

August 28, 2020

The Honorable Daniel A. Gecker
President, Virginia Board of Education
101 North 14th Street
Richmond, Virginia 23219
Submitted via email to emily.webb@doe.virginia.gov

Re: Comments on October 2019 Prescribed SOQs and Proposed Resolution

Dear President Gecker and Members of the Board,

Thank you for this opportunity to provide feedback on the Virginia Board of Education's (Board) prescribed October 2019 Standards of Quality (SOQs) for Virginia's elementary and secondary schools and the proposed resolution before the Board. The Legal Aid Justice Center (LAJC) is a non-profit organization that provides free civil legal assistance and advocacy on behalf of low-income individuals and families. Our Youth Justice Program, formerly the JustChildren program, provides representation and advocacy on behalf of economically disadvantaged children attending Virginia's public schools, and we are committed to ensuring that all children have the tools they need to succeed in school and in their communities.

Overall, we commend the Board on the proposed SOQs and firmly believe that, should they be funded by the General Assembly, these measures would be an incredible step towards equity and opportunity for all of Virginia's students. Additionally, LAJC appreciates the Board's thoughtful consideration of the Board's constitutional duties in prescribing these SOQs. The Board's resolution prescribing the SOQs provides additional emphasis of the Board's unique constitutional role and specific expertise in determining and prescribing the SOQs before transmitting them to the General Assembly to be funded. Finally, the resolution is an appropriate rebuke of the General Assembly for its failure to fulfill its respective constitutional duty to revise and fund those SOQs during the 2020 legislative session.¹

¹ Va. Const. Art. VIII, Section 2. Standards of quality; State and local support of public schools: "Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly. The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds."

The Proposed Standards of Quality

We commend the Board for this ambitious set of proposals that will, if funded, go far in advancing equity and opportunity for all of Virginia’s students. In particular, we appreciate the Board’s proposals around the Equity Fund, support staff, and school counselors, which are critical measures in reducing gaps in opportunity between white students and students of color and needed more than ever due to the coronavirus pandemic. However, we would encourage the Board to consider further decreasing staff to student ratios for English Learner (EL) instruction and engage in additional study around the needs of EL students.

Equity Fund

The Equity Fund is an important step in reducing disparities between high and low poverty divisions. Additional funding for high-poverty districts is a racial justice issue—students of color make up 80% of students in Virginia’s high poverty schools.² We appreciate that the equity fund gives schools flexibility in the use of these funds for spending on programs and services.

Support Staff

Support personnel—including school social workers, school psychologists, and custodial staff—are vital for keeping schools safe and clean and for meeting the unique needs of Virginia’s most vulnerable students, including low-income students and students with disabilities. The “support position cap,” adopted as a cost-saving measure during the Great Recession, bears no relationship to actual costs of divisions and is a major driver of costs for localities—a cost which many localities cannot afford to pay, resulting in stark differences in support for student needs based on zip code. As one study notes, while student enrollment has increased by 55,000 since the cap was implemented, support staff has decreased by 2,800.³ Additionally, over the past ten years, support staffing dropped by 4 positions per 1,000 students in divisions with the highest percentage of students of color compared to a decrease of 1 position per 1,000 students in divisions with the lowest percentage.⁴

² The Commonwealth Institute for Fiscal Analysis, “Opportunities to Advance Racial Equity in Conference Budget,” February 28, 2020, Available at: <https://www.thecommonwealthinstitute.org/2020/02/28/opportunities-to-advance-racial-equity-in-conference-budget/#K-12-Education>.

³ Chris Duncombe, Ashley C. Kenneth, Michael J. Cassidy, *Ten Years Behind: The Vital Role of Non-Instructional Staff in Promoting Successful Learning Environments and the Critical Need for Funding*, THE COMMONWEALTH INSTITUTE FOR FISCAL ANALYSIS, June 2019, available at: <https://www.thecommonwealthinstitute.org/wp-content/uploads/2019/06/Ten-Years-Behind-Vital-Role-of-Non-Instructional-Staff.pdf>.

