



# VIRGINIA BEACH CITY PUBLIC SCHOOLS CHARTING THE COURSE

## School Board Services

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**Donald E. Robertson, Ph.D., Acting Superintendent**

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### **School Board Special Meeting MINUTES**

**Monday, September 25, 2023**

**Holland Road Annex**  
2323 Holland Road  
Virginia Beach, VA 23453  
(757) 263-1000

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- 1. Call to Order and Verbal Roll Call:** Chair Riggs convened the Special meeting of the School Board at the Holland Road Annex, Einstein Lab at 4:17 p.m. on the 25<sup>th</sup> day of September 2023 and stated Pursuant to Bylaw 1-46, and *Virginia Code* § 2.2-3707, the School Board will hold a special meeting on Monday, September 25, 2023, at 4:00 p.m., at the Holland Road Annex, 2323 Holland Road, Virginia Beach, Virginia 23453 in the Einstein Lab. The purpose of this special meeting is for: Model Policy work session. Members of the public will be able to observe the School Board Meeting through livestreaming on [schoolboard.vbschools.com/meetings/live](https://schoolboard.vbschools.com/meetings/live), broadcast on VBTv Channel 47, and on Zoom. Thank you to those that have joined us in person and online. In addition to Donald E. Robertson, Ph.D., Acting Superintendent, the following School Board members were present in the Holland Road Annex/Einstein Lab: Chair Riggs, Vice Chair Weems, Ms. Anderson, Ms. Brown, Mr. Callan, Mr. Culpepper, Ms. Franklin; Ms. Martin, Ms. Melnyk, and Ms. Owens. School Board member, Ms. Manning was not in attendance due to personal reasons.
  - 2. School Board Administrative Matters:** Chair Riggs mentioned the following: the superintendent search survey available on [vbschools.com](https://vbschools.com) website, seeking input from public, encouraging staff, students, parents and guardians, and community stakeholders to take survey, survey will be open from September 25 through Friday, October 6; reminder the next School Board meeting on October 10 will take place at the School Administration Building #6, 2512 George Mason Drive.
  - 3. Moment of Silence followed by the Pledge of Allegiance**
  - 4. Adoption of the Agenda:** Chair Riggs called for any modifications to the agenda as presented. Hearing none, Chair Riggs called for a motion to approve the agenda as presented. Ms. Franklin made the motion, seconded by Mr. Callan. Without discussion, Chair Riggs called for a vote. The School Board Clerk announced there were 10 ayes in favor of the motion to approve the agenda as presented: Chair Riggs, Vice Chair Weems, Ms. Anderson, Ms. Brown, Mr. Callan, Mr. Culpepper, Ms. Franklin, Ms. Martin, Ms. Melnyk, and Ms. Owens. The motion passed, 10-0-0. Note: Vice Chair Weems left the meeting at 4:38 p.m. due to medical reasons.
  - 5. 2023 Model Policy Work Session:** Eugene F. Soltner, Ed.D., Chief of Staff reviewed the workshop objectives: to examine proposed regulation to ensure consistency with the 2023 New Model Policies, to prepare each Board Member to move Model Polices from Information to Action; mentioned definitions in Policy 5-31A, approved at the September 12, 2023 School Board meeting; reviewed examples of the information structure for the slides; presented the slides to the School Board then returned to each slide individually for discussion and straw poll. Before returning to the slides, Matthew Delaney, Chief Schools Officer shared information regarding VHSL appeals process; reviewed VHSL Policy 54-6-1; Participation Limitation and 28A-8-1: Transgender Policy; shared an overview of VHSL appeal process; multi-level review – parent initiates appeal; appeal involves principal, district committee, VHSL Executive Director (and VHSL Executive Committee for final appeal); extensive documentation required including medical; goal of appeal is to determine hat the expression is bona fide and not for the purpose of gaining an unfair advantage.

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### Identification of Students

VDOE Model Policies: section D2...student prefers, using any nickname commonly associated with the name that appears in the student's official record.

VBCPS Proposed 5-7.1.B:1...b) a nickname that the eligible student or the parent of a minor student has designated in the student's official record. Rationale: 5-31A...Any writing from the eligible student or parent of a minor student shall be memorialized in the student's official record...

