

RESOLUTION

Model Policies on Ensuring Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools

WHEREAS, Policy 5-7 of the School Board of the City of Virginia Beach (hereinafter "School Board") directs the Superintendent or designee to develop regulations, practices and trainings related to compliance with Code of Virginia § 22.1-23.3, as amended.

WHEREAS, on September 18, 2021, the Superintendent of Virginia Beach City Public Schools (hereinafter "VBCPS") adopted regulation 5-7.1 in compliance with § 22.1-23.3 and the 2021 Model Policies for the Treatment of Transgender Students in Virginia's Public Schools.

WHEREAS, on July 18, 2023, the Virginia Department of Education (hereinafter "VDOE") released the Model Policies on Ensuring Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools (hereinafter "2023 Model Policies") that align with statutory provisions of Code of Virginia §22.1-23.3, as amended.

WHEREAS, with the adoption of the 2023 Model Policies, the VDOE has withdrawn the 2021 Model Policies, which have no further force and effect; and

NOW, THEREFORE, BE IT

RESOLVED, the School Board directs the Superintendent or designee to replace the entire current regulation 5-7.1 with the 2023 Model Policies for Virginia Beach City Public Schools document attached to this resolution, without modification, no later than August 21, 2023; and be it

FURTHER RESOLVED, the School Board directs the Superintendent or designee to modify regulation 5-44.2 to be in compliance with the 2023 Model Policies.

FURTHER RESOLVED, that no future changes are to be made to regulation 5-7.1 without School Board approval by majority vote; and be it

FURTHER RESOLVED, that this resolution will supersede any other past resolutions adopted by the School Board pertaining to this matter; and be it

FURTHER RESOLVED, that a copy of this Resolution be spread across the official minutes of this Board.

Adopted by the School Board of the City of Virginia Beach this _____ Day of _____ 2023

2023 Model Policies for Virginia Beach City Public Schools

I. Definitions

Terms and phrases used herein are defined as follows:

- A. As set forth in Code of Virginia § 22.1-1, the term “parent” or “parents” shall mean “any parent, guardian, legal custodian, or other person having control or charge of a child.”
- B. The word “sex” means biological sex.
- C. The phrase “transgender student” shall mean a public school student whose parent has stated in writing that the student’s gender differs from the student’s sex, or an eligible student who states in writing that his or her gender differs from his or her sex.
- D. An “eligible student” is a student or former student who is 18 years of age or older or a student under the age of 18 who is emancipated. See Code of Virginia § 16.1-331 et seq.

II. Model Policies

Virginia Beach City Public Schools (hereinafter “VBCPS”) complies with all applicable federal and state nondiscrimination laws, including Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 and the Virginia Human Rights Act, Code of Virginia § 2.2-3900.

A. Maintenance of a safe and supportive learning environment free from discrimination and harassment for all students:

- 1. VBCPS prohibits all discrimination and will comply with all applicable nondiscrimination laws.
- 2. School personnel shall be trained annually on health and mental wellness support to, and safety of, all students.
- 3. Each school shall make reasonably available, with available resources, guidance and counseling services to all students as provided in 8 VAC 20-620-10 and pursuant to parental notification requirements therein, including that, “[n]o student shall be required to participate in any counseling program to which the student’s parents object.” Except with regard to eligible students, must be informed and given an opportunity to object before counseling services pertaining to gender are given.
- 4. At the request of parents, VBCPS should designate an administrator or counselor to speak, together with the student’s parents (except in the case of eligible students), with any student regarding questions pertaining to gender. This provision should not apply with regard to eligible students.

B. Prevention of and response to bullying and harassment:

- 1. VBCPS provides bullying prevention education in accordance with Code of Virginia § 22.1-208.01.

2. Any incident or complaint of discrimination, harassment, or bullying shall be given prompt attention, including investigating the incident and taking appropriate corrective and/or disciplinary action, by the school administrator.
3. Bullying of any student by another student, for any reason, cannot be tolerated in our schools. Intervening immediately to stop bullying on the spot can help ensure a safer school environment for all students.
4. The Superintendent or designee shall designate a contact to be available to hear concerns from students and parents when complaints are not resolved at the school level.
5. VBCPS shall inform parents of any bullying incidents that involve their child within 24 hours of learning of the allegation of bullying, per the requirements of Code of Virginia § 22.1-279.6(D).