⁴ Id.

The harm of the support position cap is felt most strongly by those divisions with the highest numbers of economically disadvantaged students, who already have the greatest educational needs. Removing the support cap is an essential step to ensuring that Virginia’s schools are equitably funded and that all students have the opportunity to achieve success. Support staff remain increasingly vital during the pandemic in order to assist students in accessing virtual learning materials and in promoting student engagement. We thank the Board for affirming its support for appropriate support staffing levels in Virginia’s schools.

School Counselors

LAJC supports the Board’s recommendation to provide one full-time school counselor for every 250 students in grades kindergarten through 12, which is the standard recommended by both the American School Counselor Association and the Virginia School Counselor Association. School counselors are vital for meeting the diverse educational needs of economically disadvantaged students, and they are uniquely qualified to assist students in academic planning, college and career readiness, and social and emotional skill development. Moreover, these positions will be needed more than ever to address the social and emotional needs of students as they struggle during and after the pandemic.

English Learner Funding

LAJC encourages increasing funding levels targeted for EL students, and we support the Board’s proposal to decrease the ratio of students to teachers for EL students. Virginia’s population of EL students is higher than the national average⁵ and is growing rapidly.⁶ Significant achievement gaps exist among EL students compared to their peers. Nationally, only 63% of EL students graduate from high school, compared to 82% of their peers.⁷ In Virginia, when compared to their peers, EL students underperform on SOL tests, are more likely to drop out, and are less likely to achieve either a standard or advanced diploma.⁸ Sufficient staffing for EL students is critical to ensuring adequate access to educational opportunity.

⁵ Claudio Sanchez, “English Language Learners: How Your State is Doing,” NPR, February 23, 2017, available at: <https://www.npr.org/sections/ed/2017/02/23/512451228/5-million-english-language-learners-a-vast-pool-of-talent-at-risk>.

⁶ Sonya Douglass Horsford and Carrie Simpson, *High-ELL-Growth States: Expanding Funding Equity and Opportunity for English Language Learners*, ANNENBURG INSTITUTE FOR SCHOOL REFORM, VUE Summer 2013.

⁷ Id.

⁸ Virginia Department of Education, “Virginia State Quality Profile, Assessments,” and “Virginia State Quality Profiles, College & Career Readiness, SCHOOL QUALITY PROFILES, August 2019, available at: <http://schoolquality.virginia.gov>.

However, the additional funding provided within the SOQs for new staff still only equates to about 22% more per EL student than for every non-EL student in 2019-2020 spending.⁹ In other state surveys, funding weights between 35%-70% more for EL students are recommended.¹⁰ We recommend the Board decrease ratios for EL instruction in order to provide for adequate staffing. Additionally, LAJC recommends that the Board engage in deeper study regarding the specific needs of EL students and the funds necessary to address those needs.

The Board's Constitutional Duty to Prescribe the SOQs

We have closely followed the Board's discussions regarding its constitutional duty to determine and prescribe the Standards of Quality (SOQs) pursuant to Article VIII, § 2 of the Virginia Constitution.¹¹ Throughout the past year, the Board has grappled with questions about the meaning of this duty, particularly whether the Board has fully exercised its duty to determine and prescribe SOQs in years past. In August of 2019, LAJC wrote to the Board that nothing more was needed for the Board to fulfill its constitutional obligations to prescribe the SOQs other than to draft and transmit its annual report to the Governor containing the SOQs. We asserted that the Board had prescribed the SOQs periodically between 1974-2002, and from 2002 onwards through its annual reports, and no additional language or action was needed.

