

Board of Education Agenda Item

Item: _____ J. _____

Date: January 13, 2011

Topic: Final Review of Proposed Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools

Presenter: Mr. Charles B. Pyle, Director of Communications

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Origin:

Topic presented for information only (no board action required)

Board review required by

State or federal law or regulation

Board of Education regulation

Other: Guidance to local school boards related to § 22.1-253.13:7, *Code of Virginia*

Action requested at this meeting

Action requested at future meeting:

Previous Review/Action:

No previous board review/action

Previous review/action

date November 18, 2010

action Accepted for first review and public comment

Background Information:

Virginia was among the first states to require criminal background checks for all public school teachers and other school board employees. Since 1989, all initial or first-time applicants offered or accepting employment have had to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for a criminal background check. This requirement was extended in 1998 to include applicants for positions with accredited private and parochial schools.

Since 1997, applicants offered or accepting employment requiring direct contact with students have been required to provide written consent and the necessary personal information for the hiring school board to obtain a search of the registry maintained by the Virginia Department of

Social Services of founded complaints of child abuse and neglect.

In 2006, the General Assembly expanded background check certifications to include employees of contractors employed by public schools who have direct contact with students.

Section 5414 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, required a national study of sexual abuse in schools. The study, *Educator Misconduct: A Synthesis of Existing Literature*, was conducted by Charol Shakeshaft of Hofstra University (now the chairman of the Department of Educational Leadership at Virginia Commonwealth University) and published in 2004 by the U.S Department of Education (USED).

Foremost among Shakeshaft's recommendations for the prevention of sexual misconduct is the development of specific district-level policies prohibiting sexual misconduct and inappropriate relationships between educators and students — including consensual relationships. Shakeshaft stated that local policies should describe prohibited behaviors to eliminate ambiguity about what types of actions are unacceptable.

The 2004 USED report also recommended mandatory training for educators and administrators about the prevention and detection of misconduct. Shakeshaft noted that sexual abuse prevention training for educators and other school employees — whether pre-professional or in-service — rarely includes training on the prevention and recognition of educator sexual misconduct. Rather, programs focus on recognizing and responding to abuse and neglect occurring outside the school.

Of the 169 actions taken by the Board of Education against licenses since 2000, 120 were in response to sexual misconduct involving minors. In many of these cases, school divisions filed petitions only after receiving an inquiry from VDOE about a case in which a license holder had been convicted but no licensure action had been initiated by the division.

The 2008 General Assembly — with the support of the Board of Education — approved HB 1439 and SB 241, which amended Standard 7 of the Standards of Quality by adding language requiring school boards to develop policies and procedures to address complaints of sexual abuse of students by school board employees.

HB 1439 and SB 241 require local school boards to notify the Board of Education within 10 days if a licensed employee is dismissed or resigns due to a criminal conviction or founded child abuse or neglect charge. In addition, HB 1439 and SB 241 require:

- Court clerks to notify the Superintendent of Public Instruction when a person licensed by the Board of Education is convicted of a felony drug crime or a felony sex crime involving a child victim; and
- Local social services departments to notify the state superintendent of license holders who have exhausted appeals after being identified as the subject of a founded case of abuse.

The 2008 General Assembly also erected additional barriers to employment and access to school buildings by offenders:

- HB 1242 prohibits the employment of anyone whose job would require direct contact with students if the applicant is the subject of a founded case of physical or sexual abuse of a child. Additionally, the bill requires the dismissal of a teacher who, while employed by a local school board, becomes the subject of a founded case of physical or sexual abuse of a child and has exhausted all available appeals.
- HB 567 prohibits any adult convicted of a sexually violent offense from entering and being present upon any property he knows or has reason to know is a public or private elementary or secondary school or child day care property during school hours and during school-related and school-sponsored activities. Previously, the prohibition only applied during school hours.

Summary of Major Elements

Under the state constitution and state law, local school boards are responsible for the development of policies governing the conduct of their employees. The model policies and best practices described in *Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools* are designed to assist school boards in crafting effective local policies to prevent abuse and meet their responsibilities under HB 1439 and SB 241 to develop policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee.

The guidance and best practices contained in *Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools* address factors contributing to actual cases of misconduct in the commonwealth's public schools and include elements and practices common to successful youth protection programs. These elements are:

- A statement of purpose and philosophy addressing the shared responsibility of school divisions, school employees, volunteers, students, parents and others for the prevention and reporting of sexual misconduct and abuse;
- Clear and reasonable policies governing communication between students and school board employees — including electronic communication — that promote transparency, accessibility and professionalism;
- Clear and reasonable policies governing physical contact between students and school board employees and volunteers in settings and circumstances common to public schools;
- Clear and reasonable policies governing permissible and unacceptable social interactions and relationships between students and school board employees and volunteers;
- Training of school personnel and volunteers and the dissemination of sexual misconduct and abuse prevention policies to school board employees, volunteers, students, and parents;
- Clear procedures for the reporting of suspected sexual misconduct and abuse; and
- Consequences for school personnel and volunteers who violate sexual misconduct and abuse prevention policies.

School boards that adopt and implement local policies aligned with the guidance document will meet their obligation under HB 1439 and SB 241 and create learning environments with clear rules that emphasize awareness, transparency, and prevention.

In developing *Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public*

Schools, the Division of Policy and Communications studied policies adopted by school boards and legislatures in several states, youth protection policies adopted by private and parochial school systems, policies adopted by national youth-service organizations, and reports and studies on the issue of sexual misconduct in school settings.

Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools was accepted by the Board of Education for first review and public comment on November 18, 2010. Comments were received during the 30-day public comment period from the following five persons (see Attachment A):

- A citizen in Petersburg expressing general support for the proposed guidance document;
- The chairwoman of the education committee of the Virginia State Conference of the NAACP on potential local policies based on the guidelines and a related state statute;
- The legislative liaison of the Virginia Academy of School Psychologists on the potential impact of the proposed guidelines on school psychologists and other clinicians;
- A parent and former Henrico County Public Schools employee expressing general support for the proposed guidelines and suggesting further steps; and
- The president of the Virginia Education Association on the potential impact of local policies based on the proposed guidance on communications, physical contact, social interaction, and consequences for violations of local policies.

The following revisions were made to the proposed guidance in response to public comment and comments from members of the Board of Education:

- Guidance related to one-on-one meetings between students and clinical professionals (nurses, psychologists, counselors, therapists, etc.) was added.
- Guidance related to electronic communications and online social networking was clarified.
- Guidance related to physical contact between students and school board employees or adult volunteers was clarified.
- Guidance related to private social gatherings was clarified.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education approve the proposed *Guidelines for the Prevention of Sexual Misconduct and Abuse in the Public Schools* as a resource for school divisions.

Impact on Resources: The impact on resources is expected to be minimal.

Timetable for Further Review/Action: The document will be posted on the VDOE website in an appropriate location upon the approval of the board.

**Proposed Guidelines for the
Prevention of Sexual Misconduct
& Abuse in Virginia Public Schools**

**Virginia Board of Education
January 13, 2011**

Introduction

The 2008 General Assembly adopted legislation (HB 1439 and SB 241) amending Standard 7 of the Standards of Quality to require school boards to adopt policies addressing sexual abuse of students by teachers and other school board employees:

§ 22.1-253.13:7. Standard 7. School board policies.

- A. Each local school board shall develop policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee.

The Virginia Board of Education developed *Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools* to help school divisions meet their obligation under the law and create and implement policies and procedures that establish clear and reasonable boundaries for interactions between students and teachers, other school board employees, and adult volunteers.

The model policies and best practices in the document draw from policies and legislation approved by school boards and legislatures in other states and policies and best practices implemented by private and parochial schools and national youth-service organizations.

Elements of Sexual-Abuse Prevention Policy

School board policies on the prevention of sexual abuse of students by division employees and volunteers should contain these basic elements:

1. Statement of purpose and philosophy addressing the shared responsibility of the school board, school divisions employees, volunteers, students, parents and others for the prevention and reporting of sexual misconduct and abuse;
2. Clear and reasonable rules governing communication — including electronic communication — between students and school board employees;
3. Clear and reasonable rules governing physical contact between students and school board employees and volunteers;
4. Clear and reasonable rules governing social interactions and relationships between students and school board employees and volunteers;
5. Requirement for training of school personnel and volunteers and the dissemination of sexual misconduct and abuse prevention policies to school board employees, volunteers, students, and parents;
6. Procedures for the reporting of suspected sexual misconduct and abuse;
7. Consequences for school personnel and volunteers who violate sexual misconduct and abuse prevention policies; ~~and~~
8. Applicability to teachers and other employees of virtual school programs and other vendors providing instructional services to students; and
9. Procedures for one-on-one and confidential interactions between students and clinicians (nurses, psychologists, social workers, therapists, etc.).

Statement of purpose and philosophy

Responsibility for protecting students from sexual misconduct and abuse is shared by the division superintendent, the school board, teachers and other school board employees, school volunteers, state agencies, law enforcement, and parents. By following school board policy on the prevention of sexual misconduct and abuse, teachers, principals, and other educators and employees provide a safe and healthy environment for teaching and learning.

Statements describing the purpose and philosophy of a school board policy on the prevention of sexual misconduct and abuse should define the protection of students as a division priority and express the obligation of all employees to observe boundaries governing interaction and communication with students. The school board demonstrates its commitment to protecting students from sexual misconduct and abuse through:

1. Strict compliance with all state laws and regulations related to the screening of prospective employees for the conviction of barrier crimes and founded cases of child abuse and neglect;
2. The development, effective implementation — including training — and enforcement of clear and reasonable policies governing the interaction of students and school board employees and volunteers;
3. The establishment of channels for reporting by students and parents of suspected misconduct and abuse, and the prompt notification of law enforcement when criminal activity is alleged or suspected;
4. Disclosure of formal reprimands and dismissals for violating school board policies on sexual misconduct and abuse prevention to school divisions seeking references; and
5. Strict compliance with all state laws and regulations related to reporting to the Virginia Department of Education of resignations and dismissals of licensed employees related to convictions of barrier crimes and founded cases of abuse.

In its statement of purpose and philosophy, the school board should also express how adherence to division policies governing student-employee interactions can protect employees from false accusations and accusations based on misunderstandings.

Communication between school division employees and students

School board policies should recognize the importance of communication in learning and instruction while placing reasonable restrictions on content and settings. Teachers and other employees can protect themselves from misunderstandings and false accusations by adhering to the division’s rules on communicating with students.

Model policy for in-person communications with students

- Conversations with students should focus on matters related to instruction and school activities. School board employees and volunteers should not initiate discussions about their private lives or the intimate details of the private lives of unrelated students.
- Conversation by school board employees and volunteers with students that could be interpreted as flirtatious, romantic or sexual is prohibited.
- The sharing of sexually explicit or obscene jokes and verbal “kidding” of a sexual nature between school board employees, volunteers and students is prohibited.
- Private, one-on-one conversations with students should take place within the potential view, but out of the earshot of other adults — such as in a classroom with the hallway door open. This policy also applies to conversations between volunteers and unrelated students.
- School board employees may not conduct an ongoing series of one-on-one meetings with a student without the knowledge of the principal and without written permission of a parent or guardian.
- The school board’s policy on in-person communications with students also applies to teachers and other employees of virtual school programs and other vendors providing instructional services to students.