C. Maintenance of student records:

1. VBCPS is required to maintain an official record for each student that includes the student's legal name and sex. VBCPS may be required to use or report a student's legal name or sex in some situations.
2. VBCPS shall change the legal name or sex in a student or former student's official record only if a parent or eligible student submits a legal document, such as a birth certificate, state- or federal-issued identification, passport, or court order substantiating the student or former student's change of legal name or sex.

D. Identification of students:

1. Every effort should be made to ensure that a transgender student wishing to change his or her means of address is treated with respect, compassion, and dignity in the classroom and school environment.
2. VBCPS personnel shall refer to each student using only (i) the name that appears in the student's official record, or (ii) if the student prefers, using any nickname commonly associated with the name that appears in the student's official record. Nothing in this policy shall prevent VBCPS personnel from using a different name for a student when it is necessary for the student's academic instruction, such as using a name more common in a foreign country while in a foreign-language course.
3. VBCPS personnel shall refer to each student using only the pronouns appropriate to the sex appearing in the student's official record - that is, male pronouns for a student whose sex is male, and female pronouns for a student whose sex is female.
4. Notwithstanding the provisions of paragraphs (2) and (3) of this section, VBCPS personnel 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, only if an eligible student or a student's parent has instructed VBCPS in writing that such other name or other pronouns be used.
5. Any written instruction from a parent or eligible student under paragraph (4) of this section shall be memorialized in the student's official record and subject to the same

retention, disclosure, and confidentiality requirements as the official record itself. The legal name and sex of a student shall not be changed, even upon the written instruction of a parent or eligible student, except as specified in section (C)(2).

6. Notwithstanding the provisions of paragraph (4) of this section, VBCPS shall not compel VBCPS personnel or other students to address or refer to students in any manner that would violate their constitutionally protected rights.

7. No policy, guidance, training, or other written material issued by VBCPS may encourage or instruct teachers to conceal material information about a student from the student's parent, including information related to gender. Provided, however, that VBCPS will comply with all laws that prohibit disclosure of information to parents, including but not limited to Code of Virginia § 22.1-272.1(B) (prohibiting parental contact where student is at imminent risk of suicide related to parental abuse or neglect).

E. Protection of student privacy and the confidentiality of sensitive information:

1. VBCPS shall comply with the limitations on access to student records provided in Code of Virginia §§ 22.1-287 through 289.01;

2. VBCPS shall adhere to legal standards of confidentiality relating to sensitive student information and personally identifiable data covered by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

3. VBCPS shall disclose sensitive student information (including any survey or evaluation related to the student's gender) only (i) to the student, the student's parents (except in the case of eligible students), and school personnel with a legitimate educational interest, or (ii) when required by law.

F. Enforcement of sex-based dress codes:

1. Students may dress in any manner consistent with maintaining a respectful, distraction-free environment which supports a focus on learning for all students.

2. Students are not required to dress in a gender-neutral manner. However, any dress or grooming code shall provide the same set of rules and standards regardless of gender, as required by the Code of Virginia § 22.1-279.6.

G. Student participation in sex-specific school activities and events and use of school facilities.

1. For any school program, event, or activity (including extracurricular activities) that are separated by sex, the appropriate participation of students shall be determined by sex rather than gender or gender identity. VBCPS shall provide reasonable modifications to this policy only to the extent required by law.

2. Where state or federal law requires schools to permit transgender students to share otherwise sex-segregated facilities (such as bathrooms or locker rooms) with students of the opposite sex, 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. Eligible students should also be given the right to opt out of using such facilities and be given access to alternative facilities.

3. Overnight travel accommodations, locker rooms, and other intimate spaces used for school-related activities and events shall be based on sex. VBCPS shall provide reasonable modifications to this policy only to the extent required by law.

4. Students shall use bathrooms that correspond to his or her sex, except to the extent that federal law otherwise requires. See *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020).

5. Single-user bathrooms and facilities should be made available in accessible areas and provided with appropriate signage, indicating accessibility for all students.

6. 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.

H. Athletics

For any athletic program or activity that is separated by sex, the appropriate participation of students shall be determined by sex rather than gender or gender identity.