

Date: April 6, 2017  
For ACTION \_\_\_\_  
For INFORMATION \_\_\_\_  
Board Agenda: Yes \_\_\_\_  
No \_\_\_\_

**FROM:** Jennifer Abbruzzese, Clerk of the Board & Policy Liaison

**THROUGH:** Alvin L. Crawley, Ed.D., Superintendent of Schools

**TO:** The Honorable Ramee Gentry, Chair, and  
Members of the Alexandria City School Board

**TOPIC:** Legal Policy Revisions: 4/6/17 School Board Meeting

**SUMMARY:**

Changes to the Code of Virginia took effect July 1, 2016 and January 1, 2017 that impact School Board policies. As part of the Board's continuing policy review, we recommend that it approve the resulting policy revisions discussed at the March 23, 2017 Board Meeting. (Hyperlinks to the current policies are included for reference.)

[Policy BDDH/KD: Public Participation at School Board Meetings](#) (Last reviewed in 2014, this policy and its accompanying regulation have been revised to reflect the April 15, 2016 Virginia Attorney General's official advisory opinion. The Opinion addressed whether the Franklin City School Board's rules restricting the speech of speakers at its public meetings violated the speakers' free speech rights. The Attorney General's opinion concluded that school boards "may not constitutionally bar speakers from discussing personnel issues or identifying individual school employees or officials during public session."<sup>1</sup> The Opinion was based largely on the holdings in:

- *Baca v. Moreno Valley Unified School District*,<sup>2</sup> which held that "When a school board holds open sessions of its meetings and is addressed by members of the public...it is not functioning as an employer, but as a legislative body;"
- *Leventhal v. Vista Unified School District*,<sup>3</sup> which held that a "school board meeting is a legally proper place for citizens to voice their complaints about a school district's employees;" and
- *Bach v. School Board of the City of Virginia Beach*,<sup>4</sup> which the Attorney General relied on to surmise that "a prohibition on 'personal attacks' was held not to be content neutral, and therefore constitutionally impermissible."

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<sup>1</sup> [2016 Op. Va. Att'y Gen. 15-020, 3.](#)

<sup>2</sup> 936 F. Supp. 719 (C.D. Cal. 1996).

<sup>3</sup> 973 F. Supp. 951 (S.D. Cal. 1997).

<sup>4</sup> 139 F. Supp. 2d. 738, 743 (E.D. Va. 2001).

The Attorney General concluded that “there is a significant government interest in protecting the privacy of individual students in certain circumstances, as evidenced by state and federal<sup>5</sup> student privacy laws.”<sup>6</sup> However, “the interest of a school division in the privacy of school employees has been held to be an insufficient basis for barring public comment on individual employees.”<sup>7</sup>)

[Regulation BDDH-R/KD-R: Procedures for Public Participation at Board Meetings](#) \*Revision reflecting 3/23/17 School Board feedback on pg. 2 (at II. D.) appears in [blue](#). (Last reviewed in 2014, this regulation has been updated to reflect the revisions to Policy BDDH/KD and the Attorney General’s opinion discussed above.)

[Policy CBCA: Disclosure Statement Required of Superintendent](#) (Last reviewed in 2015, this policy has been updated to reflect the recent amendment of Va. Code §2.2-3115 by HB 1362. Effective January 1, 2017, the bill removed from the Code the disclosure forms filed by those subject to the conflict of interests acts. The Code now requires the Virginia Conflict of Interest and Ethics Advisory Council to prescribe the forms to be used to comply with disclosure requirements.)

[Policy JFCC: Student Conduct on School Buses](#) \*Revision reflecting 3/23/17 School Board feedback appears in [blue](#). (Last reviewed in 2015, Policy JFCC’s policy, legal and cross references have been updated by VSBA. In addition, the school division has added text to reflect the policy’s application to students utilizing all means of transportation provided by the Division.)

**BACKGROUND:**

The Code of Virginia § [22.1-253.13:7](#) requires that each local school board shall maintain and follow up-to-date policies, and that all policies shall be reviewed at least every five years and revised as needed. In addition, the Alexandria City School Board’s Policy BF provides that policies will be reviewed at least every three years and revised as needed.

**RECOMMENDATION:**

The Superintendent recommends that the School Board approve the attached policies.

**IMPACT:**

By reviewing policies periodically, the School Board ensures that ACPS operations are aligned to support excellence and high performance.

**ATTACHMENTS:**

Proposed revisions to various policies

**CONTACT:**

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<sup>5</sup> The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g.

<sup>6</sup> 2016 Op. Va. Att’y Gen. 15-020, 3.

<sup>7</sup> *Id.*