allow all localities the option of increasing local sales taxes specifically for the purpose of school construction and major renovation. Currently only nine localities have this authority.

This legislation would amend § 58.1-605.1 of the Code of Virginia to include all cities and counties among those localities authorized to impose an additional local sales and use tax up to one percent, as determined by the governing body, if initiated by a resolution of the local governing body and approved by voters. Revenue from the tax would be used solely for capital projects for new construction or major renovation of schools.

Background and Legislative History: This proposal would add all Virginia localities to the list of those authorized to impose an additional local sales and use tax for capital projects for the construction or improvement of schools. Adopted 11/21; Review Date 2028.

## **9.0 State Mandates and Budgeting**

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### **9.1 Standards of Quality and Standards of Accreditation**

The Board of Education and the General Assembly work jointly to develop the Standards of Quality (SOQ), which are the constitutionally mandated minimum program requirements and the primary driver of both costs and state basic aid funding for the Commonwealth's public school divisions. However, the General Assembly does not approve revisions of the Standards of Accreditation (SOA), as it does the Board of Education's revisions of the SOQ, even though it is the SOQ that require the Board of Education to promulgate regulations establishing standards for accrediting public schools.

The SOA have become, over the last several years, another driver of educational costs and state basic aid funding, and now have substantial financial impact on state government and local school board budgets and on school operations. The new SOA adopted by the Board of Education will add significantly to the local cost of public education, costing local school boards millions of additional dollars statewide. The Board of Education has not coordinated the SOA changes with the General Assembly to ensure adequate funding for the new SOA requirements. Both the SOQ and the SOA require local school boards to revise, extend and adopt biennially division-wide comprehensive plans, with staff and community involvement.

The VSBA strongly requests sufficient notice to and the participation of local school boards and the public when the SOQ or the SOA are revised. There should be a return to the practice of revising the SOA only after legislative approval of revisions of the SOQ and the adoption of a biennial state budget which appropriates funds sufficient to implement the revisions.

The VSBA urges the Board of Education to provide the General Assembly with a realistic fiscal impact statement, based on information it collects from local school boards, regarding the estimated additional costs of the new SOA's. Mandates resulting from the SOQ and the SOA should be relaxed, delayed, or deleted if the state's appropriated share of the costs is not realistically and fully funded.

Background and Legislative History: Adopted 10/79; Amended 10/82, 11/91, 11/97 (formerly Resolution 4.3); Review Date: 2024.

## **9.2 Standards of Learning and Remediation**

The VSBA affirms that curriculum development and implementation are the responsibilities of local school boards responding to community needs and aspirations. The educational objectives established by the Virginia Board of Education and known as the Standards of Learning (SOL) provide guidance and assistance to local school boards in the development of programs of instruction and the selection of instructional materials and methods. The SOL as well as the program being developed by the Virginia Board of Education to assess student achievement of the SOL should be instructionally useful, affordable, and non-intrusive on local school board prerogatives.

The SOL place "Virginia Studies Since 1607" at the fourth grade level, yet the test on this curriculum does not take place until the end of fifth grade; likewise, the SOL place U.S. History at the fifth and sixth grade levels, yet the test on this curriculum takes place in eighth grade, which is two years after grade level placement in the curriculum. The Standards of Accreditation (SOA) testing program provides for end-of-course tests at the high school level; students in other grades should not be disadvantaged by a testing program which is not aligned with the year(s) a subject is taught.

The VSBA opposes any executive or legislative action or Virginia Board of Education decision that would make the SOL regulatory, or otherwise have the effect of establishing and mandating a state curriculum. The VSBA supports the provision of the Code of Virginia acknowledging the authority of local school boards to implement educational objectives specifically designed for their school divisions that are equivalent to or exceed the Board of Education's requirements.

The VSBA supports legislation or Board of Education policy that allows local school boards to establish units of credit required for graduation that exceed the minimum credit requirements established by the Board for each state-approved diploma (i.e. standard, advanced studies and special). The VSBA supports the provision of the Code of Virginia establishing the expectation that students will achieve educational objectives at the appropriate age or grade levels. Local school divisions should be allowed flexibility to test students on the SOL at the grade level at which the curriculum is taught in the local school division.

The VSBA opposes the imposition of requirements, unnecessary for achieving the goals of the Standards of Learning, that prevent local school boards from implementing and assessing the revised SOL through approaches that provide legitimate local flexibility and that are instructionally sound and cost-effective.

Additionally, realistic and fair financial aid should be provided for summer school and for programs of prevention, intervention, and remediation, particularly those programs for students who require remediation based upon their performance on the Standards of Learning assessments. In 2004, high school graduation became contingent on students passing several end-of-course Standards of Learning assessments. State funding is essential to support local remediation programs for students who fail any of these assessments or courses and, as a result, do not earn the verified credits required for graduation.

Background and Legislative History: The Standards of Quality obligate local school boards to implement programs of prevention, intervention, or remediation for students who are

educationally at-risk including, but not limited to, those whose scores are in the bottom national quartile on Virginia State Assessment Program Tests, who do not pass the literacy tests prescribed by the Board of Education, or who fail to achieve a passing score on any Standards of Learning assessment in grades three, five, and eight. Furthermore, the Standards of Quality require any student who does not pass the literacy tests or any of the Standards of Learning assessments in grades three, five and eight to attend summer school or participate in another form of remediation. Division superintendents must require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs. In addition to funding for the above programs, the General Assembly provided Standards of Learning Remediation Initiative funds to school divisions during the 1998-2000 and 2000-2002 biennia as incentive payments for programs for students determined to require remediation based on their performance on Standards of Learning assessments. In ensuing state budgets, the General Assembly should continue and increase all funding for programs of prevention, intervention, and remediation and for summer school. Sufficient state support based on actual program costs is necessary to enable school divisions to assist students to pass not only the grades three, five, and eight assessments, but also the end-of-course- tests that pose barriers to graduation, beginning with the class of 2004. Adopted 10/87; Amended 11/91, 11/93, 11/99, 11/01 (formerly Policy 3.11); Adopted 11/95; Amended 11/96, 11/97, 11/98 (formerly Resolution 4.33); Review Date: 2024.

### **9.3 Tax Policies for Public Education**

The cost of providing appropriate educational programs that promote high academic achievement is increasing. The restrictiveness of the existing tax structure makes it difficult to produce local revenue. The major source of tax revenue for localities is from property taxes. Many localities have high salary, low property taxpaying citizens. Even in prosperous economic times, it is the state, not the localities that benefits from increases in income tax revenues.

The VSBA strongly encourages the state to substantially increase its support for both the operational and capital costs of the local school divisions. The VSBA also supports appropriate action by the General Assembly to return a portion of certain state revenues to the localities (e.g. income taxes), and to authorize, support and approve alternative taxing mechanisms for the localities, such as implementation of local sales taxes for public education expenses, particularly when such alternative taxing mechanisms are supported by public referenda passed by constituents at the local level.

The VSBA strongly recommends that the General Assembly make the taxing authority of counties commensurate with that of cities, protect the role of its sales and use tax in meeting the fiscal needs of the Commonwealth, and assume a greater financial responsibility for funding state-mandated public education services so that quality public education programs may be provided at the local level. The VSBA opposes the restriction of existing local taxing authority by the General Assembly (e.g. caps on property taxes) without an explicit, guaranteed and sustained replacement revenue source for resources lost to localities due to such a change.

Background and Legislative History: Adopted 10/87; Amended 11/99, 11/01, 11/05 (formerly Resolution 4.16); Review Date: 2024.

### **9.4 Funding-Formula Impact**

Article VIII of the Virginia Constitution established public education as a state responsibility. School boards work in partnership with the General Assembly, Board of Education, and local governing bodies to provide public education in the Commonwealth.

The formula is so complex that it is extremely difficult to determine if it is in fact equitable. The methodology used in the formula to assess the costs of the Standards of Quality is inadequate and the formula itself does not include all necessary components such as technology and adequate staffing. Recent changes to state funding formulas increasingly widen already

significant gaps between the actual costs of services at the local level and the state's reimbursements for the provision of those services.

The VSBA urges the Governor and General Assembly to establish a minimum goal of achieving at least the national average not just for teachers' salaries but also for state expenditures for elementary and secondary education. The VSBA supports an equitable and understandable formula for state funding of elementary and secondary education that is timely and reflects local ability to pay, local revenue generation capacity, differences in local cost of living, and the varying resource needs of local school divisions.

The VSBA urges the General Assembly to annually study the Standards of Quality funding for public education and provide funding at a level that realistically reflects current practices in local school divisions. The VSBA urges the Governor and General Assembly to a) recognize that unintended or unexpected negative impacts may result from adjustments in the state funding formula and b) allocate funds to/or otherwise provide support for local school divisions thus affected.

Background and Legislative History: Adopted 9/89; Amended 12/90, 11/00, 11/09, (formerly Resolution 4.26); Amended 11/14; Review Date: 2024.

## **9.5 State Budget Adoption Study**

The General Assembly has traditionally completed the adoption of the biennial budget within the time frame established by the regular General Assembly Session. In some years, however, the adoption of a biennial budget has been delayed well beyond the adjournment of the regular General Assembly Session. Localities are highly dependent on state funding for education, with state revenues representing as much as 80 percent of some school divisions and total operating revenue.

School divisions face various statutory and logistical deadlines that are contingent on the availability of state revenue. These include decisions on the hiring and firing of personnel and the provision of summer school programs that address the needs of children and comply with state and Federal mandates for remediation. The needs of school divisions and the state's funding obligations therefore can be relatively well documented through the Board of Education's biennial re-benchmark of the Standards of Quality funding accounts.

The VSBA supports a study of mechanisms that would guarantee essential services spending in a biennium by a certain date, in the event the General Assembly fails to produce a budget on time. The spending level would be predicated on the previous biennium's budget plus additional revenues to fully address educational funding needs as identified through the State's biennial re-benchmarking process plus revenues sufficient to cover any additional mandates adopted by the General Assembly.

Background and Legislative History: Adopted 11/06 (formerly Resolution 4.51). Review Date: 2024.