Nonetheless, we firmly believe that the resolution adopted by the Board in October of 2019, and the one currently before the Board, serve to *emphasize* the Board's unique constitutional duty—and fulfillment of that duty—to determine and prescribe the SOQs. Moreover, the resolution signals to the General Assembly the respective failure of the state legislature to revise and fund the SOQs, as mandated by the Virginia Constitution.¹²

Importantly, we further assert that the Board's action in initiating the process to re-prescribe the SOQs now, despite it being an even-year, further emphasizes the Board's unique role and serves as an additional mechanism to pressure the state legislature to fund the SOQs during the 2021 legislative session.¹³ There is nothing in the Constitution that indicates the Board is limited to

⁹ Analysis from The Commonwealth Institute for Fiscal Analysis.

¹⁰ See, for example, Michigan's state survey, available at: <https://www.fundmischools.org/wp-content/uploads/2018/01/School-Finance-Research-Collaborative-Report.pdf>

¹¹ Va. Const. Art. VIII, Section 2.

¹² *Id.*

¹³ VA Code § 22.1-18.01, Biennial review of the standards of quality required; budget estimates.

A. To ensure the integrity of the standards of quality, the Board of Education shall, in odd-numbered years, exercise its constitutional authority to determine and prescribe the standards, subject to revision only by the General Assembly, by reviewing the standards and either (i) proposing amendments to the standards or (ii) making a determination that no changes are necessary.

prescribing SOQs *only* in even years, particularly if the Board believes a revision is needed to “ensure the integrity” of the SOQs.¹⁴ Such a revision is especially paramount given the extensive and radical changes Virginia’s schools currently face due to the coronavirus pandemic. The needs of students, staff, and administrators in this crisis are vast, and it is appropriate for the Board to exercise its constitutional obligation to revisit and prescribe the SOQs given this situation. By prescribing the SOQs, the Board is also initiating the process laid out in the Virginia Constitution for the General Assembly to fulfill its respective duty to revise and fund the SOQs.

We note that the General Assembly’s failure to fund the SOQs is a derogation of its constitutional duties under Article VIII, Section 2, but also a moral failure given the state of education funding in the Commonwealth. We note that state per-student spending was still down 8% from pre-recession levels in the 2019-2020 school year,¹⁵ and from 2009-2013, state funding dropped by almost 3 times more per student in the highest-poverty divisions than in the lowest.¹⁶ Schools are increasingly reliant on local governments for funding, with localities spending \$4.2 billion more than the state required to meet the state’s staffing standards.¹⁷ According to a report by EdBuild in 2019, high-poverty nonwhite school districts in Virginia spend \$10,796 per student, whereas low poverty white school districts spend \$11,001 per student—\$205 less.¹⁸ Some experts believe it can cost as much as 40% more to educate a student in poverty than a student not in poverty¹⁹—or around an additional \$4,400 more when using the average low-poverty white school district cost. The pandemic has only worsened the potential for disparities in opportunity and achievement between high and low poverty divisions, and our schools need additional state funding more than ever before. We commend the Board for taking bold steps to

B. If the Board proposes changes to the standards of quality, the budget estimates that are required to be reported pursuant to § 2.2-1504 shall take into consideration the Board’s proposed standards of quality. *See* Va. Code §22.1-18, providing that the “Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed standards of quality. Such standards of quality shall be subject to revision only by the General Assembly, pursuant to Article VIII, Section 2 of the Constitution of Virginia.” We note the law was later changed to require recommendations in odd years to better align with the General Assembly’s 60-day budget session.

¹⁴ *Id.*

¹⁵ Chris Duncombe & Chad Stewart, *Virginia Can Choose Equity for School Funding During Economic Crisis*, The Commonwealth Institute (June 8, 2020), Available at:

<https://www.thecommonwealthinstitute.org/2020/06/08/virginia-can-choose-equity-for-school-funding-during-economic-crisis/>

¹⁶ Chris Duncombe, *K-12 Funding Trends At-a-Glance: Data for Statewide and All 132 School Divisions (2019-2020)*, The Commonwealth Institute, (September 23, 2019), Available at:

<https://www.thecommonwealthinstitute.org/2019/09/23/k-12-funding-trends-at-a-glance-data-for-statewide-and-all-132-school-divisions-2019-2020/>

¹⁷ *Id.*

¹⁸ EdBuild, “Nonwhite School Districts Get \$23 Billion Less than White Districts Despite Serving the Same Number of Students,” (2019), Available at: <https://edbuild.org/content/23-billion#VA>.