The presentation continued with questions and comments regarding clarification on nickname; parent submitting note for child's nickname; commonly associated nickname; nickname field in student record; noted rational – any writing from parent of minor student shall be memorialized in the student's official record; school personnel using nickname; use of acceptable nickname; Regulation 5-7.1; multiple layers to the model policies; guiding principle in Model Policy – appreciation of parental responsibilities and rights with their child; parents to indicate the nickname; being addressed as want to be addressed, respectful; suggestion of appeal process; use of student name as appears in student record or nickname; process for parents to add nickname; does not single out any specific group of people; appreciate the language; challenges with returning paperwork; parental rights; conversations with parents and teachers; language consistent with Model Policy; various examples of nicknames and situations; implementation – how to complete packet, various ways to get information to school (phone call); timeline for implementation; communication to parents; verify documentation/notes from parents, done through the school office; appreciation to the hard work of staff; clarification on process of straw poll, presentation for tomorrow night, voting tomorrow night on single version - not in sections; parents decide the nickname; support for Model Policies or VBCPS Regulations; using official name and/or nickname; suggestion after item (b) additional statement...if the parent determines that the nickname supersedes the name and the official record that's the name the teacher is supposed to use; if the parent notes the nickname supersedes the official name, the nickname is to be used; after the discussion a straw poll was taken regarding the VBCPS Proposed 5-7.1.B:1 with the additional language added; there were five (5) ayes and four (4) nays.

VDOE Model Policies: section D3...refer to each student using only the pronouns appropriate to the sex appearing in the student's official record...

VBCPS Proposed 5-7.1.B.2... refer to a student using only the a) pronoun associated with the student's sex or gender identity...

Also reviewed section D4 of Model Policy

VDOE Model Policies: section D4...shall refer to a student by a name other than one in the student's official record, or by pronouns other than those appropriate to the sex appearing in the student's official record, ...a student's parent has instructed [School Division] in writing that such other name or other pronouns be used.

VBCPS Proposed 5-7.1.B.2... shall refer to a student using only the a) pronoun associated with the student's sex or gender identity as set forth in the student's official records, or b) the pronoun that the eligible student or parent of a minor student has designated in the student's official record. ... he, she, or they...parent of a minor student requesting a different pronoun other than those listed in this item should notify the principal or designee.

Noted looking at consistency in honoring parent wishes for child; returned to section D3 for questions and discussion; embraces parental rights; giving parents the decision-making power; without further discussion on section D3, a straw poll was taken regarding the VBCPS Proposed 5-7.1.B.2; there were seven (7) ayes and one (1) nay. Note, one School Board member was not present during the straw poll.

There was a discussion regarding section D4; during enrollment of student, is pronoun usage asked; not asked during enrollment; male and female pronouns – use of they as pronoun; noted section in the Model Policy regarding other pronouns to be used; allowing parents to make the decision; without further discussion on section D4, a straw poll was taken regarding the VBCPS Proposed 5-7.1.B.2; there were six (6) ayes and three (3) nays.

VDOE Model Policies: section D6...shall not compel [School Division] personnel or other students to address or refer to students in any manner that would violate their constitutionally protected rights.

VBCPS Proposed 5-7.1-3.c... consult with an administrator or a counselor regarding their concerns. School personnel who have concerns about addressing a student by the student's designated name or pronoun should consult with their school or department...Human Resources regarding accommodations requested to address their protected rights.

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There was a discussion regarding section D6; mentioned regardless of our beliefs, we cannot discriminate against or harass another, based on our own beliefs; provide options to work through school staff or Human Resources to address concerns; more clarity on VDOE Model Policies than VBCPS; mentioned First Amendment Rights; appropriate accommodations; clarity for staff; using verbiage from VDOE Model Policy and VBCPS; operational language; training and practices; suggestion adding language to D6...additionally school personnel may consult with the Department of Human Resources; complicated issue; better option to use language of D6; clarify how to implement with staff; some additional language may be added; without further discussion on section D6, a straw poll was taken regarding VDOE Model Policies section D6; there were eight (8) ayes. Note, one School Board member was not present during the straw poll.

VDOE Model Policies: section D7: No policy, guidance, training, or other written material issued by the [School Division] may encourage or instruct teachers to conceal material information about a student from the student's parent, including information related to gender...