## **9.6 Composite Index**

Virtually all state education funding is equalized via the State's Local Composite Index (LCI), which measures local ability to pay, it is critically important that the LCI formula fairly and accurately reflects both local ability to pay and the resource needs of local school divisions. The Joint Legislative Audit and Review Commission recommend various changes in the LCI formula in its 2002 Review of Elementary and Secondary School Funding which to date have not been adopted by the General Assembly.

The VSBA requests that the Commonwealth undertake a study of the Local Composite Index formula to determine the appropriateness of changes to the LCI funding formula itself, including

the fiscal impact of such changes to the Commonwealth and individual local school divisions. Such a study should include an evaluation of;

- The original JLARC recommendations from 2002 including the addition of a population density adjustment; using total adjusted gross income (AGI) and median AGI, in instances where the use of median AGI would decrease the locality's LCI; and updating the relative weights that are given to the real property, sales tax, and other revenue components of the formula;
- The impact on ability to pay of a locality's choice to employ the "use value" method of determining the value of real estate for tax purposes;
- The impact of unequal city and county taxing authority on local ability to generate revenue, and thus ability to pay;
- The impact cost of living has on a locality's ability to pay; and
- The incorporation of direct measures of service burden such as student demographics, limited English proficiency population, and special education population;
- The impact of adding a factor based upon the percentage of students in the division eligible for free or reduced lunch, providing a fair and reasonable reflection of the local poverty level;
- The impact of replacing the "total property value" with "total taxable property value" and;
- The impact of replacing "total adjusted gross income" with "median adjusted gross income".

Background and Legislative History: Adopted 11/06; Amended 11/07 (formerly Resolution 4.52); Amended 11/15; Review Date: 2022.

## **9.7 State Funding for Advanced Placement and International Baccalaureate Tests**

The Commonwealth of Virginia has adopted Standards of Accreditation (SOA) which require its students to demonstrate achievement of the Standards of Learning (SOL) academic objectives. The SOL raise the expectations for academic achievement in the four core subject areas of mathematics, science, English, and history and social science for all students in Virginia's public schools, and also are the foundation for each individual school's accreditation status because accreditation is determined by the degree to which a school's students master these standards.

The SOA require high schools to provide students with access to at least three Advanced Placement (AP) courses or three college-level courses for credit. The College Board's Advanced Placement Program, which local school boards may provide to their students, provides rigorous college-level instruction, sets high expectations for successful course completion, encourages additional professional training for teachers, and, through its testing program, provides external and independent measures of a school's success in delivering such advanced instruction. The State Board of Education agreed that successful performance on AP and IB tests shall substitute for successful performance on end-of-course SOL tests. The cost to a student for taking one or more Advanced Placement or IB tests upon course completion is significant and may be a disincentive to enrollment, thereby acting as a barrier to advanced study at both the high school and college levels.

The Commonwealth of Virginia should assume the costs of Advanced Placement Program and IB testing to encourage its public secondary school students to pursue and benefit from such advanced instruction and individual examination. Any such funding should be provided on both a categorical and an incentive basis as an addition to basic aid funding.

Background and Legislative History: Adopted 11/98; Amended 11/00 (formerly Resolution 4.39); Review Date: 2024.

## 9.8 Summer Governor's School Tuition

School divisions across the Commonwealth currently pay tuition for Summer Governor's School based on local composite index or 50% of the cost (whichever is lower). The State Board of Education began these programs and provided full state funding for tuition for each Governor's school student, providing equitable enrichment opportunities to gifted students across the state without regard to the ability of the locality to pay. The Commonwealth should resume full funding for Summer Governor's School.

Background and Legislative History: Adopted 11/00 (formerly Resolution 4.44); Review Date: 2024.

## 9.9 Textbooks

A system for providing textbooks to all public school pupils at public expense should be established. State funding for textbooks should be based on actual costs and appropriated for each year of the biennium. Further, the state definition of textbooks should be expanded to include electronic information networks or sources to conform to current educational practice.

Local school boards should have authority to withhold a student's report card or diploma or transcript because of nonpayment of a fee for replacement of a lost or damaged textbook. Further, each local school board may establish policy exempting a student or parent or guardian from such fees upon adequate documentation of financial need.

Background and Legislative History: The Constitution of Virginia and the Code of Virginia make it mandatory that textbooks be furnished to students from tax monies. Varying abilities of the localities to provide such services result in the fact that an appreciable number of pupils throughout the Commonwealth are not supplied adequately or soon enough with basal textbooks during a given school term for maximum progress in their academic pursuits. Expenditures for textbooks are as much a part of the legitimate expenditures for educating a pupil as are those for transportation and teacher salaries. The definition of textbooks should be expanded to include electronic information networks or sources to conform to current educational practice. Items such as encyclopedias and dictionaries are available on compact discs and are less costly and more current than books sets. Adopted 10/77; Amended 10/85, 9/88, 12/90, 11/93 (formerly Policy 2.9); State law in the Commonwealth of Virginia requires free textbooks for all public school students and currently prohibits the public schools of Virginia from charging parents or guardians for lost or misplaced textbooks. Local school divisions lose thousands of dollars annually in the replacement of lost or damaged textbooks. To reduce the costs incurred, and to encourage student responsibility, local school boards should have authority to charge fees for replacement of lost or damaged textbooks. Adopted 11/08 (formerly Policy 3.13); Review Date: 2024.

## 9.10 Standards of Quality and State Education Funding

The VSBA strongly supports the Standards of Quality as the foundation of the education program in Virginia.

The VSBA believes all mandated programs and services of education should be funded on the basis of realistic costs, more specifically the costs that are actually incurred by local school divisions to provide a high quality education, and the state should bear a fair share of those costs. The state should increase the percentage of general SOQ funds appropriated to elementary and secondary education. Full funding, rather than just modification of the formula or creation of new categories, should be the goal. The VSBA believes that:

- It is the responsibility of the state to fund, on a statewide basis, at least fifty-five percent of the actual cost for providing a quality educational program to all students in the

Commonwealth, and to provide cost-for-competing add-on funding to all Virginia school divisions.

- Supplemental state funds should be directed to legitimate areas of state concern including, but not limited to, educational technology, alternative education, remedial programs, the gifted and talented, special education, vocational education, English-as-a-second-language programs, textbooks, summer school, staff development, management skills, regional cooperative programs and facilities, and transportation. Maximum caps related to percentages or number of students for which funding is available should be eliminated. Present categorical incentive and grant funds should not be folded into basic SOQ aid.
- All full-time school employees should be included in the Virginia Retirement System (VRS), and the entire employer's share of VRS costs (retirement and life insurance) and federal Social Security should be budgeted by and paid directly by the state, and should not be subject to the equalization formula.
- State funds should be made available to local school divisions for school construction, renovations, additions and debt service, including those related to state mandates and federal requirements which result in facilities impact, including the requirements of the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.
- Waiver requests seeking relief from certain mandated requirements when reductions in state aid occur during the school years should be approved. Waiver requests should also be approved if the General Assembly fails to fully fund the biennial "rebenchmarking" of Standards of Quality accounts.
- Unallocated state revenue streams should continue to be provided to the localities to be used at the discretion of the school board and not to fund new mandates.
- State funds should continue to be made available to local school divisions for a lunch program based on the number of children served regardless of the amount of federal funding for this program.
- The state should fully fund its share of all currently mandated programs. All new mandated programs, including those implemented by the Virginia State Board of Education through the rulemaking process, and should be fully funded.
- The Local Composite Index should be provided annually to localities no later than August 15 of the specified official base year for the biennium.
- Periodic adjustments to the equalization formula should be made when such changes improve the accuracy of the formula in estimating the true ability to pay of a locality.
- A floor should be established in the computation of the Local Composite Index, whereby a city or county with less than 8,000 population and whose school division has less than 1,000 Average Daily Membership (ADM) may use 8,000 population and 1,000 ADM for purposes of determining the composite index of ability-to-pay.
- The state should adjust basic aid payments when actual sales tax receipts are less than the state fiscal year estimate used in the basic aid formula.
- Categorical funding should be provided for required elementary guidance counselors and reading specialists.
- The state should provide adequate and realistic funding for the provision of school health services, including for school nurses, to assist in the delivery of such services to students, according to the model selected by each locality.
- The state should expand funding for the Virginia Teaching Scholarship Loan Program to no less than \$1 million so that the Commonwealth of Virginia will have a sufficient quantity of qualified teachers eligible for employment.
- The state should reinstitute the policy of forgiving student loans on a one-for-one year basis for those who teach in a Virginia public school.
- The statewide salary figures used in calculating basic aid payments should be determined by applying an unweighted measure of the arithmetic mean to the actual salaries paid instructional personnel in Virginia, using the employee rather than the school division as the basic unit of measurement.

- The VSBA is encouraged to provide information to and support for statewide and regional coalitions that promote this policy.
- Program and service requirements enacted by the state that exceed the minimum regularly funded programs and services mandated by Congress should be implemented only if 100% of the cost difference is funded by the state.
- It is the state's responsibility to fund 100% of the costs of all testing required by state and federal accountability programs, including mandated tests of English language proficiency and the development and administration of "plain English" versions of every federally-mandated test for LEP students.
- The state should use the actual costs of educational and support services as faced by local school divisions in its biennial "re-benchmark" of state education funding formulas. Statistical methodologies that purposely disassociate local costs from the costs included in state reimbursement formulas or that place artificial caps on state reimbursements including, for example, the use of general measures of inflation (e.g. the Consumer Price Index) instead of actual cost increases in school divisions, only serve to reduce required and appropriate state contributions to education.
- Additional state resources should be targeted to assist school divisions and individual schools with high levels of student poverty. In addition, there should be coordinated local, state and federal policies and resources available to help address the needs of students in poverty within a school's community.

