

School board members' questions for Jennifer Parrish:

Board Member	Question(s)
<b>Dr. Chase</b>	<p>1. What is the scope of a student's right privacy? Does the right to privacy extend to the use of shower and locker room facilities? Have there been any successful lawsuits where a student has sued a school system for allowing a transgender student to use the locker room or bathroom that corresponds to that student's gender identity? How many have been successful?</p> <p>2. May a school system that ordinarily allows students on overnight field trips to stay in the same room as other students of the same sex, prohibit transgender students from staying in the same room as a students with the same gender identity but who may have opposite sexes assigned at birth (e.g., transgender female with female or transgender male with male) if the school system can articulate a rational basis for the disparate treatment (e.g., concerns with teen pregnancy)?</p>
<b>Ms. Decatur</b>	No questions.
<b>Ms. Egan</b>	<p>I don't have a specific question for the attorney - I never said I had a specific question. I said (like a broken record) that I wanted a full <u>analysis</u> of the legalities associated with us PASSING this policy, and what is associated with us NOT passing a policy. The good, the bad and the ugly is how I believe I referred to it. The SEA mentioned that we're opening ourselves up to EEO suits if we don't pass it. Others have stated that the minute we pass this policy, it will automatically open the doors to the bathroom issue - and NOT allowing folks to use the bathroom of their choosing would violate our own policy and open us up to lawsuits. Then there is the issue of the parents of the cis-gender community and their rights. Do they have legal standing if we open the bathrooms and locker rooms to comply with our own policy? This isn't about a single question, and this isn't a Dillon Rule issue that I'm asking about - it's a matter of doing a full legal analysis, not a Justification or an explanation of what our rights are. I know what our rights are - we're the school board and we can do just about anything we want with regard to how the school is run. Again, to simplify what I'm asking for and ensuring it is in writing and as clear as I can make it - I want to know that if we take action on X, "Y" will happen. If we don't take action on A, then B will happen. I'm not sure why this was so hard to understand the first time I asked for it. But hopefully, now that the Board has control of, we can get what it is that we need to make an informed decision.</p>
<b>Ms. Hazard</b>	<p>1. The phrases "behavior that is not unlawful may nevertheless be unacceptable" and "demeaning or otherwise harmful actions are prohibited" are contained in both proposed policies 4107 and 2420. Both phrases indicate to me that consequences, punishment and/or disciplinary action could be imposed for actions meeting these proposed standards.</p> <p>A. As applied to proposed policy 4107 (employees):</p> <ol style="list-style-type: none"> <li>1) Are these behaviors and actions sufficiently defined for adjudication using our existing disciplinary and appeal processes, including but not limited to Policies 4102, 4110, 4207, 4209, 4905, 4902-R, 4906-R, 4907- R?</li> <li>2) Do any of these other policies and regulations need to be reviewed and aligned to the language proposed in policy 4107?</li> <li>3) Are acts of omission (failure to act) and acts of commission (actions assigned to an individual) both included in these definitions?</li> <li>4) What procedures must the division follow to investigate staff actions, what rights do staff members have in any personnel action process and what appeal rights are in place for the employee?</li> </ol>

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<b>Ms. Hazard (cont'd)</b>	<p>B. As applied to proposed policy 2420 (students):</p> <ol style="list-style-type: none"> <li>1) Are these behaviors and actions sufficiently defined for adjudication using our existing disciplinary and appeal processes, i.e. 2402, 2404, 2401-R, 2404-R and the School Board approved Code of Conduct?</li> <li>2) Do any of these other policies and regulations need to be reviewed and aligned to the language proposed in policy 2420?</li> <li>3) Are acts of omission (failure to act) and acts of commission (actions assigned to an individual) both included in these definitions?</li> <li>4) What procedures must the division follow to investigate student actions, what rights do students have in any disciplinary action process and what appeal rights are in place for the student?</li> </ol> <p>2. The following phrases "the Superintendent/designee shall be responsible for developing a plan that implements the intent of the Board as set forth in "2420 and 4107 and "ensuring that it is reviewed periodically. Such plan shall be shared with the Board for input and review" is contained in both proposed policies.</p> <ol style="list-style-type: none"> <li>A. Under this proposed language, what is the role of the School Board to approve by Board vote any policies/plans/decisions regarding bathroom usage, locker room usage, overnight field trips, sports policies, modification of school records and any other policies implementing either or both of these policies.</li> <li>B. What is the School Board's statutory role and responsibility, if any, with regard to implementing anti-discrimination policies, employee discipline/conduct and student discipline/conduct policies?</li> <li>C. In your opinion, is there any concern that the proposed language in the proposed policy 2420 or its future implementation conflicts with the process implemented by the Virginia High School League regarding students covered by the proposed anti-discrimination language?</li> </ol>
<b>Ms. Healy</b>	<p>Background: On or about May 8, 2019 Dr. Scott Kizner, in his capacity as Superintendent of Stafford County Public Schools, shared with you via email two proposed anti-discrimination policies and asked if you had any concerns with the proposed policies. In your May 9, 2019 email response (which was shared with two board members prior to the May 14 school board meeting and with the other five board members earlier this month) you stated that you do have concerns. You also stated that you "... 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."</p> <p>Question #1. Assuming that there has been no change in the proposed anti-discrimination policies from the two policies presented to you by Dr. Kizner with his May 8 email, has there been any change in your recommendation that SCPS not voluntarily adopt such anti-discrimination policies that can bind the school division to obligations greater than state and federal law require? If your recommendation has changed, please provide an explanation for the basis for the change, and if your recommendation has not changed, please provide an explanation of the basis for your recommendation.</p>

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<b>Ms. Healy (cont'd)</b>	<p>Question #2. If the proposed anti-discrimination policies are adopted by the Stafford County School Board, what would you foresee to be the immediate, short term, and long term impact on the school system? Please address in your response whether, if the proposed policies are adopted, a student of any age would have the right to choose which bathroom and/or locker room they want to use, based on their sexual orientation or gender identity. I would appreciate your also addressing in your response whether, if adopted by the school board, the proposed policies would put SCPS at risk of lawsuits or EEO complaints if usage of bathroom or locker room based on student choice were denied for any reason, and, in the alternative, whether adoption of the proposed policies would put SCPS at risk of lawsuits or EEO complaints by parents or guardians who are opposed, for religious or other reasons, to having their child(ren) use a bathroom or locker room with a transgender student. Finally, please include any other matters that you deem important for consideration by the school board regarding the immediate, short term, and long term impact on the school system if the proposed policies are adopted.</p>
<b>Mr. McOsker</b>	<ol style="list-style-type: none"> <li>1. How many school divisions in Virginia have a similar policy to our proposed policy now and who are they?</li> <li>2. How many school divisions in Virginia and the U.S. have been successfully sued due to having a similar policy to our proposed policy?</li> </ol>
<b>Ms. Yeung</b>	<ol style="list-style-type: none"> <li>1. If you are defending your client that is a staff or student and he/she falls under one of the protected categories of race, color, national origin, political affiliation, religion, sex, pregnancy, childbirth or related medical conditions, marital status, disability, age, genetic information, sexual orientation and gender identity, will your legal opinion say "yes" to this policy or will your legal opinion be influenced by your presumptions, personal opinions, personal bias, religion or political affiliation?</li> <li>2. Does the prohibition on sex discrimination in title VII of the civil rights act of 1964 extend to discrimination against transgender individuals? How many federal circuit courts of appeals has reached this conclusion? Has the 4<sup>th</sup> circuit court of appeals reached this conclusion? Have any federal or state lower courts reached this conclusion?</li> </ol>