VBCPS Proposed 5-7.1.A.4: No policy, guidance, training, or other written material issued by the [School Division] may encourage or instruct teachers to conceal material information about a student from the student's parent, including information related to gender...

It was noted that a new piece was create in VBCPS Proposed 5-7.1.A.4; the regulation ends at A.3, section A.4 would be added to the existing regulation; without further discussion, a straw poll was taken regarding VBCPS Proposed 5-7.1.A.4; there were nine (9) ayes.

#### Student Participation in Sex-Specific Activities

It was noted that the information is not about VHSL competitive sports, and it is not about facilities such as locker rooms or bathroom; about school activities and school sponsored events;

VDOE Model Policies: section G1: ...sex rather than gender or gender identity...

VBCPS Existing and Proposed:

5-7.1.C.1: Sex and gender grouping for class activities or school sponsored events should not be used...

5-7.1.C.2: ...not be based on generalizations or stereotypes about different talents, capacities, or preferences of any sex or gender identity. Noted the addition of the word "identity" to align with the Model Policies

5-7.1.C.3: ... sex rather than gender or gender identity. Noted, align directly with Model Policies for those which by purpose are separated by sex, sex not gender identity will be the determining factor – example Family Life within PE.

There was a brief discussion regarding clarity that the section has nothing to do with athletics, locker rooms, restrooms; without further discussion, a straw poll was taken regarding the existing and proposed VBCPS sections 5-7.1.C.1, 5-7.1.C.2, and 5-7.1.C.3; there were nine (9) ayes.

#### Student Participation in Sex-Specific Activities/Facilities

VDOE Model Policies: section G2: Where state or federal law requires schools to permit transgender students to share otherwise sex-segregated facilities...parents should be given the right to opt their child out of using such facilities, and the child should be given access to alternative facilities that promote the child's privacy and safety.

VBCPS Proposed and Existing (**bold**) Blended:

5-44.2: ...as designated in a student's **official records. Single-user, gender-inclusive facilities or other reasonable alternatives shall be made available to any student.** ...Superintendent will develop procedures for the parent/legal guardian of a minor student to determine which restroom or locker room their student will use. ...

It was noted the VBCPS verbiage difference is single user gender inclusive facilities will be made available to any student, and as such no opt out is needed; parent decision is key. A discussion followed regarding single-use facilities; flexible to use facility that is needed; implementation; official records; opt-out form; Grimm case; Policy 5-31A; gender identity; single-use bathrooms and single-use locker rooms; ability to use the single-use bathroom; suggestion about funding floor to ceiling walls in existing restrooms; personal private important; adjust the word "may" to "will"; without further discussion, a straw poll was taken regarding the proposed and existing (**bold**) blended VBCPS 5-44.2 and the change of the word to "will"(A student will use restrooms and locker rooms...); there were six (6) ayes and three (3) nays.

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### Overnight Travel Accommodations and Locker Rooms

VDOE Model Policies: section G3: ...be based on sex. [School Division] shall provide reasonable modifications to this policy only to the extent required by law.

VBCPS Proposed and Existing **(bold)** Blended:

6-56.1.F.2: **Students will use the rooming, bathing, and changing facilities that align with the student's sex or gender identity as noted in the student's official records.** No student will be required to share rooming, bathing or changing facilities and may request single user facilities for the purpose of maintaining personal privacy...

A discussion followed regarding reasonable efforts; making accommodations; shared examples of how to make accommodations; concerns about gender identity; parents knowledge of policies; parents rights; implementation; protection for all students; suggestion to add the wording "or other accommodations" after "may request single user facilities"; may not have control in outside areas; may not be able to guarantee – not able to control other outside areas; locker rooms and PE classes; law requirement; Title IX; clarification on "gender identity"; Policy 5-31A; voted on last meeting; term "reasonable efforts" should remain; state code on field trips; clarification on language suggestions: one to keep as is and another to eliminate the last paragraph and instead after facilities have "or other accommodations" for the purpose of maintaining...; mentioned reasonable accommodations and shared a scenario; decisions in the best interest of students; teacher not losing job over "reasonable accommodations"; teachers' rights. Without further discussion, a straw poll was taken on the following wording of VBCPS 6-56.1.F.2: Proposed and Existing **(bold)** Blended:

**Students will use the rooming, bathing, and changing facilities that align with the student's sex or gender identity as noted in the student's official records.** No student will be required to share rooming, bathing or changing facilities and may request single user facilities for the purpose of maintaining personal privacy. When single user facilities are not available, reasonable efforts will be made to accommodate a student's request for personal privacy. There were five (5) ayes and four (4) nays.