Background and Legislative History: The establishment of the Standards of Quality (SOQ) for public education in Virginia is consistent with the philosophy that all students should have equal access to a program of quality education which meets their individual needs. Changes in SOQ requirements should only be made based on sound, educational best practices or other educationally-based evidence (preferably research-based evidence). Changes in the Standards should be linked to actual best practices in local school divisions and sound educational research. Additions to the SOQ can have a significant local fiscal impact and elimination of requirements effectively reduce the state's financial commitment to public education. With such financial implications, changes to the SOQ must be grounded in solid educational practice or research, and not pursued for other reasons (e.g. cost savings). Adopted 10/77 (formerly Policy 2.7). According to the Constitution of Virginia, "the General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth and shall seek to ensure that an educational program of high quality is established and continually maintained." The Standards of Quality, which are subject to revision only by the General Assembly, mandate that there exist throughout the Commonwealth educational programs meeting the prescribed standards. Because the General Assembly is responsible for providing a system of free public education, it should support financially those aspects of the education program mandated by law and regulation and those school divisions already providing such services prior to the mandates. Moreover, state support should be provided for those services essential to the safety and well-being of students in school, such as student health services, particularly in view of General Assembly action restricting the local school board's use of certain employees to provide non-emergency health-related services to students. In addition, the state has an obligation to pay for state mandated retirement, life insurance, and federal social security benefits because these benefits are mandated for all localities at the same cost throughout the state. The availability of these benefits to employees is not related to a locality's ability to pay, and therefore the cost should not be shared according to the equalization formula. The VSBA supports replacing statewide personnel standards with the number actually required in each division to meet legislated mandates. All instructional positions should be included in the funding formula (e.g. visiting teachers, instructional assistants, occupational and physical therapists). Moreover, the VSBA believes that the state use of the linear weighted average approach in calculating statewide salary figures for instructional personnel is faulty. It understates actual market conditions for teachers and other personnel throughout the Commonwealth as the market-driven personnel costs incurred by Virginia's school boards to recruit and retain qualified personnel costs incurred by Virginia's school boards to recruit and retain qualified personnel typically exceed the state's assumptions. The VSBA also supports the exploration of differentiated costing for different types of students

and for differences in the localities' costs of delivering services. With regard to the triennial school census, the reimbursement should include not only the direct costs such as printing, mailing, and temporary personnel, but also the indirect costs required for systems development and maintenance and costs for full-time personnel with census responsibilities. (See also 4.3). From an accounting standpoint, any funds received under a rebenchmark will show up as "new" money and would not show as a loss in basic aid. However, since rebenchmarking is a routine update of SOQ formulas to account for costs already being paid by school divisions (teacher salary increased, the costs of fuel for buses, etc.), rebenchmarking funds simply makes school division whole for current costs. If a rebenchmark is not fully funded, it is the functional equivalent of a loss of funds. Compliance with the state and federal mandates regarding testing is not an option for local Boards. With the advent of NCLB, testing costs—the purchase of the tests, the administration of the tests, and the required extensive public dissemination of results as well as internal analysis of results—have risen astronomically. For many school divisions, these costs have had to be absorbed within shrinking budgets and have hampered the ability to hire teachers, especially teachers for rapidly growing ESL populations who also have more testing requirements than any other group in the Commonwealth. By referring to "actual costs," the policy emphasizes that the General Assembly should base its biennial re-benchmarking of education funding formulas on actual costs faced by local school divisions.

Makes language consistent with that used elsewhere in VSBA positions regarding LCI which reference the formula's role in measuring "ability to pay"; eliminates outdated language on the triennial census, which is no longer conducted; eliminates position language which directly contradicts language under VSBA's existing position "10.4 Safe School Environment" which advocates reserving decisions about appropriate health-related services and staffing levels to localities. Adoption of a specific ratio would impose a significant operational/staffing/funding mandate on many school divisions in the Commonwealth. Instead advocates more generally for health-related funding, including for school nurses where appropriate in a particular locality. Adopted 10/77 (formerly Policy 2.7). Adopted 10/77; Amended 10/79, 10/80, 10/81, 10/82, 10/83, 10/84, 10/85, 10/86, 10/87, 12/90, 11/97, 11/98, 11/00, 11/01, 11/02, 11/05, 11/08, 11/09 (formerly Policy 3.4). Amended 11/11, 11/14, 11/17; Review Date: 2024.

## 9.11 Federal Funding of Education

Federal financial aid to education should cover the cost of programs and services mandated at the federal level. The VSBA believes that:

- Financial aid to localities should be general rather than categorical;
- Impact and forest reserve aid should be continued and fully funded or other financial arrangements should be made between localities and the federal government to relieve localities of the financial burden of educating all school age children. Additional Impact Aid funding should be dedicated to support students with disabilities who receive special needs exemptions to attend military-connected schools.
- The Impact Aid eligibility identification process should be revised to automatically "opt in" any student with a military student identifier (newly created under the federal Every Student Succeeds Act, or ESSA);
- Funds for implementing the required programs and services mandated by the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, all of the Titles under ESEA, and the Americans with Disabilities Act should be provided or applicable portions of the legislation cited should be amended to permit the states to determine requirements and to establish funding levels of these programs. Funding for IDEA in particular should be made mandatory to meet the federal commitment to fund 40 percent of the "excess costs" of special education as promised since the 1975 adoption of federal special education laws. In the event these and similar programs cease to be funded categorically by the federal government, and federal block grants to the states are substituted for categorical funds, the state should consult with the localities in setting priorities for funding educational programs from block grant aids; and
- Forward funding in the earliest possible fiscal year should be expanded to include all educational programs.

- There should be a continued reliance on federal formula grants (e.g., Title I programs) to provide critical and consistent funding to all eligible school divisions. The VSBA opposes turning Title I or other federal program funding into portable vouchers.
- Competitive grants have value added benefits and should not supplant federal formula grants. Where competitive grants are used, all states and localities should be eligible to participate equally.

Background and Legislative History: The policy suggests two approaches to mitigating the potential loss of funds by school divisions due to changes in federal funding formula methodologies or the underlying data used by a formula. Under the current methodology, a school division may suffer a substantial decrease in its Title I funding allocation due to a very small change in poverty rates. The policy emphasizes the importance of funding for the Impact Aid Program and for the No Child Left Behind Act.

Clarifies role of Impact Aid funding, emphasizing the impact of military-connected special needs students, and advocates a means for streamlining the Impact Aid eligibility determination process; expands and makes more specific federal IDEA funding advocacy; adds position expressly opposing Title I vouchers, which parallels existing general language under VSBA position “7.1 Support for Private Education, Vouchers, and Tax Credits” opposing the creation of vouchers. Adopted 10/77; Amended 10/80, 10/81, 10/82, 10/83, 11/03 (formerly Policy 3.5), Amended 11/11, 11/17; Review Date: 2024.

## **9.12 Public School Calendar and Make-Up Days**

Control of the public school calendar should be solely a prerogative of local school boards. The VSBA supports local school board actions to increase the minimum number of instructional days beyond 180 and a required, commensurate increase in state funding. The VSBA also supports an amendment to Section 22.1-98 of the Code of Virginia related to inclement weather and other emergency make-up days.

Further, the VSBA supports permitting local school boards, within guidelines developed by the Department of Education, the option of allowing at-home, digital e-learning (or offline assignments when home technology and/or connections to the internet is not available) to count for required days/minutes of instruction when students are home due to unexpected school closures (e.g. inclement weather, natural disaster, facility problems).

Background and Legislative History: Current law has been interpreted to require school districts to make up the first ten days lost to inclement weather or other emergencies; thereafter, districts are required to make up only one day for each day missed in excess of the first five. Thus, a district missing ten days must make up all ten, while a district missing eleven days must make up only six. VSBA supports a graduated approach that would require districts to make up, for example, the first five days, plus one day for each two days missed in excess of five. Such an approach would result in more equitable and uniform treatment of different school districts. The VSBA supports repeal of Section 22.1-79.1 of the Code of Virginia which requires local school boards to set the opening of school after Labor Day. The current requirement is an infringement on a local school board’s responsibility to determine the best time-frame for providing quality education to its students. Decisions regarding the school year calendar are best made at the local level. Moreover, the VSBA supports repeal of the 1998 amendment of this section which removed the discretionary authority of the Virginia Board of Education to determine whether a request from a local school division to open before Labor Day constitutes good cause for the Board to grant a waiver. Within the current law, the VSBA recommends that the Virginia Board of Education revise its procedure regarding waiver applications to accelerate the decision timeline and handle waiver requests for continuing situations, such as experimental or innovative programs. The VSBA recognizes that the time necessary for the new state testing requirements has reduced the amount of instructional time. Therefore, the VSBA supports local school board actions to increase the number of days in the instructional calendar to accommodate the testing schedule. If a local school board takes such action, the state should bear its share of such additional operational costs since the testing is state mandated. Adopted

10/86; Amended 10/87, 11/91, 11/98, 11/99, 11/03 (formerly 1.16); Amended 11/15; Review Date: 2022.

### **9.13 Election of Board of Education Members**

The VSBA supports changing the method of selection of members of the State Board of Education from appointment by the Governor to election by local school board members, on a Congressional district basis, of one State Board member per Congressional district.

Background and Legislative History: School boards were established with the belief that control of education should be separated from other governmental activities to ensure undivided interest and attention to education and because of the belief in local control of education. The Virginia Board of Education is the Constitutional body with the primary responsibility and authority for effectuating state educational policy, while local school boards have a Constitutional charge to supervise the schools in local school divisions. Local school boards direct one of the largest enterprises, public or private, in any locality; they are responsible for enormous capital investments and annual expenditures, for the employment of thousands of people and for the education of our public school students. The election of Board of Education members by local school board members in the state of Washington has worked successfully for decades. Local school board members in Virginia are duly qualified to elect members to the State Board because they are most representative of the community interest, values and standards in education and have much expertise in education policy and its implementation. Adopted 11/95; Amended 11/96 (formerly 1.18); Review Date: 2024.

### **9.14 Instructional Expenditures**

The VSBA supports broadly defining criteria for the 65% of division expenditures spent on instruction to include instructional support services.

Background and Legislative History: Adopted 11/14; Review Date: 2028.