Digital technology provides multiple means for teachers and other school division employees to communicate with students. The division policy should establish acceptable channels for electronic communications with students while prohibiting interactions unrelated to instruction or not specifically authorized by school board policy. In short, electronic communications with students should be transparent, accessible to supervisors, and professional in content and tone.

Model policy for electronic communications with students

- Under most circumstances, Teachers and other school board employees must restrict one-on-one electronic communications with individual students to accounts, systems and platforms provided by or accessible to the school division.
- Teachers and other employees may not use personal ~~wireless~~ communications devices to “text” students and are prohibited from interacting one-on-one with students through personal online social-networking sites. Teachers and other school board employees must decline or disregard invitations from students to interact privately through texting and personal social-networking sites.
- If, because of an urgent or emergency circumstance, a teacher or other school board employee uses a personal communications device or account to contact an individual student, the date, time, and nature of the contact must be reported in writing to his or her supervisor on the next school day.
- Teachers and other school board employees may not knowingly engage in online gaming unrelated to instruction with students.
- School board policy on electronic communications with students also applies to teachers and other employees of virtual school programs and other vendors providing instructional services to students.

Best Practices:

Division technology and instructional staff collaborate to develop local policies that allow for appropriate electronic communications between school board employees and students while deterring misconduct and providing accountability.

Developments in personal digital communications and social networking are reviewed annually by division technology staff and school board policies are revised as needed.

Best Practice: Information about school board policies on in-person and electronic communication between employees and students is included in student and parent handbooks and posted on the school division Web site.

Physical contact

Physical contact between school board employees and students should be public, nonsexual, and appropriate to the circumstances. ~~School employees and volunteers should avoid physical contact when alone with an unrelated student.~~ Physical contact between school board employees and adult volunteers and unrelated students when other adults are not present is prohibited unless necessary to protect the health and well being of the student.

Model policy for physical contact with students

- Physical contact between an adult and student that is expected and appropriate in preschool and in the early elementary grades — such as a spontaneous hug between a teacher and a child at the end of the day — is not appropriate with older children.
- Physical contact meant to encourage or reassure students, such as a hand on the shoulder or a pat on the back, should be brief and unambiguous in meaning.
- School board policy on physical contact with students also applies to teachers and other employees of virtual school programs and other vendors providing instructional services to students.

Best Practice: Information about the school board's policy on physical contact between employees and students is included in student and parent handbooks and posted on the school division Web site.

Social Interaction with Students

It is natural for friendships to develop between students and teachers and other school employees. Rules governing social interactions with students allow for healthy relationships between students and educators while eliminating opportunities for misunderstandings and misconduct.

Model policy for on-site and off-site social interaction with students

- School employees and volunteers should avoid situations in which they are alone with an unrelated student and not observable by other adults or students.
- All off-site, school-related activities involving school board employees and students must be approved by an authorized administrator and be supervised by a least two unrelated adults.
- Adult chaperones for off-site, school-related activities must be at least 21 years of age.
- Written parental permission must be secured for all off-site, school-related activities.
- The giving of expensive gifts or gifts of a personal nature, such as jewelry and clothing, to unrelated students by teachers, volunteers and other school board employees is prohibited. School board employees and volunteers may not accept such gifts from individual students.
- School board employees shall not grant special privileges, rewards, or opportunities to a specific child beyond those customarily provided as incentives to promote and recognize achievement.
- School board employees are prohibited from hosting ~~or participating in~~ private social gatherings and parties with students during which alcohol and/or other drugs are consumed.
- School board employees and adult volunteers shall not share pornographic or sexually explicit materials with students.
- Romantic or sexual relationships between school employees or volunteers and students are prohibited, regardless of the age of the student or the proximity in age of the employee or volunteer and student.
- School board policy on social interaction with students also applies to teachers and other employees of virtual school programs and other vendors providing instructional services to students.

Best Practice: Information about the school board's policy on social interaction between employees and students is included in student and parent handbooks and posted on the school division Web site.

Procedures for one-on-one and confidential interactions between students and clinicians

Clinical professionals (nurses, psychologists, counselors, therapists, etc.) are guided by professional codes of ethics and school board policies when one-on-one and confidential interactions with students are required to provide necessary services and protect patient privacy.

- Clinicians meeting one-on-one with students must notify his or her supervisor in advance of the time and place of each meeting.
- Each school and center must maintain a log of all one-on-one meetings between clinicians and students to record the names of the participants and document the place, purpose and duration of each meeting.
- Services requiring one-on-one meetings with clinicians should be described in a student's individualized education program or health care plan.

Best Practice: Principals and administrators of schools and centers should review logs of one-on-one and confidential meetings monthly.

Training and dissemination of school board policy

It is the responsibility of the school board to provide training on the prevention of sexual misconduct and abuse to all employees and volunteers. Training may be provided by a qualified vendor or other organization, provided that the content is substantially aligned with school board policy. Training may be provided as a workshop or online with a means of confirming participation and completion.

All school board employees and school volunteers should be provided with a copy of the school board's policy for the prevention of sexual misconduct and abuse at the beginning of the school year. A link to the policy also should be posted on the homepage of the school division Web site.

