



The School Board of Stafford County authorized the release of this document to the public on January 14, 2020.

Fwd: Thoughts

1 message

Scott Kizner <kiznersr@staffordschools.net>
To: School Board <school_board_members@lists.staffordschools.net>

Fri, Jul 12, 2019 at 11:17 AM

Again this is confidential information. Thanks.

----- Forwarded message -----

From: **Jennifer Parrish** <parrish@parrishsnead.com>

Date: Thu, May 9, 2019, 6:34 PM

Subject: RE: Thoughts

To: Scott Kizner <kiznersr@staffordschools.net>

Dr. Kizner:

Yes, I do have concerns in that both of these policies would be granting more protections than the law requires at this point. Both of these versions include protections for "sexual orientation" and "gender identity," which at this time are not legally protected classes under constitutional law. There are numerous cases on a regular basis going before lower courts on these issues, and some judges have ruled that the existing laws that prohibit discrimination on the basis of sex include the prohibition of gender identity and sexual orientation. However, this issue is in flux and there is not yet any binding legal precedent that includes these classes of individuals as "protected classes." I generally recommend that public entities not voluntarily adopt such anti-discrimination policies that can bind school divisions to obligations greater than state and federal law require, and this is one of those cases.

The DOJ issued a guidance letter under Pres. Obama in 2016 advising that the government considered that the Title IX protections against sex discrimination in public entities includes discrimination based upon gender identity / sexual orientation. That guidance letter was rescinded under President Trump, who advised school districts that the DOJ will no longer enforce the Obama administration guidance.

In summary, neither Virginia law nor Federal law requires nor prohibits a school division from developing and implementing a school board policy prohibiting such discrimination. I am aware that after Fairfax School Board passed such a policy a couple years ago, there was a lawsuit filed by a conservative group stating that the board was outside its legal authority to grant overbroad protections not required by federal or state law. The case got dismissed in the Circuit Court level for a lack of standing, so it was not successful.

In summary, if the School Board wishes to adopt such a policy, it has the power to do so, however the Board should be aware that neither Virginia nor Federal law currently require that anti-discrimination policies include protections for either gender identity or sexual orientation.

Please let me know if you wish to discuss this further. I am in the office all day tomorrow.

Kind regards,

Jennifer

Jennifer Lee Parrish

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From: Scott Kizner <kiznersr@staffordschools.net>

Sent: Wednesday, May 8, 2019 10:39 AM

To: Jennifer Parrish <parrish@parrishsnead.com>

Subject: Thoughts

Jennifer

One of these versions will most likely go in front of the school board next Tuesday. We basically are using the language Loudoun County adopted in February. Please let me know if you have any concerns. This would be added or amend our discrimination policy. Thanks

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