### **9.15 Funding for Governor's Schools**

The VSBA supports additional state funding for Governor's Schools, recognizing the funding needs of full day and partial day programs in budget appropriations for the Commonwealth's Regional Governor's Schools.

Background and Legislative History: Currently, full day Governor's Schools programs like the one at Maggie L. Walker are funded using the same mechanism as are partial day programs. Full day programs require greater funding needs from an administrative, maintenance, operations, security, and programmatic standpoint. However, the nature of the full day program is not accounted for in budget appropriations. Adopted 11/14; Amended 11/18. Review Date: 2025.

### **9.16 Unfunded Physical Education Requirement**

VSBA opposes the requirement of additional time for physical education until the state provides the funding to meet this requirement.

Background and Legislative History: Adopted 11/14; Review Date: 2028.

### **9.17 At-Risk Add-On**

Virginia's At-Risk Add-On program, as part of basic aid, targets additional resources to school divisions based on the percentage of students in the division who are eligible for free lunch. This program recognizes the additional services that students from low-income families may need to achieve their academic potential (counseling and dropout prevention, after-school programs,

and specialized instruction) and directs resources to all school divisions across the Commonwealth to offer these vital services.

Virginia's current At-Risk Add-on percentage of 1 to 14 percent falls woefully below the national average. VSBA supports Virginia legislators to increase the percentage of At-Risk Add-On funding to more closely align with the national average.

Background and Legislative History: Virginia's percentage falls well below the National Average of 29%. Adopted 11/18; Review Date: 2025.

### **9.18 Amend the Standards of Quality to Include Dedicated Funding for Mental Health Student Support Positions and School Security Personnel**

VSBA supports the amending the Standards of Quality to include specific funding for mental health professionals and school safety and security personnel at a rate that is commensurate with the current needs of our Commonwealth's school divisions. In addition, VSBA supports maintaining locally-based authority and flexibility to determine the school health, mental health and counseling models that most appropriately meet a division's needs via local policies and staffing, including preservation of the role that local health departments play in the provision of school health services.

Background and Legislative History: Currently funding for mental health professionals like social workers and school psychologists is included in funding for "Student Support Positions" that includes other positions related to truancy, homebound instruction, etc. Funding for security personnel is included in "Operation and Maintenance Positions". The Standards of Quality do not reflect the current needs of school divisions. They are archaic standards that have not kept pace with the needs of students today.

Comprehensive preventative state efforts to ensure student safety and well-being must include resources devoted to student mental health, but different school divisions may approach staffing in varying ways, both in terms of numbers and types of positions that each division finds appropriate. Local flexibility will help school divisions meet the overall goal of addressing student health and mental health issues without prescriptive mandates. Adopted 11/18; Amended 11/19; Review Date: 2026.

### **9.19 Modify Proffer Limitations to Restore Important Contributions to Growing School Divisions**

VSBA supports removing limitations on proffers as addressed in the Code of Virginia (§15.2-2303.4) essential to new schools and other needs driven by expanded development.

Background and Legislative History: The 2016 changes via SB549 to the cash proffer system in residential development have created significant problems for the ability of local governments across the Commonwealth to provide the infrastructure (including new or expanded schools) demanded by families moving into new developments; this makes existing residents shoulder the tax burden created by new residences, or forces hard-pressed school divisions to cut back funding for other needed capital projects. Adopted 11/18 Review Date: 2025.

### **9.20 Modify Requirements for Advanced Studies Diploma**

Requirements for the science sequence for an Advanced Studies Diploma should be changed to permit either: completion of courses in three scientific disciplines from among: earth sciences, biology, chemistry, or physics; or the completion of advanced sequences of courses in two of the disciplines (e.g., Pre-AP biology, Pre-AP chemistry, AP chemistry, and AP biology).

Background and Legislative History: Current requirements specify credits required and state that: Courses completed to satisfy this requirement shall include course selections from at least

three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of science courses required for the International Baccalaureate Diploma. The Board shall approve courses to satisfy this requirement.

Students who seek to excel by taking the most rigorous courses available are currently penalized by the requirement to devote time to a third discipline if they want to earn the Advanced Studies Diploma. Changing the requirement will allow students to earn the Advanced Studies Diploma while taking their study of fewer disciplines to the highest level possible. Adopted 11/19; Review Date: 2026.

### **9.21 Standards of Quality and State Education Funding for Support Positions**

The VSBA supports eliminating the state's arbitrary cap on funding for support positions, which would help more directly link state funding with actual local staffing needs and costs.

Background and Legislative History: With the significant increase in mental health and other wellness challenges for students, critical services provided by schools should be funded accordingly. Adopted 11/19; Review Date: 2026.

### **9.22 Behavioral Interventionists as Support Positions**

The VSBA supports the addition of Behavioral Interventionists, as a Standards of Quality (SOQ) position, to reinforce and complement the work of school counselors in the Commonwealth's elementary classrooms. This position would assist in achieving a workable ratio between students and Mental Health providers. Behavioral Interventionists will serve the immediate needs of a child(ren) in crisis, consult with the school counselor, and intervene in the classroom setting to assist in maintaining the learning environment, to provide academic achievement for all students. Each local division will determine their individual need for Behavioral Interventionist positions at a ratio to be determined by the Virginia General Assembly.

Background and Legislative History: Culpeper County introduced the position of Behavioral Interventionist two years ago. The positions provided additional support to our elementary school counselors. Our classroom teachers were experiencing a number of students whose behavior would be described as "uncontrollable". Counselors were involved with small groups, individual sessions, in class lessons, contact with social services, and various other duties. Our division responded to our student's needs for a more immediate and personal intervention on a one to one basis. Public schools are concerned with school safety as it relates to our student's mental health issues. Children who have experienced trauma, are anxious, or depressed need support and security. When students are able to return to the classroom, and experience the new normal for in person education, we believe they will need more support than before the pandemic. If the general assembly continues along the path to reduce counselor to student ratio our districts will all need to hire additional counselors. We know the problem with that is there are not enough counselors to fill all of the open positions that will be in the Commonwealth. The position of Behavioral Interventionist could fill our needs, support our students and counselors, as well as assist with family engagement and positive school-community relations. Adding this position to the Standards of Quality will help with student- mental health ratios and offer additional support to those students who may be students of underserved reporting categories.

Interventionists could create a more equitable playing field for students who are needing the most support and encouragement. Culpeper County has 6 Elementary schools and employs 7 Behavioral Interventionists, one of our Title I schools needed two Interventionists. Since the position is not an SOQ position we received no state funding for the positions, all funds were budgeted through the local budget. This year is financially challenging for all localities, and we have been so pleased with our interventionists and the difference they have made in student's lives, school climate, and teacher morale that we would like the Commonwealth to recognize the position as one of the supportive mental health positions. Adopted 11/20; Review Date: 2027.

## **10.0 Student Health, Wellness, and Safety**

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### **10.1 Alcohol, Tobacco, and Substance Abuse**

There continues to be multiple problems related to alcohol, tobacco, and other drug use among school-age children, with statistics consistently indicating that alcohol and other drug use increases dramatically at the middle school level, and with a majority of high school age students reporting the use of alcohol in spite of extensive awareness of the dangers and potential consequences of such action. Such substance abuse is a complex problem, often involving violence, which requires the vigorous, coordinated efforts of government, law enforcement and juvenile justice authorities, community agencies, local school divisions, parents and citizens.

The VSBA supports:

- Increased cooperation to address these issues, including any law enforcement personnel working in the schools to enforce the “use and lose” laws, for students who are disciplined at school for violating alcohol and other drug use prevention regulations;
- Legislation which prohibits the sale, distribution and attempted distribution of tobacco products and controlled substances, including alcohol, steroids, look-alike drugs inhalants, and drug paraphernalia to school-age children; and legislation which would permit new local ordinances to be enacted to prohibit use of tobacco products on school board property;
- Legislation that imposes substantial penalties for the legal resident of any property or dwelling at which individuals under twenty-one consume alcoholic beverages or other illegal drugs;
- The vigorous enforcement of legislation which prohibits the purchase, possession or consumption of alcohol by individuals under twenty-one, including prosecutions for contributing to the delinquency of minors; and
- Continuation of alcohol, tobacco and other drug use education programs focused on prevention and intervention at all grades, to include school staff and parent education and training and the replacement with state funds of reductions in federal monies which have been used by school divisions to promote safe and drug-free schools.

Background and Legislative History: Adopted 10/78; Amended 10/82, 10/85, 9/88, 11/93, 11/95, 11/98, 11/99 (formerly Resolution 4.2); Review Date: 2022.

### **10.2 Child Abuse, Child Neglect and Abduction**

Child abuse, child neglect and child abduction are serious concerns for the school and the community. Schools willingly undertake the obligation to cooperate with other community agencies in addressing child abuse and neglect.

The VSBA supports local school system efforts to establish programs to provide the following:

- Training for faculty and administration in the identification of abused and neglected children and in the procedures and guidelines for reporting suspected child abuse, neglect and abduction;
- Support for teachers during investigations;
- Interventions designed to teach children how to prevent abuse, neglect and abduction; to provide psychological and other support for children who have experienced these traumas; to assure children that such a support network exists and also to inform children of the serious consequences of making false allegations of abuse.
- Consideration of additional actions such as more extensive screening of school personnel, more training for school personnel, and disciplining of those students found to have made false accusations against school personnel.

Background and Legislative History: Adopted 10/85; Amended 10/87, 11/94, 11/96 (formerly 4.13); Review Date: 2022.

### **10.3 Radon**

Radon has been discovered in many localities in Virginia, and in large quantities has been proven to pose significant health risks, including cancer. The United States Environmental Protection Agency (EPA) has developed a model program to determine radon protocol levels for school buildings.

The VSBA believes state and federal governments should provide adequate financial assistance for local school divisions to test school buildings for radon to comply with state and federal laws.

Background and Legislative History: Adopted 9/88; Amended 12/90, 11/93 (formerly Resolution 4.20); Review Date: 2022.

