

X.

**Proposed Legislative Positions
Amendments**

Previously adopted Legislative Positions remain in full effect from year to year. **No vote is necessary on Legislative Positions if no change is made.**

- Only changes to existing Legislative Positions (amendments to add or delete language), or new Legislative Positions, are to be considered by the Delegate Assembly.
- When a proposed new Legislative Position, or proposed amendment, is removed from the "block" to be considered separately, **only the proposed changes are open to consideration/discussion**. It takes a 2/3 vote to suspend the rules to consider/discuss any part of a position not new or proposed for amendment.
- The explanation for and history of each position that is included in the official *Legislative Positions of the Virginia School Boards Association* is omitted in this section. They are omitted because they are used for lobbying purposes and are not part of the position statement, or subject to action by the Delegate Assembly. That information is available on the VSBA website, http://www.vsba.org/advocacy_government_relations/legislative_services/.

A motion was made by Judith Brooks-Buck and seconded by Sanders Henderson to approve and recommend for submission to the VSBA Board of Directors the **following positions as a block**. The motion carried by a 7-0 vote with Chair Woodard not voting. In the items below, the underlined language is new language that is proposed to be added to current legislative positions and language that is stricken through is proposed to be changed/removed from current legislative positions in the VSBA Legislative Positions Handbook. Each New or Amended position is identified in bold.

LEGISLATIVE POSITION NO. 1

Fair Assessment of Limited English Proficient Students. (Proposed amendment to Current Legislative Position 1.2)

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.

(Proposed by Fairfax County)

RATIONALE for changes or additions

The first change would address issues with data and test score availability school divisions currently face when English Learners transfer from division to division in Virginia while the second would provide English Learners with an alternative pathway to earning verified credits and help mitigate issues language barriers faced by English Learners may face when taking standardized content assessments.

LEGISLATIVE POSITION NO. 2

Education Technology Funding. (Proposed amendment to Current Legislative Position 3.1)

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.

(Proposed by Fairfax County)

RATIONALE for changes or additions

New language would expand technology advocacy to encompass increasingly important data and cyber security requirements faced by local school divisions. School boards have become targets for cybercriminals due to the vast amount of data school divisions must collect and warehouse, so the state should become a partner in addressing those needs.

LEGISLATIVE POSITION NO. 3

Local School Board's Constitutional Authority. (Proposed amendment to Current Legislative Position 5.1)

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.

(Proposed by Fairfax County)

RATIONALE for changes or additions

The pandemic brought into focus inequities in how the Code of Virginia treats various locally elected boards. As just one example, while local boards of supervisors and city councils had the authority to conduct electronic communications meetings during the pandemic, prior to amendments to the Appropriations Act school boards had to request permission from local governing bodies to do the same. Locally elected boards should be on equal footing in such circumstances.

LEGISLATIVE POSITION NO. 4

Increased Student Access for Internships/Apprenticeships. (Proposed amendment to Current Legislative Position 12.10)

12.10 Increased Student Access for Internships/Apprenticeships 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.

(Proposed by Fairfax County)

RATIONALE for changes or additions

Proposed change would broaden the existing position to cover a wider variety of work-based learning and advocate for expanded availability of work based learning more generally.

LEGISLATIVE POSITION NO. 5

School Board Authority and Governance. (Proposed New Position)

PROPOSED NEW LEGISLATIVE POSITION LANGUAGE

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.

(Proposed by Prince William County)

RATIONALE for changes or additions

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.

LEGISLATIVE POSITION NO. 6

Student Health, Wellness, and Safety. (Proposed amendment to Current Legislative Position 10.16)

That VSBA recommend to the General Assembly and support legislation to establish a State School Health Advisory Committee similar to that proposed by Senate Bill 1142 in the 2019 General Assembly. The purpose of the Committee shall be to advise the Virginia Board of Education, the Governor, and the General Assembly on matters relating to (i) the role of employees in public elementary and secondary schools in providing health care services at such schools, (ii) the need for training associated with the delivery of health care services, and (iii) the feasibility of requiring school divisions to provide any additional proposed health care services.

(Proposed by Prince William County)

RATIONALE for changes or additions

The tendency in recent General Assembly sessions has been to impose additional responsibilities upon school division healthcare staff for the personal healthcare of students. Legislation is passed without due consideration for funding of such services, staffing requirements including the professional certifications required of staff to provide such services, and health risks attendant to such additional services. Before such services

are mandated, the proposed legislation should be fully vetted.

The **following proposals were removed from the block** and recommended by the Committee for submission to the VSBA Board of Directors. In the items below, the underlined language is new language that is proposed to be added to current legislative positions and language that is stricken through is proposed to be changed/removed from current legislative positions in the VSBA Legislative Positions Handbook. Each New or Amended position is identified in bold.

LEGISLATIVE POSITION NO. 7

Twenty-First Century Communications for School Boards. (Proposed amendment to Current Legislative Position 5.3)

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 assembly 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.

(Proposed by Fairfax County)

RATIONALE for changes or additions

First change would address the fact that school boards have successfully and transparently conducted electronic communications meetings during the state of emergency and would advocate for expanded authority to continue to do so outside of the state of emergency. Second change would only affect a subset of VSBA members but would address an inequity in how Virginia's open meeting laws determine what constitutes a meeting. 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.

Motion to Accept Proposal as Amended: Judith Brooks-Buck

Motion Seconded: Sanders Henderson

LPC Vote: 7-0. Committee Chair Woodard not voting.

Motion Carried

LEGISLATIVE POSITION NO. 8

School Facility Construction Funds and Financing. (Proposed amendment to Current Legislative Position 8.1)

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 Commonwealth of Virginia must recognize that the current local property tax-based funding system for capital projects disadvantages students living in low Local Composite Index (LCI) divisions, particularly in the area of STEM education and workforce development. 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 requires modern, industry-standard facilities. The manner in which inequalities are tempered using LCI to distribute 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 using LCI as an equalizing factor 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.

(Proposed by Harrisonburg City)

Motion to Accept Proposal as Amended: Chris Johnson

Motion Seconded: Sanders Henderson

LPC Vote: 7-0. Committee Chair Woodard not voting.

Motion Carried

LEGISLATIVE POSITION NO. 9

School Facilities Funding. (Proposed New Position)

PROPOSED NEW LEGISLATIVE POSITION LANGUAGE

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.

(Proposed by Newport News City)

RATIONALE for changes or additions

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.

Motion to Accept Proposal: Judith Brooks-Buck

Motion Seconded: Bambi Thompson

LPC Vote: 6-1. Committee member Strickland voting "No". Committee Chair Woodard not voting.

Motion Carried