

Memorandum

TO: ACPS School Board Policy Committee
FROM: Matt Smith, Policy Services Consultant
DATE: August 29, 2023
SUBJECT: Proposed Plan for potential revisions to ACPS Policies

On July 18, 2023 the Virginia Department of Education issued revisions to the *2021 Model Policies for the Treatment of Transgender Student in Public and Secondary Elementary Schools*, retitling the model policies to *Ensuring Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools*. The Code of Virginia has not changed, the Executive Branch has altered the interpretation of the existing code.

When the revisions to the VDOE model policies were issued, ACPS described a plan to address the changes:

1. Review the revisions to identify implications for existing ACPS policies and regulations
2. Review any revisions to the VSBA model policies in response to the revised model policies
3. Seek legal council's advise on revisions
4. Develop and adopt revisions, if any

Subsequently two key events have occurred:

1. On August 25th, VSBA issued a routine update to its model policies. As part of this update, VSBA has decided not to make any changes to the VSBA sample policies. VSBA has provided guidance on how its existing model polices enable school board to be compliant with the statute
2. On August 23rd, 2023 the Virginia Attorney General (AG), at the request of the Governor of Virginia, issued an opinion on the model policies. The AG found:

"It is my opinion that the model policies comply with the Equal Protection Clause, Title IX, and the VHRA, and that pursuant to Code § 22-1-23.3, local school boards are required to adopt policies that are consistent with them."

Proposed Next Steps:

1. See legal council's perspective on the model policy revisions and the AG's opinion
2. Confirm ACPS's existing policies are consistent with existing VSBA model policies that enable the division to be compliant with the statute
3. Determine if ACPS wants to develop a single policy on "transgender students" (akin to the VDOE model policy) or continue the existing, distributed approach (consistent with the VSBA model policies)
4. Develop and adopt revisions, if any