### **10.4 Safe School Environment**

Students have a right to and school divisions have a responsibility to ensure a teaching/learning environment that is safe and free of disruption. There are incidents involving weapons, assaults and threats at schools which require interventions in addition to those school personnel are able and authorized to provide. There are incidents involving the spread of bodily fluids between students, or between students and school personnel or volunteers, which can cause life-threatening illnesses if not diagnosed and treated immediately. The Virginia Code contains provisions which facilitate immediate testing for health-care and law-enforcement workers exposed to such diseases, but not for school personnel and students. Schools are implementing proactive programs designed to maintain secure and orderly schools.

The VSBA supports state government, local communities, law enforcement agencies, and school cooperation to provide appropriate prevention and intervention programs that are effective in addressing violence, and the precursors to violence, in schools and their communities, including additional state resources devoted to student mental health. The VSBA supports teacher preparation program expansions to include course work and practical experience in handling school violence and related issues.

The VSBA also supports decisions with regard to health services for students, including staffing and funding of school nurses being made at the local level.

The VSBA urges the General Assembly to:

- Support local school division efforts to achieve strong, fair and consistent disciplinary expectations and applications to all students;
- Appropriate sufficient funds to the School Resource Officer Grants Program so that each school board may choose whether or not to employ uniformed officers in their schools, as well as sufficient funds for local school boards to use at their discretion in ensuring safe and respectful school environments through effective programs such as peer mediation, conflict resolution, character education, and other proactive initiatives appropriate for individual school communities
- Pass legislation which would afford greater protection to students, school employees, and volunteers who are exposed to bodily fluids which put them at risk of dangerous infectious diseases, and
- Oppose legislation requiring the designation of school personnel to carry concealed weapons in schools.

Background and Legislative History: Local health department staff and fund school nurses and clinic aides in many Virginia school divisions, while in others such staffing and funding are provided by local school boards. The VSBA views the local health departments as an appropriate avenue for the provision of student health services; school divisions should not be required to assume the responsibility or costs of an additional noninstructional service. Further, the state should not set employment standards for clinic personnel (e.g. registered nurses) or impose mandated student/nurse ratios. The one registered nurse per 1,000 students ratio proposed during the 1992 General Assembly would require some of the larger schools to employ as many as four registered nurses in one building. These decisions should remain a local responsibility. The VSBA believes that the state should not prohibit a student from attending public school because the student does not furnish a health-related examination (other than the initial comprehensive physical examination and documentation of immunizations), unless the failure to furnish such additional examination could reasonably be considered a threat to the public health. The VSBA specifically opposes making a comprehensive eye examination conducted by an optometrist or ophthalmologist a requirement for first-time admission to public kindergarten or elementary school. However, the VSBA supports review and revision of the current Virginia Board of Education and Virginia Department of Education regulations and guidelines regarding vision screening of public school students to ensure that they are up-to-date and sufficient. Comprehensive preventative state efforts to ensure student safety must include resources devoted to student mental health in addition to other safety measures. Adopted 9/88; Amended 12/90, 11/92, 11/02 (formerly Policy 1.17). Adopted 9/88; Amended 12/90, 11/91, 11/93, 11/94, 11/95, 11/98, 11/99, 11/02, 11/13 (formerly Resolution 4.24), 11/18. Review Date: 2025.

## **10.5 Counseling**

The VSBA believes that parents are a child's first teacher and that the public school institution serves as a resource to prepare children for adulthood. Issues involving family violence, substance abuse in the home, and divorce rank as the top counseling needs in school divisions throughout the Commonwealth.

In extreme cases, a teacher or counselor is the only adult a student can confide in or look to for assistance, and to require that parents "opt-in" their children would likely prove unworkable in these situations. Counselors must be able to respond to crisis situations by immediately dealing with the student and, if deemed appropriate in the counselor's professional judgment, by providing follow-up contact and involvement with the family. The added paperwork, bureaucracy and records-keeping associated with an "opt-in" system of counseling would divert limited school board resources, including funding and personnel that are better directed toward educational needs.

The VSBA supports the current "opt-out" system and opposes legislation that would mandate an "opt-in" system of school counseling. The VSBA supports Standards of Quality that provide for the employment of guidance counselors in elementary schools, as well as in middle and high schools, so that every public school student may have the opportunity to benefit from the professional services of guidance counselors that support strong academic achievement.

Background and Legislative History: Adopted 11/94; Amended 11/00 (formerly Resolution 4.31); Review Date: 2022.

## **10.6 Placement of Students in Residential Facilities**

The Court of Appeals for the Commonwealth of Virginia rendered a decision in the case of Fauquier County DSS v. Robinson, 20 Va. App. 142 (1995). It appears the holdings of this case give judges almost unbridled authority with regard to placement for mandated children. The parents have a right to petition the Court directly for residential placement without proceeding with an administrative process.

The VSBA firmly believes the administrative process should be followed prior to making a residential placement. A residential placement of a student poses an undue financial burden on a local school system since any given placement can exceed \$100,000 annually for a given student.

The VSBA supports the rights of local school boards to determine the appropriate placement of students in residential facilities.

Background and Legislative History: Adopted 11/95 (formerly Resolution 4.34); Review Date: 2022.

## **10.7 Standards for Interscholastic Activity Participation**

There is a widespread desire in Virginia for increased academic standards and achievement. The National Collegiate Athletic Association (NCAA) has raised the standards of achievement for athletes entering college. School divisions that have required a 2.0 Grade Point Average (GPA) for athletes have had numerous NCAA Division I recruiters considering their athletes for college scholarships. High academic expectations stimulate greater achievement by both athletes and non-athletes.

The VSBA supports:

- High academic standards and achievement for all students in Virginia and
- Local school board efforts to establish a 2.0 GPA on a 4.0 scale or equivalent as the standard for participation in interscholastic activities and to provide adequate support systems for marginal students.

Background and Legislative History: Adopted 11/00 (formerly Resolution 4.35); Review Date: 2022.

## **10.8 Pandemic**

The United States Department of Health and Human Services (HHS), Center for Disease Control, and others are saying that a pandemic will occur; the nature and timing of a pandemic or a catastrophe is not known. There are limited guidelines from state or federal Departments of Education.

School divisions do annual budgets, but do not have fiscal autonomy. School employees would expect to be paid and there are fixed costs incurred by school divisions. There are penalties that result for a shortened school calendar and confusion over the Commonwealth's financial obligation in a catastrophe situation. There are questions about the federal government's response during a catastrophe relating to state and federal testing mandates and other educational issues, including funding.

The VSBA supports working to secure financial guidelines for educational funding during a time of a catastrophe to assist school divisions in their operation. State officials and the Virginia Department of Education should establish a plan to assist local school divisions in disseminating education via alternative means during periods of school closure to maintain continuity of educational operations. The state and federal officials develop and release guidelines for educational progress and state and federal testing mandates during a catastrophe. School divisions are included in catastrophe planning, with state and federal education agencies, and should not be held liable for current regulations that cannot be met due to staff and resource shortages that occur during a catastrophe.

Background and Legislative History: Adopted 11/06 (formerly Resolution 4.53); Review Date: 2022.

## **10.9 Guns at School-Related Functions**

Local school boards are held to act “in loco parentis” (in place of parents) by various courts. Students are often in attendance at various school functions, including but not limited to athletic events and school board meetings, hosted/approved by school boards. These functions are, at times, held in non-school building sites.

The VSBA supports the authority of local school boards to prohibit guns at all school-related functions/events regardless of setting.

Background and Legislative History: Adopted 11/06 (formerly Resolution 4.54); Review Date: 2022.

## **10.10 Participation in School-Sponsored Extracurricular Activities**

The VSBA supports local school board discretion in determining eligibility guidelines and standards for students’ participating in extracurricular activities.

Background and Legislative History: Participation in school-sponsored extracurricular activities is an important aspect of the educational program in public schools and should complement and support the educational objectives of the school. Educators at the local level are best able to periodically evaluate activities and monitor students’ academic progress to ensure that a quality education remains the primary goal of students and staff. Adopted 10/86 (formerly Policy 2.12); Review Date: 2022.

## **10.11 Vandalism**

The Legislature, the courts, local school systems, and their appropriate groups should study the causes and costs of vandalism, and take appropriate measures to allow adequate restitution to owners of vandalized property.

Background and Legislative History: The present liability limitation of \$2,500 provided by section 8.01-43 of the Code of Virginia is too low to deter increasing vandalism in schools. Raising the legal limits of liability to \$5,000 would provide deterrence and would assist property owners in defraying the costs of vandalism. Adopted 10/77; Amended 10/82, 10/83, 10/87, 12/90 (formerly Policy 3.6); Review Date: 2022.

## **10.12 Gang-Free Zones**

Gang-free zones should include 1) any school bus stop or property that is within 1,000 feet of a school bus stop during the time when students are waiting for the bus or are being dropped off, and 2) the property of any publicly owned community center, park, library, or hospital.

Background and Legislative History: Currently, Virginia Code § 18.1-46.3:3 enhances the penalty for criminal gang activity occurring on school property, school buses, or within 1,000 feet of school property. It is a logical extension of that statute to also include the so-called “gang-free zones” created by that statute to include school bus stops as well as publicly owned community centers, parks, libraries, and hospitals. Adopted 11/10; Review Date: 2022.

## **10.13 Use of Video Recording Devices and School Bus Safety**

The VSBA supports legislation whereby additional video recording devices that could be used in prosecuting a motorist for failure to stop when approaching a stopped school bus. Further the VSBA supports the use of video evidence of such a violation taken from cameras installed at intersections. A portion of revenue received from the related penalties should be directed to the local school division.

Background and Legislative History: Under current law, a motorist who fails to stop when approaching a stopped school bus may be subject to a \$250 civil penalty. However, if the locality adopts an ordinance allow for a civil penalty, the local school division can receive the revenue from the civil penalty imposed only when video recordings used in the prosecuting these violations are taken from cameras installed on school buses. Adopted 11/13; Review Date: 2026.