Contracts with virtual school programs and other vendors providing instructional services to students should include a requirement that employees follow school board policy on the prevention of sexual misconduct and abuse.

Best Practice: Principals appoint — in consultation with faculty and parents — school committees with responsibility for increasing awareness of state laws and school board policies. Divisions provide training to school committees in order for committees to oversee training of building-level employees and volunteers.

Reporting suspected misconduct and/or abuse

The school board's policy on the prevention of sexual misconduct should include clear channels for reporting suspect misconduct for employees and volunteers and for students and parents.

The *Code of Virginia* (§ **63.2-1509**) requires school board employees to report all cases of suspected abuse to local or state social services agencies or the principal or his or her designee. The *Code* (§ **22.1-291.3**) also requires school boards (and administrators of private and parochial schools) to post a notice reminding teachers and other employees of their responsibility to report suspected abuse. This notice must include the Virginia Department of Social Services' toll-free child-abuse-and-neglect hotline.

All school board employees and volunteers should be aware of location of the notice required by § 22.1-291.3 and understand their legal obligation to report abuse or neglect.

The school board policies on the prevention of sexual misconduct should include these statutory reporting requirements and obligate employees and volunteers who observe, or are told of, misconduct — as defined by the local policy — to notify the principal or his or her designee promptly.

School board policies also should reference the statutory requirement (§ 22.1-313) that school divisions to notify the superintendent of public instruction within 10 business days when employees are dismissed or resign because of a conviction of a barrier offense or a founded case of child abuse.

Model policy for reporting suspected abuse and misconduct

- The principal of each school shall ensure that all building-level employees and adult volunteers are aware of their legal obligation to report suspected abuse to local or state social service agencies or the principal or his or her designee and that the notice required by § 22.1-291.3 is posted in a manner that complies with the law.
- The principal of each school shall ensure that all building-level employees and adult volunteers are aware of their obligation under the school board’s policy on the prevention of sexual misconduct to report misconduct to the principal or his or her designee.
- School board employees and adult volunteers who observe or otherwise become aware of sexual misconduct by another employee or adult volunteer must notify the principal or his or her designee promptly.
- The superintendent shall also designate an administrator within the division central office to receive reports of sexual misconduct.
- When a licensed employee is dismissed or resigns because of a conviction of a barrier offense or founded case of child abuse, the superintendent shall notify the superintendent of public instruction within 10 business days and provide the school board with documentation of the notification.

Best Practice: Instructions for reporting misconduct are included in student and parent handbooks and posted on the school division Web site.

Consequences for violations of school board policy

In determining consequences for violations of school board sexual abuse prevention policies, administrators must evaluate the willfulness of the conduct and nature of the conduct or communication. School board employees and volunteers have an obligation to report violations of the division’s policies for preventing sexual misconduct to the principal or his or her designee.

Model policy for violations of school board policy on sexual misconduct and abuse

- Violations involving sexual relations with a student, regardless of the age of the student or the proximity in age of the student and employee or volunteer; sexual abuse of a student; or communication with a student of a sexual or romantic nature; shall result in dismissal, prompt notification of law enforcement and social services if required by state law, and in the case of an employee or volunteer licensed by the Board of Education, the initiation of a complaint against the license.

- The response to violations involving willful conduct, or conduct or communication of a sexual or romantic nature not involving actual sexual relations or abuse, may include a formal reprimand, suspension, dismissal or other personnel action deemed necessary to prevent sexual abuse and protect the health, welfare, discipline or morale of students, and if warranted in the case of an employee or volunteer licensed by the Board of Education, the initiation of a complaint against the license.
- The response to violations determined to have been inadvertent, and/or not involving conduct or communication of an abusive, sexual or romantic nature, may include counseling and training, and in cases involving multiple violations, a formal reprimand or other action deemed warranted to prevent future violations of school board policy.

References

In developing *Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools*, the Division of Policy and Communications studied policies adopted by school boards and legislatures in several states, youth protection policies adopted by private and parochial school systems, policies adopted by national youth-service organizations, and reports and studies on the issue of sexual misconduct in school settings.

- Boy Scouts of America, *Guide to Safe Scouting, Chapter 1: Youth Protection and Adult Leadership*, 2007
- Carr, Nora, *How to avoid committing social media gaffes: 11 strategies for keeping your staff out of hot water in today's new media world*. E-school News. Accessed October 5, 2010: <http://www.eschoolnews.com/2010/10/05/how-to-avoid-committing-social-media-gaffes/>
- Catholic Diocese of Arlington, *Policy on the Protection of Children/Young People and Prevention of Sexual Misconduct and/or Child Abuse*, 2003
- Catholic Diocese of Richmond, *Diocesan Safe Environment Regulations*, 2005
- Chicago Public Schools, *Chicago Public Schools Policy Manual, Section 604.1: Acceptable Use of the CPS Network and Computer Resources*, 2009
- Church Mutual Insurance Company, *Safety Tips on a Sensitive Subject: Child Sexual Abuse*, 2009
- Church Mutual Insurance Company, *Sample Child and Youth Abuse Prevention Program for Religious Organizations*, 2009
- Church Pension Group (Episcopal), *Model Policies for the Protection of Children and Youth from Abuse*, 2004
- Commonwealth Girl Scout Council of Virginia, *Volunteer Essentials 2010, Chapter 4: Safety-Wise*, 2010
- Community High School District 128 (Vernon Hills, Illinois), *Expectations for Communicating Electronically with Students*, 2010
- Georgia Professional Standards Commission, *Code of Ethics for Educators*, 2009
- Idaho Professional Standards Commission, *Code of Ethics for Idaho Professional Educators*, 2009
- Lee County Public Schools (Florida), *Guidelines for Employees Who Participate in Social Media Websites*, 2010
- Louisiana Revised Statutes 17:81(Q) and 3996 (B)(21), as amended by HB 570 (2009): *AN ACT ... to require the governing authority of a public elementary or secondary school to formulate, develop, adopt, and implement policies, procedures, and practices applicable to school employees relative to electronic communications by an employee at a school to a student enrolled at that school; to provide policy guidelines and requirements; to provide limitations and exceptions; to provide that the occurrence of certain electronic communications be reported by the school employee; to provide for immunity from civil liability; to provide an effective date; and to provide for related matters*. 2009