A straw poll was taken on the following VBCPS 6-56.1.F.2 as amended by Ms. Franklin:

**Students will use the rooming, bathing, and changing facilities that align with the student's sex or gender identity as noted in the student's official records.** No student will be required to share rooming, bathing or changing facilities and may request single user facilities or other accommodations for the purpose of maintaining personal privacy.

There were seven (7) ayes and two (2) nays.

A straw poll was taken on the VDOE Model Policy, section G3: Overnight travel accommodations, locker rooms, and other intimate spaces used for school-related activities and events shall be based on sex. [School Division] shall provide reasonable modifications to this policy only to the extent required by law.

There were three (3) ayes and six (6) nays.

A brief discussion followed regarding the term gender identity; student records; locker rooms and overnight accommodations; definitions voted on in policy 5-31.

VDOE Model Policies: section G5: Single-user bathrooms and facilities should be made available in accessible areas and provided with appropriate signage, indicating accessibility for all students.

VBCPS Existing 5-44.2: ... Single-user, gender-inclusive facilities or other reasonable alternatives shall be made available to any student. ... for the parent/legal guardian of a minor student to determine which restroom or locker room their student will use.

It was restated from the existing 5-44.2, that facilities have single user gender inclusive facilities; a brief question and comment was made regarding signage for restrooms. Without further discussion, a straw poll was taken on VBCPS Existing 5-44.2; there were eight (8) ayes. Note a School Board member was not present in the room during the straw poll.

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VDOE Model Policies: section G6: Students with a diagnosis of gender dysphoria made by a licensed health care provider should consult with their school's ADA coordinator regarding any requested services.

VBCPS: Students with a diagnosis of gender dysphoria made by a licensed health care provider may consult with their school's 504 coordinator regarding any requested services.

It was noted that it duplicates the Model Policies less the language of ADA Coordinator, at the school – a 504 coordinator, no regulation is needed; a discussion followed regarding gender dysphoria verses gender identity disorder; not an ADA coordinator at each site; do have a 504 coordinator which could refer to the division ADA coordinator; 504 procedures; student official record; Policy 5-31; clarification on the differences between Model Policy and VBCPS – ADA coordinator and 504 coordinator; without further discussion, a straw poll was taken on the following:

Students with a diagnosis of gender dysphoria made by a licensed health care provider may consult with their school's 504 coordinator regarding any requested services. There were nine (9) ayes.

#### Athletics

VDOE Model Polices: section H: ...determined by sex rather than gender or gender identity.

VBCPS Proposed 5-49.1.B.6: ...determined by the sex designated in the student's official records rather than the gender or gender identity.

It was noted that we are members of the Virginia High School League (VHSL); VHSL has stringent appeal guidelines; VHSL policy; a discussion followed regarding teams and scenarios; Title IX; Matthew Delaney, Chief Schools Officer provided information from VHSL Policy; *boys' opportunities for participation in athletics have been limited in the past*; shared example of girls field hockey, there are other sports available to boys during that season that they may participate in. Without further discussion, a straw poll was taken on VBCPS Proposed 5-49.1B.6; there were seven (7) ayes and two (2) nays.

After the presentation, there were questions and comments regarding the procedure for tomorrow night's meeting; conversations from last meeting regarding guidance; developing a timeline; goal to have trainings available to principals then staff then implementation; implementation process; dress code, fact specific to the circumstance; administration having same conversations as School Board members; development of regulations; presenting information to the School Board tomorrow night; take input from School Board tonight and rewrite language; process for tomorrow night; present in a shorter version the plan to implement at tomorrow's meeting; Policy 5-31; the will of the Board; creation of draft; and implementation.

6. **Action on items related to Special Meeting discussions:** There were no items to under Action.
7. **Closed Session:** There was no Closed Session.
8. **Adjournment:** Chair Riggs adjourned the special meeting at 7:25 p.m.

Respectfully submitted:

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Regina M. Toneatto, Clerk of the School Board

Approved:

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Trenace B. Riggs, School Board Chair