#### **10.14 Childhood Obesity**

The VSBA supports continued attention to the issue of childhood obesity in Virginia's public schools. Any such consideration should include the collection and dissemination of best practices for nutrition, physical activity, and sleep which may help combat childhood obesity; but which allow local school divisions to retain flexibility in how they address this problem through local wellness policies (as opposed to state mandates).

Background and Legislative History: The proposed position is a response to ongoing state level discussions regarding the best approach to address childhood obesity. This position advocates local discretion regarding appropriate policies as based on current research as opposed to state mandates. Adopted 11/13; Review Date: 2026.

#### **10.15 Oversight of Afterschool Enrichment Programs**

Afterschool enrichment programs that are housed in and/or operated by public schools, as well as the facilities that support those programs, should be distinguished from private or in-home daycare facilities. Regulatory oversight of afterschool enrichment programs that are housed in and/or operated by public schools, as well as the facilities that support those programs, should fall under the purview of the Virginia Department of Education.

Background and Legislative History: Currently, afterschool programming that is run by public school divisions, is housed at public schools, and is staffed by public school divisions falls under the oversight of the Department of Social Services (DSS). As a result of DSS' stringent regulatory environment, school divisions are faced with numerous unnecessary obstacles—from facility infrastructure to class size and hiring—that hinder a school division's ability to deliver high-quality afterschool enrichment programming. Adopted 11/17; Review Date: 2024.

#### **10.16 State School Health Advisory Committee**

VSBA supports establishing the State School Health Advisory Committee, consisting of no more than 20 non-legislative health, mental health, and educational professionals and parents to advise the Board of Education, the Governor, and the General Assembly on (i) the role of employees in public elementary or secondary schools in providing health and mental health services and (ii) the need for training associated with delivery of such services, and (iii) the feasibility of requiring school divisions to provide any additional proposed health care services.

Background and Legislative History: Every year, there is legislation in the General Assembly regarding requests for health services in the public schools. Decisions are often made with little regard to the ability of schools to provide these services and without consideration about the costs. An advisory committee consisting of both health professionals and education personnel would be able to study the requests and make recommendations as to their implications for school divisions. Adopted 11/19; Amended 11/21 Review Date: 2033.

#### **10.17 Mandatory Reporting of Misdemeanors and Status Offenses**

VSBA supports eliminating mandatory reporting of misdemeanors and status offenses by students to law enforcement for school based incidents.

Background and Legislative History: This legislation would make school officials' reporting of student misdemeanor and status offense conduct to law enforcement discretionary. Currently, Virginia State Code § 22.1-279.3:1 requires schools to report a wide level of school-based conduct and over 40 offenses to police, including misdemeanors and status offenses. Virginia ranks first in the nation in the rate of school-based referrals of students to law enforcement. This revision would allow school staff to exercise their professional judgment in making referrals and would reduce the burden on law enforcement of responding to referrals for minor misbehavior. Additionally, it safeguards positive school climate and the authority of school staff as well as reduces school-based referrals, arrests, and court involvement for children. Adopted 11/19; Review Date: 2026.

## **10.18: Disorderly Conduct for School Based Offenses**

VSBA supports decriminalizing disorderly conduct for school based offenses.

Background and Legislative History: Virginia's "Disorderly Conduct" statute specifically criminalizes highly subjective student behavior issues that often would not be considered criminal outside the schoolhouse door. The greatest racial disparities in school discipline can be found in highly subjective code of conduct violations such as "disorderly conduct." The added issue for many students—and especially Black students—is that disorderly conduct violations are also criminalized by Virginia code and can result in thousands of arrests, court petitions, unnecessary diversion requirements, or even probation and deeper court involvement—all for behavior that can and should be managed at the school level, with more effective tools that serve as alternatives not only to arrest, but also exclusionary discipline. Virginia's laws should not single out student misbehavior in school as a special version of criminal disorderly conduct.

This legislation would eliminate the unnecessary criminalization of student behavior. The current statute deems Disorderly Conduct as any behavior that "prevents or interferes with the orderly conduct" of any school operation or activity. This change places student school-based "disorderly conduct" in its proper context - the student code of conduct, rather than under the purview of law enforcement and the courts. Currently, such behavior doesn't have to hurt, threaten, or damage any other person or even any property; in fact, a student doesn't even have to intend to be disruptive, they can simply "recklessly create a risk" of such disruption. Disorderly Conduct is a Class 1 misdemeanor, which means it carries a penalty of up to one year in jail (detention) and a \$2500 fine. Such a finding can also amplify consequences of any future charges for youth, even if they are low-level offenses.

Subjective charges like Disorderly Conduct often fall hardest on students with disabilities, the symptoms of which (because schools tend to use non-disabled students as a norm) can sometimes manifest in disruptions that are then deemed criminally "disorderly." School-based "disorderly conduct" is about school behavior, not criminal behavior—therefore school administrators are best equipped to respond, especially when the behavior is only deemed "criminal" because it's happening in a school setting. And because the charge is really in the eye of the beholder, students often have little-to-no notice of how to avoid committing the "crime" as opposed to simply a disciplinary infraction. Adopted 11/19; Review Date: 2026.

## **11.0 Students with Disabilities**

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### **11.1 Education of Children with Disabilities**

The state's requirements greatly exceed the requirements of the Individuals with Disabilities Education Act (IDEA) and the Code of Virginia for students ages two (2) through twenty-one (21). The Code of Virginia currently places responsibility for special education programs for children with disabilities with the Board of Education.

The VSBA supports collaborative, interagency efforts to implement the federally-supported infants and toddlers program (for children with disabilities, birth through two years of age) with

the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency. The VSBA supports the provision of adequate and realistic funding to enable agencies to appropriately serve the eligible population. The VSBA supports cooperation among local school divisions and state and federal agencies, as appropriate, to provide the administrative and financial costs necessary to implement the mandated provisions for a free, appropriate education for children with disabilities.

The VSBA supports cooperation among the schools and other state agencies, as appropriate, to provide the related and interrelated services necessary to implement the mandated provision for a free, appropriate education for children with disabilities.

The VSBA supports the simplification and clarification of federal special education laws and regulations in order to more efficiently and effectively deliver special education programs to those students who require them under the most current reauthorization of the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act and their related regulations.

The VSBA opposes any rule or regulation that:

- Denies the parent(s) the right to participate in the development of a student's IEP;
- Denies a free, appropriate public education for children with disabilities;
- Provides administrative savings at the expense of the rights of children with disabilities;
- Requires local school boards to be responsible for non-educational costs, such as for medical treatment and room and board for non-educational placements for students with disabilities and requests that other appropriate agencies be required to bear these educational costs; or that
- Expands the definitions of the areas of disabilities to include behavioral and other disorders because these changes could significantly inhibit the effectiveness of special education programs and the provision of adequate services to students.

Some federal regulations on education of children with disabilities are too restrictive and burdensome. The VSBA supports the elimination of some state special education regulations which exceed federal requirements, and also supports consistency among state and federal regulations which apply to special education. The state should move quickly to align its state special education regulations to new federal requirements upon completion of the periodic federal legislative reauthorization process. State special education regulations which exceed federal requirements should be adopted (or retained in the event of a federal rule change) only after thorough consideration of the benefits to students and of the financial and administrative impacts on local school divisions, with supplementary state funding provided as necessary.

Background and Legislative History: The federal government and the state have not provided adequate financial resources to local school divisions to support delivery of services and programs for all students with disabilities including those older and younger than the age range for the regular public school program. In some cases these services may more appropriately be provided through vocational rehabilitation, mental retardation, mental health and health agencies. Where such services are essential to a child's development, other agencies are required by the Comprehensive Services Act to assume responsibility, including the provision of Public Law 99-457 (Handicapped Infants and Toddlers 1986), and their fair share of the costs. Realistic and fair state funding also should be maintained. Although federal law has allowed schools to collect Medicaid funds for providing certain services to eligible special students since 1988, the reimbursement documentation standards are complex and both federal and state guidance is lacking. As a result, Virginia school divisions are not receiving federal funds for all eligible children. School districts should be allowed to claim administrative and transportation expenses associated with Medicaid eligible services provided to students served under the federal Individuals with Disabilities Education Improvement Act (IDEA). A uniform set of rules and guidelines from the federal Centers for Medicare and Medicaid Services (CMS) for reimbursing school divisions should be developed to improve deferral and state guidance. In

turn, the state should adopt policies, laws, regulations and procedures that promote and facilitate local access to federal education related funds such as Medicaid reimbursements, and should expand the services it allows to be covered under the special education billing program. The state should also cooperate with local school divisions to identify eligible students and file claims. The VSBA opposes any attempt via legislation or regulation to eliminate the right of school divisions to receive reimbursement for Medicaid eligible services, including administrative and transportation services, provided to the students. Adopted 10/77; Amended 10/81, 10/82, 12/90, 11/02 (formerly Policy 3.2). The state has not provided adequate financial resources to local school divisions to allow development of services and programs for all students with disabilities including those older and younger than the age range for the regular public school program. In some cases these services may more appropriately be provided through vocational rehabilitation, mental retardation, mental health and health agencies. Where such services are essential to a child's development, other agencies are required by the Comprehensive Services Act (CSA) to assume responsibility, including the provision of P.L. 99-457, and their fair share of the costs. Every effort should be made to ensure these other agencies meet their responsibilities under the CSA and other appropriate laws. Adopted 10/77; Amended 10/87 (formerly Policy 2.4). Adopted 9/89; Amended 12/90, 11/93, 11/03 (formerly Resolution 4.25). Adopted 10/83; Amended 10/85, 12/90, 11/92, 11/93, 11/05 (formerly Resolution 4.11). Review Date: 2022.

## **11.2 Special Education Discipline Procedures**

In its June 1997, reauthorization of the Individuals with Disabilities Education Act (IDEA), the U.S. Congress placed severe restrictions on the authority of local school boards to discipline students with disabilities, despite the assertion that the new law permits local school boards to apply the same disciplinary procedures used for non-disabled students to students with disabilities. The reauthorized law requires that, when a student with a disability has been expelled or suspended for more than ten days for any reason, the local school boards must continue to provide educational services according to that student's Individualized Education Program. The reauthorized law provides that, unlike a non-disabled student, a student with a disability may be removed by the school division to an interim alternative placement only for weapon and drugs violations and for no more than 45 days. The reauthorized law prevents the removal of a student with a disability to an alternative placement for misconduct other than weapon and drugs violations, unless the parent consents or until the school division prevails in special education due process hearings or court proceedings. The reauthorized law's provisions cause a local school board to discipline differently a student with a disability and a student without a disability who have committed the same offense.