- Manatee County School District (Florida), *Computer Systems Acceptable Use Policy*, 2010
- North Carolina Board of Education, *Code of Ethics for North Carolina Educators*, 1998
- Ontario College of Teachers, *Professional Advisory: Professional Misconduct Related to Sexual Abuse and Sexual Misconduct*, 2002
- Oregon Revised Statutes 339.370, 339.372, and 339.377, as amended by HB 2062 (2009): *AN ACT Relating to misconduct by school employees; creating new provisions; amending ORS 339.370, 339.372, 339.375 and 339.377; and prescribing an effective date.* 2009
- Shakeshaft, Charol, *Educator Sexual Misconduct: A Synthesis of Existing Literature*, United States Department of Education, 2004
- Texas State Board for Educator Certification, *Code of Ethics and Standard Practices for Texas Educators*, 1998
- Utah Administrative Code, Rule R277-515, *Utah Educator Standards*, Utah State Board of Education, 2010
- Utah State Office of Education, *A Review of Professional Conduct in Utah's Public Schools*, 2010

Attachment A

Public Comment on Proposed Guidelines for the Prevention of Sexual Misconduct & Abuse in Virginia Public Schools

From: Linwood Christian [REDACTED]
Sent: Wednesday, December 01, 2010 12:42 AM
To: Roberts, Margaret (DOE); Morris, Marian (DOE)
Subject: Support for a regulation discouraging Teachers from having facebook pages with students.

Dr. Roberts or Mrs. Morris,
Could you please forward this email to members of the board of Education as well as send me the proposal to keep teachers from friending students on facebook (that may not be the correct wording but I hope I'm close.)
Thank you
Linwood Christian

Dear Virginia Board of Education members,
In the recent month and weeks I have been hearing that this board is considering some type of regulation/rule that would forbid teachers here in the Commonwealth "friending their students on facebook or other social medias such as twitter, etc.

First let me say that if this is something that this board is not going to just consider, but take action, I support you and it. As a parent I do not want my child and his teacher having that kind of relationship. The only relationship that they should be having is teacher student and nothing else. There are quite few arguments out there against this, but in my research I have found that there are just as many arguments for it. States such as Florida have put this type of ban into action and some teachers have lost their jobs. I don't believe that a teacher should have that much time on their hands that they should be having a facebook relationship with a student. To be quite honest as parents we shouldn't have that kind of relationship with our children's teacher unless we've known each other prior.

By putting this into action, it will be a small step in preventing lines from being blurred. I have my son's teacher's phone number, but it's only if I have questions or concerns about his progress. Also my son's teachers have my contact information (home and cell phone, and email address) and this is for educational purposes and to assist in my child's improvement.

There is too much going on whereby teachers are taking very inappropriate liberties with students. What is even worse is that it seems parents are making it possible, by 1) not monitoring their child's internet usage, 2) not monitoring their child's cell phone usage (my feeling is unless they are working a child shouldn't have a cell phone anyway). 3) Being concerned with whether or not they will still be liked by their child.

I guess, because the era is different now than when I was brought up, what was just is not any longer. I'm the type of parent that until my child is paying his own rent, he doesn't do anything in private that he can't do before the family. I question when strange things happen or come into my house. Enough about me.

I do so hope that you all will require the local school divisions to look into taking the same action.

Thank you for taking the time to listen/read my email. Should you have further questions I can be reached by phone at [REDACTED]

Sincerely
Linwood K. Christian, Jr. -Parent
Petersburg

From: [REDACTED]
Sent: Tuesday, November 30, 2010 10:25 AM
To: Pyle, Charles (DOE)
Cc: State NAACP; Rev. Vines
Subject: Prevention of Sexual Misconduct and Abuse in Virginia's Publiuc Schools

Mr. Pyle :

Please consider the following inquiries below when the committee meets to discuss policy regarding the above subject.

* Are provisions or an appeal process in place for ex- school board or other employees convicted of sexual misconduct to attend school functions for their personal children i.e. picking up or driving children to school, artistic, academic, athletic competitions or graduations.?

* Will school personnel and / or staff who work with students be provided with *training* to handle referenced issues ? (ex. on-line **Abuse** training such as offered by VCU)

* Will individual schools be responsible for handling incidents or complaints referencing the above issue or will school divisions be **encouraged** to develop a panel of specific representatives from the school division staff to deal with issues ...ex. guidance counselors, administrators, School Nurse, etc?.

* Sexual misconduct can be a form of bullying..... will special emphasis be placed on identifying and / or giving support to those students who might be victims of the "**Abusers,**" and are reluctant to seek help ?