These provisions considerably extend the length of the disciplinary process in the case of a student with a disability and obstruct local school boards in treating students equitably, maintaining orderly schools, and keeping classrooms safe and free of disruption.

The VSBA supports the right of a child with disabilities to be provided access to a free, appropriate public education may, as with any other right, "be forfeited by criminal or other conduct antithetical to the right itself." The VSBA supports removing restrictions on disciplining students and on withholding educational services to students with disabilities when their behavior, unrelated to their disability, endangers themselves or others.

Background and Legislative History: Adopted 11/93; Amended 11/96, 11/98 (formerly Resolution 4.30); Review Date: 2022.

## **11.3 Federal Funding for the Education of Children with Disabilities**

Public Law 94-142, the Education for All Handicapped Children Act, now known as the Individuals with Disabilities Education Act (IDEA), first signed into law on November 29, 1975, is a federal law governing the educational services provided to children with disabilities. The federal government authorized funding allocations of 40 percent of the cost to educate a child

with disabilities and defray the costs to state and local governments. The federal government has consistently fallen far short of the federal commitment to fully fund IDEA, forcing state and local taxpayers to absorb much of the cost of this federal mandate. The average amount actually provided by the federal government to implement the mandates associated with IDEA is approximately 18 percent.

Each new reauthorization of IDEA imposes additional administrative and financial mandates on state and local government, adding significantly to the complexity and cost of adhering to the IDEA. Schools and school divisions are held directly accountable for the achievement of students with disabilities under the subgroup provisions of the Elementary and Secondary Education Act of 1965, with penalties and sanctions imposed on schools and divisions that do not reach achievement benchmarks.

The VSBA strongly urges the federal government to:

- Increase funding to meet the mandates under IDEA;
- Make IDEA federal funding a mandatory budget expenditure; and
- Refrain from imposing additional mandates regarding services to students with disabilities until it fully meets the funding level set forth in the law.

Background and Legislative History: Adopted 11/98; Amended 11/01, 11/06 (formerly Resolution 4.40); Review Date: 2024.

#### **11.4 Color Vision Deficiency and Its Negative Impact on School Performance**

1. The VSBA supports legislation advocating universal screening for color blindness.
2. The VSBA supports legislation requiring the Virginia Department of Education include color blindness screening as part of students' regular vision screenings at school.
3. The VSBA supports legislation requiring that when the Virginia Department of Education negotiates new testing contracts, information and test items be designed to be visible to children who are color vision deficient.
4. The VSBA supports legislation requiring the Virginia Department of Education strongly consider producing future educational software and tests to accommodate for the large number of color-vision-deficient children.

Background and Legislative History: Research indicates that color blindness or color vision deficiency is a common disability and likely affects 1.6% or 21,000 Virginia public school students. Researchers from the Multi-Ethnic Pediatric Eye Disease Study Group tested 4,005 California preschool children age 3-6 for color blindness and found the following prevalence by ethnicity and gender:

- 5.6% of Caucasian boys
- 3.1% of Asian boys
- 2.6% of Hispanic boys
- 1.4% of African-American boys
- 0.5% of girls are color vision deficient

Color vision deficiency negatively impacts school performance and makes it difficult for students to be as successful in school as their peers without color vision deficiency. Teachers rely on online educational resources which are not usually designed with color blind students in mind. Screening kids for color vision deficiency can be achieved with an easy to administer test. In Virginia, there are approximately 1,293,049 public school students. The population-based, cross-sectional study (the Multi-Ethnic Pediatric Eye Disease Study) found that the prevalence of color vision deficiency overall was 1.6%. This means Virginia may have almost 21,000 color vision deficient students, yet a tiny fraction of them are identified. Most color blind students are undiagnosed and not receiving the support they need. Universal design techniques can make

information visible to color deficient students who otherwise may miss out on critical information. Educational software and textbook producers do not take into account the needs of color blind children. Adopted 11/18; Review Date: 2025.

## **12.0 Special Topics in Education**

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### **12.1 Mathematics and Science Education**

The VSBA supports federal and state legislation, policies, and programs which promote the improvement of math and science instruction through such activities as:

- School division planning;
- In-service training of teachers;
- Cooperative programs with the business community and higher education; and
- Other resource development activities.

The VSBA supports that math and science legislation initiatives:

- Provide funds directly to local school divisions rather than have the monies flow through state education agencies;
- Concentrate funds on programs that will increase the supply of math and science teachers;
- Support programs that will upgrade the skills of practicing math and science teachers;
- Target a portion of the funds to local school divisions with demonstrated needs;
- Provide adequate funds for programs of sufficient size and scope; and
- Support policies and programs that will provide incentives to attract and retain math and science teachers.

The VSBA believes that competence and quality should be emphasized in all programs designed to attract and retain math and science teachers as well as retain currently hired teachers who wish to become math or science teachers.

Throughout the Commonwealth school divisions are experiencing difficulty in hiring licensed mathematics and science teachers. Besides short-term staffing problems created by this lack of qualified teachers, the long-term effects could be devastating to the nation's economy and defense.

It is essential that school boards are aware of and participate in the development of any new state or federal math and science programs.

Background and Legislative History: Adopted 10/83; Amended 9/88 (formerly Resolution 4.10); Review Date: 2022.

### **12.2 Family Life Education**

There is growing concern about teen-agers identified as possessing low self-esteem and poor coping mechanisms to deal with peer pressure and the stresses of modern living. There is a necessity to educate students in the dignity of human life and techniques in maintaining personal integrity and avoiding sexual abuse.

There exists a broad spectrum of opinions and moral viewpoints throughout the Commonwealth. The age-appropriateness and accuracy of instructional materials are paramount to the public's acceptance and the effectiveness of the program. Many local school divisions have community-supported family life education programs in place.

The VSBA supports:

- The Board of Education’s development of a comprehensive, sequential family life education curriculum in grades K through 12 with flexibility for local school divisions to develop local programs or to integrate the program into existing curriculum as appropriate;
- Appropriate training for teachers of family life education, but opposes additional teacher licensure requirements for an endorsement in family life education; and
- Full funding of any state-mandated family life education program.

Background and Legislative History: Adopted 10/87; Amended 9/88 (formerly Resolution 4.18); Review Date: 2022.

### **12.3 Alternative Education Programs**

The General Assembly has established and provided a measure of state funding for several regional programs that provide alternative education options for students who have violated school board policies relating to weapons, alcohol or drugs, or intentional injury to another person; who have been expelled or long-term suspended; or who have been released from a correctional center. The number of students meeting the state terms for placement in such programs far exceeds the capacity of the regional alternative programs throughout the state. It is essential that, in addition to the state’s regional programs, school boards be permitted to provide a continuum of alternative education services, rather than a single-service option, because students in need of such services exhibit wide differences in age, grade level and educational achievement, nature and seriousness of school board policy violation, court status, degree of danger they represent to the school community, need for treatment for substance abuse, eligibility for special education services, English language proficiency, and place of residence.

The school boards supply the local share of the funding the state considers sufficient for the regional alternative programs, and in most cases, they also supply the additional funding actually required for these programs and for numerous other alternative programs operated solely within the divisions.

The VSBA supports offering alternative programs and conditioned reentry provisions to students who have been suspended or expelled.

The VSBA supports:

- Changes to the current federal law to permit the local school board, knowledgeable of the individual case, to determine whether a student is suspended or expelled without services, and whether a student is offered placement in a suitable alternative education program or provided an option for reentry to the regular program;
- A compulsory school age of 18 for youth committed to the custody of juvenile or adult correctional centers;
- State significantly increase funding for local alternative education programs provided by a school board, as well as for collaborative programs among school divisions that provide programs and services for students expelled or long-term suspended;
- No state action be taken that in any way abrogates the authority of local school boards by mandating the categorical placement of students in regional alternative programs or by mandating the provision of educational services to students whom the local school board has suspended or expelled; and
- The Virginia Board of Education develop individual school accreditation plans to recognize alternative schools that, with creativity, skill, and exceptional dedication, provide individualized educational programs to small and transient populations of students who are struggling to overcome significant personal, school, and behavior problems.

Background and Legislative History: Adopted 11/97; Amended 11/98 (formerly Resolution 4.37); Review Date: 2022.

#### **12.4 Civic Education**

The development of character, citizenship, and patriotism among the children and the youth of the Commonwealth should continue to be emphasized.

Background and Legislative History: In its broadest sense, the primary purpose of any state public school system is the development of citizenship. Every effort should be made by the public school systems of Virginia to develop Virginia citizens who are worthy of their heritage. Although the school's primary function is intellectual training, it shares with other institutions (such as family, places of worship, government, and voluntary youth-service organizations) the task of ensuring that each generation adopts the shared values on which this nation's governmental structure and civic order are based. Adopted 10/77; Amended 10/87 (formerly Policy 2.1); Review Date: 2022.

#### **12.5 Environmental Education Programs**

Programs of environmental education for all levels of public education should be incorporated into the existing curriculum.

Background and Legislative History: Environmental protection and reclamation have become a national objective in the United States. In the years ahead, all citizens in the Commonwealth will be called upon to act as stewards of the land, the air, and the water which must be preserved to bring quality to their lives. Further, unless pollution is abated within the foreseeable future, the survival of the human race may be threatened. A major responsibility for developing a broad base for understanding ecological problems rests with the public schools. Adopted 10/77; Amended 10/81 (formerly Policy 2.2); Review Date: 2022.

#### **12.6 Gifted and Talented Student Programs**

Expanded education programs and services for gifted and talented students should be adequately supported. The state should increase its support to the academic year Governor's Schools to be consistent with its support for other public schools. Moreover, costs for summer programs should be adjusted yearly to avoid funding shortfalls that lead to shortened programs or fewer students served.

The VSBA also believes support should also be provided for any state required training for teachers.

Background and Legislative History: State has not provided adequate resources to local school divisions to allow development of the required programs (such as high school level programs) for gifted and talented students. Although many gifted and talented students are being provided specific learning opportunities, the opportunities are not adequate in some localities and, in some cases, students are not being provided any additional learning opportunities. In addition, the state should provide adequate funding for academic year Governor's Schools. The add-on per pupil amount for these schools should be adjusted annually in conjunction with the basic aid per pupil amount. While per pupil amounts to local school divisions have increased annually, the add-on amount was frozen for six years between 1992 and 1998, placing an increased demand on local school divisions to provide a greater percentage of the total budget for these schools. Moreover, given the increase in the number of Governor's schools and increasing participation, the current limit of state funding to 800 students per school should be increased. Summer residential programs, such as the Foreign Language Academies, which provide students exceptional learning experiences to develop language proficiency, should be available to increasing-not decreasing-numbers of students. Increases in program costs for some summer programs have caused the Department of Education to cut the number of days of instruction

and reduce the number of students admitted. Appropriate training as determined by local school divisions for teachers who have gifted and talented students in the classroom is necessary, but additional licensure requirements would inhibit school divisions from providing appropriate programs to gifted and talented students. Alternate entry routes into the teaching profession for teachers would provide localities flexibility in hiring persons who have an area of expertise but who have not formally prepared for teaching careers. Adopted 10/77; Amended 10/82, 10/87, 11/98, 11/99, 11/00 (formerly Policy 2.3); Review Date: 2022.

### **12.7 Uniform Grade Point Average Computation Standards**

Admission to colleges and universities both within and outside the Commonwealth is a highly competitive process that involves consideration of a number of factors. Many school divisions assign extra weight to grades earned in AP, IB, Cambridge, and honors courses, further complicating the comparison of student performance. Colleges and universities do not have the time or resources to convert disparate grading scales in order to compare the performance of high school students fairly.

Many parents throughout the Commonwealth have recently called upon their local school board to change their grading scale, in order to place their students on a more level playing field when competing for scarce places in colleges and universities, admission to honors programs, eligibility for good student discounts, NCAA eligibility, and other benefits.

The Virginia School Boards Association supports a Virginia Department of Education study of a standard grading scale for high school students, including types of coursework to be assigned extra weight, and the amount of extra weight to be given, in cases where school divisions offer IB, AP, Cambridge, honors, dual enrollment, or other higher level courses.

Background and Legislative History: Admission to college is a highly competitive process and colleges and universities do not have the time or resources to convert disparate grading scales in order to compare students fairly. Many school divisions assign extra weight to grades earned in AP, IB, Cambridge, and honors courses. Some local School Boards have changed their scale for calculating grade point averages in order to place their students on a more level playing field when competing with neighboring school divisions. Standardizing such calculations would be of benefit to admissions offices by allowing them to more accurately compare the performance of Virginia students. The intent of this Position is that the Virginia DOE will study Virginia's 134 school divisions as well as look at systems in place in the nine (9) states which currently have uniform grading systems. Adopted 11/09; Review Date: 2022.

### **12.8 Comprehensive Services Act**

The VSBA supports allowing local school divisions the flexibility to access CSA funds to establish, expand, or operate local programs and services in addition to separate day school placements.

Background and Legislative History: Adopted 11/16; Review Date: 2023.

### **12.9 Affordability of Dual Enrollment**

The Virginia School Boards Association supports making dual enrollment affordable for eligible students no matter where or how instruction takes place, and allowing local school boards and community colleges to collaborate in establishing tuition for these students. The Virginia School Boards Association opposes a mandatory tuition floor on dual enrollment courses.

Background and Legislative History: There are ongoing efforts to improve dual enrollment accessibility and affordability. Affordability needs to be locally or regionally determined according to the needs of the community. Adopted 11/17; Amended 11/20; Review Date: 2027.

## **12.10 Increased Student Access for Work-Based Learning Opportunities**

The VSBA supports additional work-based learning opportunities for students while enrolled in high school to increase exposure to and exploration of career pathways, including expanded internship, externship, apprenticeship, journeyman programs, service learning, and other work-based learning opportunities, including establishing a tax credit for businesses that host students from a high school, technical center, or specialty school as interns or apprentices in a qualified field that aids students in completing CTE course requirements or in preparation for career certifications.

Background and Legislative History: As part of the new Standards of Accreditation, all students are required to have work-based learning experiences. One of the best avenues for students to receive first-hand work-based learning experiences is for students to participate in apprenticeship programs through local businesses during their junior or senior year. This allows students to gain actual experience and exposure to the workforce. There are, however, few opportunities for students to participate in these programs. By providing a tax incentive for businesses to make internships or apprenticeships available to high school students, this will encourage more businesses to open up internship or apprenticeship opportunities for students. Adopted 11/18; Amended 11/21 Review Date: 2032.

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- 4.1 Teacher/Administrator Employment Contract Law
- 4.6 Revision of Teacher Employment, Grievances, Dismissal, and Suspension Articles
- 4.9 Contract Notification
- 4.15 Probationary Terms of Service for Teachers
- 10.8 Pandemic

#### TEACHER LICENSURE & CERTIFICATION

- 4.7 Education of Teachers
- 4.8 Teacher Preparation and Licensure
- 4.10 Staff Preparation and Development
- 12.2 Family Life Education
- 12.6 Gifted and Talented Student Programs

#### TECHNOLOGY

- 3.1 Educational Technology Funding
- 3.2 Educational Technological Equipment and Grants Programs
- 3.3 Enrollment Cap for Virtual Virginia
- 3.4 Cost/Benefit Analysis of Virtual Education
- 3.5 Funding for Model Virtual Education Programs

- 3.6 Funding for Virtual Programs
- 3.7 STAR Program Expansion
- 3.8 Education Technology Staffing
- 5.3 Twenty-first Century Communication for School Boards
- 9.4 Funding-Formula Impact
- 9.10 Standards of Quality and State Education Funding

#### TRANSPORTATION

- 7.1 Support for Private Education, Vouchers, and Tax Credits
- 10.13 Use of Video Recording Devices and School Bus Safety

#### VANDALISM and CRIMINAL ACTS

- 10.11 Vandalism
- 10.12 Gang-Free Zones
- 10.17 Mandatory Reporting of Misdemeanors and Status Offenses
- 10.18 Disorderly Conduct of School Based Offenses

#### VOLUNTEERS

- 4.19 Volunteers

## Regions of the Virginia School Boards Association

### Blue Ridge

Alleghany County  
Bland County  
Botetourt County  
Craig County  
Covington City  
Floyd County  
Franklin County  
Giles County  
Henry County  
Martinsville City  
Montgomery County  
Patrick County  
Pulaski County  
Radford City  
Roanoke City  
Roanoke County  
Salem City  
Wythe County

### Central

Albemarle County  
Buckingham County  
Charlottesville City  
Culpeper County  
Fluvanna County  
Greene County  
Louisa County  
Madison County  
Nelson County  
Orange County  
Rappahannock County

### Eastern

Caroline County  
Colonial Beach Town  
Essex County  
Gloucester County  
King & Queen Co.  
King George County  
King William Co.  
Lancaster County  
Mathews County  
Middlesex County  
Northumberland Co.  
Richmond County  
Westmoreland County  
West Point Town

### Northeastern

Alexandria City  
Arlington County  
Fairfax City  
Fairfax County  
Falls Church City  
Fauquier County  
Fredericksburg City  
Loudoun County  
Manassas City  
Manassas Park City  
Prince William County  
Spotsylvania County  
Stafford County

### Southern

Amherst County  
Appomattox County  
Bedford County  
Campbell County  
Charlotte County  
Danville City  
Halifax County  
Lynchburg City  
Lunenburg County  
Mecklenburg County  
Pittsylvania County  
Prince Edward County

### Southside

Amelia County  
Brunswick County  
Charles City County  
Chesterfield County  
Colonial Heights City  
Cumberland County  
Dinwiddie County  
Goochland County  
Greensville/Emporia  
Hanover County  
Henrico County  
Hopewell City  
New Kent County  
Nottoway County  
Petersburg City  
Powhatan County  
Prince George County  
Richmond City

### Southwest

Bristol City  
Buchanan County  
Carroll County  
Dickenson County  
Galax City  
Grayson County  
Lee County  
Norton City  
Russell County  
Scott County  
Smyth County  
Tazewell County  
Washington County  
Wise County

### Tidewater

Accomack County  
Chesapeake City  
Franklin City  
Hampton City  
Isle of Wight County  
Newport News City  
Norfolk City  
Northampton County  
Poquoson City  
Portsmouth City  
Southampton County  
Suffolk City  
Surry County  
Sussex County  
Virginia Beach City  
Williamsburg/James City  
York County

### Valley

Augusta County  
Bath County  
Buena Vista City  
Clarke County  
Frederick County  
Harrisonburg City  
Highland County  
Lexington City  
Page County  
Rockbridge County  
Rockingham County  
Shenandoah County  
Staunton City  
Warren County  
Waynesboro City  
Winchester City

Appreciation is expressed to the 2021 VSBA Legislative Positions Committee that reviewed and proposed the enclosed Legislative Positions adopted by the 2021 VSBA Delegate Assembly.

### **2021 VSBA Legislative Positions Committee**

Committee Chair – David R. Woodard, Tazewell County  
Blue Ridge – Donna Dillard, Martinsville City  
Central – Gregory V. Strickland, Louisa County  
Eastern – Bambi L. Thompson, Mathews County  
Northeastern – Sanford Williams, Manassas City  
Southern – Priscilla M. Ligon, Amherst County  
Southside – Chris Johnson, Prince George County  
Southwest – J. Sanders Henderson, Washington County  
Tidewater – Judith Brooks-Buck, Suffolk City  
Valley – Charlette E. McQuilkin, Rockingham County