Virginia State Conference NAACP Education Committee
Mrs. Janette Boyd Martin, Chair

[REDACTED]

From: Troilen Seward [REDACTED]
To: Charles.pyle@doe.gov
Sent: Mon, Nov 29, 2010 10:48 am
Subject: Comment on Proposed Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools

Dear President Saslaw and Members of the Board of Education:

The Virginia Academy of School Psychologists (VASP) strongly supports the guidelines for implementing policies and procedures that establish clear and reasonable boundaries for interactions between students and teachers, other school board employees and adult volunteers. We, however, find the policy for in-person communications with students troublesome in several places, given the scope of our duties and responsibilities.

The bullet that references "employees and volunteers should not initiate discussions about their private lives or the intimate details of the private lives of unrelated students" could be problematic. If the "their" is referring to only the employee and volunteer, then there is not a problem. If, however, it is referring to the student, the potential for not following the policy exists for school psychologists, who in their testing, for example, may have to question responses or drawings made by students. Those questions could elicit information about students' private lives. Is it possible to re-word that bullet so that it does not apply to school psychologists engaging in the performance of their duties?

The other bullet that presents a problem is the one that states "private one-on-one conversations with students should take place within the potential view, but out of the earshot of other adults-such as in a classroom with the hallway door open." School psychologists are not always in a room with glass in the door so they are visible to others, yet their working environment must be private so as to ensure test security and testing validity. Testing with the door open is not a possibility.

We in no way want to exempt school psychologists from the intent of these guidelines, but without a statement that addresses their concern in these two referenced bullets, performance of their duties could become problematic. Every school psychologist who has read the guidelines and who has contacted me has asked the same questions or expressed the same concerns. Any clarification in the above would be appreciated.

Sincerely,
Troilen Seward
Legislative Liaison for VASP

From: Lucas [REDACTED]
Sent: Sunday, December 26, 2010 6:03 PM
To: Roberts, Margaret (DOE)
Subject: Public Comments Regarding Educator Misconduct, Abuse, and Neglect

Introduction:

My name is Kandise Lucas, and I am a parent, child/family advocate, and educator whose God-given life assignment is to speak out for and improve the educational conditions of students and families that have no voice, and are commonly abused, neglected, and/or discriminated against. I stand by the fact that education is a civil right that every child in every family is entitled to regardless of race, creed, ethnicity, economic status, or social standing.

Below are the recommendations that I have shared in response to the Virginia Department of Education's request for public comment regarding establishing policies and procedures as it relates to educator misconduct and abuse/neglect of our children by educators.

These recommendations are being proposed in response to an increasing level of abuse, neglect, and misconduct by educators within the Commonwealth toward our most innocent and vulnerable children; our children with disabilities, children of color, and children that are economically disadvantaged.

These recommendations are also in response to the increasing hostile, anti-child, illegal, and unethical atmosphere that exists within our schools that not only discourages the reporting of abuse, neglect, and misconduct by our peers, but also subjects those educators, parents, and students that operate in integrity and according to the law by reporting abuse, to retaliation, discrimination, intimidation, or even worse.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Whether it is Kevin Ricks, (<http://www.washingtonpost.com/wp-srv/special/metro/kevin-ricks-timeline/>), or [REDACTED], the real and horrific *threat* to our children and their futures is the same. The *responsibility* of the educational, legal, social services, and overall community at large is still the same. The *accountability* that is nonexistent must be reclaimed at every level.

Most importantly, we must begin to be “the village” again for our children so that our schools reclaim their rightful places as one of the safest places on earth for our children. For some of them, whose faces and names I personally know, school may be the ONLY safe place for them in their world.

I. The Crisis That Is Subjecting Our Children To Predators Within The Classroom

Fact One: Students within the Commonwealth are being abused and neglected within our public and private schools by licensed educators.

Fact Two: Educators that engage in abuse, neglect, and misconduct are often *not* held accountable by administrators, superintendents, or school boards, social services, law enforcement, elected officials, or the media instead they are often protected and defended.

Fact Three: Many superintendents, whether out of ignorance or intentionally, within the Commonwealth fail to report, and even, at times, cover up for and defend educators that have been found to be guilty of abuse, neglect, and/or misconduct to the proper authorities in an effort to avoid bad publicity and/or possible legal liabilities. Virginia Code requires them to report these individuals to child protective services within 72 hours if they receive or discover abuse and/or neglect. Superintendents are also required, by law, to report these individuals to the Virginia Department of Education within ten days of the knowledge of or suspicion of abuse and/or neglect of students.

Fact: A significant number of school districts promote and maintain environments that discourage, and at times, even punish those educators that report their peers for misconduct.

Fact: Many of those students that are victims of abuse, neglect, and educator misconduct are students with special needs, students of color, and students that are economically disadvantaged.

Fact: Many human resources departments within school districts fail to properly investigate the criminal backgrounds of the educators they hire. In addition, districts fail to conduct annual criminal background checks on current employees, some of which may have had their last check over thirty years ago.

Fact: School officials, law enforcement, and social services agencies have often received complaints and warnings from parents, students, and others regarding educators that abuse and neglect students, but these complaints often go unaddressed and/or inadequately addressed, allowing classroom predators to not only have full access to abuse and/or neglect students for decades, but to migrate from school district to school district, state to state, as they do so. As a result, classrooms have become a "safe haven" for child molesters, abusers, and those that neglect children.

Fact: In the Commonwealth of Virginia, an individual will be fined more for speeding than for failing to report the suspected and/or actual abuse of a child as required by the Mandated Reporter Law. A proposal should be set forth that is similar to the PREA Federal law, which requires that individuals that knowingly fail to report sexual, physical, and/or emotional abuse and/or neglect, will be sentenced to the same criminal sanctions as the individual that committed the act, in addition to being required to register as a sex offender if warranted. They will be considered to be "*accessories after the fact.*"

II. HOW CAN THOSE THAT ARE CHARGED WITH PROTECTING OUR CHILDREN IMPROVE THEIR EFFORTS TO DO SO?

1) VADOE purchase a criminal background check program that allows for annual reviews of those seeking licensure and those that are licensed. The fee for completing the checks can be charged to educators.

2) VADOE require each educator to submit a current criminal background check from the State Police with each licensure renewal request.

3) VADOE forward a monthly request, via email, to all area superintendents requiring that they report any and all educational professionals that have been found to have committed educator misconduct, abuse, and or neglect, whether they were terminated or permitted to resign. Require that if there are no reported instance for a specific district, that it be documented as well.

4) VCU and VADOE incorporate a mandatory pre-questionnaire component to the "Child Abuse Recognition" online assessment, and require that the assesment be completed annually during each district's staff development week:

"Criminal Disclosure Statement"

Ex) *"To my knowledge, I have not committed, been charged, or convicted of a criminal act within the past twelve months." (Educator provides initials to confirm) A listing of criminal acts*

with a box to be check "yes" or "no" may also be utilized to ensure clarity.

"Mandatory Reporter Acknowledgement Statement"

Ex) *" I understand that I am a Mandated Reporter within the Commonwealth of Virginia, and that I am required to report any*

instances of suspected pr actual abuse and/or neglect to the Department of Social Services with 72 hours of having knowledge of the

incident. (Educator provides initials to confirm)

"Mandatory Reporter Compliance Statement"

Ex) *"I affirm that I have fully complied with the Commonwealth of Virginia's Mandatory Reporter Law by reporting any and all suspected*

and actual incidents of child abuse and/or neglect to the Department of Social Services within 72 hours of having knowledge of the

incident. (Educator provides initials to confirm)

5) VADOE forward a monthly request, via email, to all area court clerks, state police, media sources, and social service agencies requiring that they report any and all educational professionals that have been found to have committed educator misconduct, abuse, and or neglect, whether they were terminated or permitted to resign.

6) Require that each district incorporate mandated reporter compliance, educator misconduct, and child abuse/neglect prevention and reporting training within their professional development calendar. In addition, require that every superintendent and school board member within the Commonwealth receive training regarding this issue as it relates to their legal and moral responsibilities to protect children by thoroughly completing criminal background checks, quickly reporting suspected and confirmed instances of abuse, neglect, and misconduct. Districts must also be required to include an "Educator Code of Conduct" component with their "Student Code of Conduct" policy document that parents are provided within, and that outlines the policies for reporting abuse, neglect, and misconduct of educators.

7) VADOE establish a toll free number and anonymous email box that allows for reporting educator complaints related to abuse, neglect, and misconduct. Each school district should be required to notify parents, students, guardians, and others of this service that is available through the VADOE on their website

8) VADOE collaborate with the Virginia Attorney General's Office in order to establish a volunteer task force, (educators, VEA, parents, law enforcement, social services, elected officials, Superintendent's Assoc., School Board Ass., faith-based, child advocacy, and civil rights groups), that provides training and support for school districts that request it and for districts that are found to have failed to comply with the mandated reporter laws. In addition to providing training and proposing more severe penalties for those mandated reporters that fail to report.

9) VADOE provide unpaid internships to college and university students within the fields of law and law enforcement in order to provide for the human resources that are required to initiate and maintain criminal background/misconduct data base that is listed on the same data base as the teacher licensure query system. The VADOE may also

solicit several teams of educational professionals to carry out these duties and offer licensure renewal credit under "Educational Projects." These methods would prove to place minimal financial burden on the agency, but would still work to ensure that educator data is accurate and current.

10) VADOE sponsor rotating quarterly townhall meetings, which are open to the general public, which allow for public comments regarding educators misconduct, abuse, neglect, and criminal histories. These events should be aired via internet on the VADOE's website, in addition to being posted for later viewing.

11) Initiate legislation that requires that teachers be drug tested when they are initially hired, randomly, and when there is a report and/or suspicion of drug abuse/use manifested on school grounds.

K. N. Lucas

Parent, Educator, Advocate

<http://www.blogtalkradio.com/speaktruthpower/2010/11/08/the-advocates>

"The righteous care about justice for the poor, but the wicked have no such concern."

Prov. 29:7

***"The only thing necessary for the triumph of evil
is for good men to do nothing"***

Edmund Burke



Teaching. Learning. Leading.

December 3, 2010

Mr. Charles Pyle
Director of Communications
Virginia Department of Education
P.O. Box 2120
Richmond, VA 23218

Dear Mr. Pyle:

Thank you for the opportunity to provide comments on the "Proposed Guidelines for the Prevention of Sexual Misconduct & Abuse in Virginia's Public Schools."

Members of the Virginia Education Association (VEA) are bound by high ethical standards and are committed to a safe learning environment for all students. For example, a VEA resolution passed in 2007 reads as follows: "The VEA believes that school employees should maintain a professional relationship with students free from sexual coercion, innuendo, and/or action." (Resolution E-10). Further, every member of the VEA and the National Education Association subscribes to the "Code of Ethics of the Education Profession," which commits them to adhering to "the highest ethical standards."

In recent years, VEA has reaffirmed these principles while providing additional guidance to our members. For example, we always caution educators to exercise the utmost discretion when using social networking sites or digital technologies. We offer in-service programs to our members regarding the importance of maintaining a professional relationship with students at all times. Especially for our younger educators, who are not that far in age from their high school students, we routinely offer guidance and advice on how to maintain a professional demeanor at all times.

We welcome the opportunity to engage in dialogue about this difficult and sensitive issue. A policy on abuse and misconduct provides important clarification and guidance to employees surrounding an issue that may otherwise get swept under the rug.

At the same time, however, we believe the applications of some of these guidelines—without amendment or further explanation—might have unforeseen and unintended consequences that could actually be harmful to either educators or to students. We share your goal of the guidelines being as clear and unambiguous as possible.

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Communication Between School Division Employees and Students In Person Communication

Bullet #1 limits conversations with students to "matters related to instruction and school activities."

Concern: If adhered to strictly, this policy would work against teachers' efforts to connect what students are learning in class to prior experience, to hobbies, and to interests that might serve as "hooks" for engagement with the curriculum. One VEA member related a story of trying to engage a group of disinterested boys in the curriculum of 12th grade English. In conversation about their interests, she discovered that several of them participated in dirt-track racing – not a school activity. She took the time to attend one of the races, potentially violating both this restriction and the restrictions about out of school trips and activities. The students saw her there, realized she was willing to learn about their interests, and they in turn engaged in her class. It isn't always about school activities. Sometimes, the students who need the best our teachers have to offer are least likely to be part of any school-related activity.

Bullet #5 states "School board employees may not conduct an ongoing series of one-on-one meetings with a student without the knowledge of the principal and without written permission of a parent or guardian."

Concern: Such an absolute policy could work against teacher strategies to alter disruptive behaviors and engage students in learning. For example, the highly effective "two-minute intervention" requires the teacher to –

- Spend 2-5 minutes with a student for 10 consecutive days;
- Talk to that student about something that interests him/her;
- Keep the conversation on an informal basis;
- Move from teacher talk to student talk and keep the focus on that subject alone.

We also worry that these restrictions on communication may limit students' access to trusted adults in a time of crisis. For many children, school is one of the few safe and positive environments they experience. These attempts to protect children from abuse and misconduct from school employees may prevent them from having the opportunity to disclose the abuse they are receiving outside of school. Disclosure of abuse rarely happens in front of a group of students. Rather, children get to know an adult, carefully determining who might be safe and trustworthy, and wait until they are alone with the adult to disclose. Preventing the child from

having that opportunity to speak one-on-one about details of their private lives with an adult may actually put more children in harm's way outside of school.

School personnel play a vital role in protecting children from abuse and neglect at home, in the family, or in the community. Guidance regarding reporting suspected misconduct and or abuse should mirror state law Virginia Code section 63.2-1509 mandating school personnel report "reason to suspect that a child is an abused or neglected child." Notice to the school principal or his designee can take the place of report to social services if information is received by a teacher or school staff member in the course of professional services in a school. The principal or his designee shall make the report to social services forthwith. School personnel risk fine for failure to file a required report within 72 hours of first suspicion of child abuse or neglect.

Electronic communications with students

Throughout this section, we encourage you to define terminology clearly; for example, "online social-networking sites." What exactly does that include? Would "wikis" be prohibited? Would a fundraising page on Facebook set up by the choral boosters be prohibited?

Bullet #1 "Teachers and other employees may not use personal wireless communications devices to 'text' students and are prohibited from interacting with students through online social networking sites."

Concern: Some teachers have only cellular phones (no landlines) and make that phone number available to students and their parents. Text messaging is a legitimate means of exchanging information—one of the most rapidly-growing communications channels—and we question whether policy guidance that allows for no legitimate use of a text message between an educator and a pupil will be outdated before it is published.

Physical contact

Guidance regarding physical contact with students should reflect state law prohibiting corporal punishment and authorizing physical contact for purposes such as defense of self or others, maintaining order and control, and enforcing school rules prohibiting weapons and other items. The proposed guidelines do not acknowledge that school employees are responsible to maintain discipline and order in schools. Guidelines should not risk giving students and parents a false impression that school personnel are prohibited from touching students. State statutes Virginia Code sections 22.1-279.1, 18.2-57 and 63.2-1511 prohibit corporal punishment, defined as the infliction of, or causing the infliction of, physical pain on a student as a means of discipline. The prohibition on corporal punishment does not prevent (i) the use of incidental,

minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects.

Concern: The three bulleted items do not address a variety of legitimate and appropriate reasons school employees may have for making physical contact with a student. A partial list would include:

- A teacher attempting to break up a fight or appropriately restrain an out-of-control student
- A coach "spotting" a gymnast during a routine
- A band instructor helping a novice student properly position his or her hands on a clarinet

Social Interactions with Students

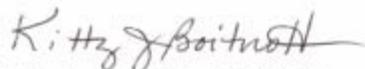
We question whether some of these restrictions are feasible in small communities where teachers attend church with their students, coach youth soccer teams, attend neighborhood Christmas parties, and live their lives and raise their own children alongside the families of their students.

Consequences for violations of school board policy.

Guidance regarding consequences for violations of school board child abuse policies should reflect state law regarding the standard for determining whether actions taken during the course of school employment constitute child abuse. Virginia Code section 63.2-1511 D provides if actions or omissions of a teacher, principal, or other person employed by a local school board or employed in a school operated by the Commonwealth were within such employee's scope of employment and were taken in good faith in the course of supervision, care, or discipline of students, then the standard in determining if a report of abuse or neglect is founded is whether such acts or omissions constituted gross negligence or willful misconduct.

Thank you again for the opportunity to comment on the proposed guidelines. On behalf of the 60,000 members of the VEA, we stand ready to work with you to continue to provide the most up-to-date and accurate guidance to educators on this important topic.

Sincerely,



Kitty Boitnott, Ph.D., NBCT
President