¹⁹ The Education Trust, *The State of Funding Equity*, Available at: <https://edtrust.org/graphs/>.

hold the General Assembly accountable to its constitutional duty to fund the SOQs and ensure an adequate public education for all of Virginia’s students.

We thank the Board for its audacious support and investment in all of Virginia’s children, and appreciate your consideration of this feedback.

Sincerely,

A handwritten signature in black ink that reads "Rachael Deane". The signature is written in a cursive style with a large initial 'R'.

Rachael Deane, Legal Director, Youth Justice Program

A handwritten signature in black ink that reads "Cassie Powell". The signature is written in a cursive style with a large initial 'C'.

Cassie Powell, Staff Attorney, Youth Justice Program

Cc: Holly Coy, Assistant Superintendent for Policy, Equity and Communications
(Via email to holly.coy@doe.virginia.gov)



August 27, 2020

Virginia Board of Education
BOE@doe.virginia.gov

RE: Standards of Quality for Public Schools in Virginia
Code of Virginia at §§ 22.1-253.13:1 through 22.1-253.13:10,

Dear Virginia Board of Education:

Virginia PTA appreciates the opportunity to comment on Virginia's Standards of Quality.

The Standards of Quality (SOQ) are intended to create a standard expectation across the commonwealth that prescribes the educational program and support at each school, the success of which should be able to be measured by families under the Standards of Accreditation and policies set forth under ESSA.

Unfortunately, over the past decade the General Assembly has not funded the Board's SOQ recommendations and has placed a formula driven cap on vital support staffing positions. These staffing changes do not align with prevailing practice and reinforce the economic and geographic inequities that the Standards of Quality are intended to address. As a result of the decline in state education direct aid, localities have invested on average \$4.2 billion above the required local effort for SOQ programs in 2017-2018. Many localities, however, lack a sufficient real estate property tax base to support and fund major K-12 operational and capital needs at the same levels as many affluent school divisions.

We can see these systemic funding inequities reflected in the choices school divisions are making as they select instructional models for the 2020-21 school year that balance poor ventilation systems, limited personal laptops and inadequate nursing and support staffing against the lack of broadband. In order to expand economic, geographic and social equity, Virginia PTA voices our strong and unwavering support for a re-calibration of the Standards of Quality that is based on the prevailing practice of school divisions and removal of the support staff cap.

We additionally express our specific support for the following items:

STAFFING RATIOS FOR SMALL SCHOOLS

Schools with less than 300 students operate primarily with part time staff and do not have an assistant principal. Although small in average daily membership, schools with less than 300 students often serve large geographic rural areas. In order to support the safety of the staff and students, maintain pandemic protocols, provide instructional support to teachers, support student and teacher technology use and provide timely positive behavior intervention the *Virginia PTA supports* the Standards of Quality prescribing at least one full time principal; full time librarian; full time technology teacher; full time bookkeeper or attendance secretary; and one full time custodian for every school regardless of size. Part

time staffing for any of these critical operational positions places the health and academic success of students at risk.

ASSISTANT PRINCIPALS

Research shows academic benefits of small learning environments as being equally as important as class size. Schools have grown larger at the same time as the academic and health needs of the student body have grown more complex. To maintain connection with students and staff, Virginia PTA supports 1 full time assistant principal per 400 students, regardless of school type (elementary, middle, high).

CHIEF EQUITY OFFICERS

Virginia PTA supports a revision to the Standards of Quality to include one full-time Chief Equity Officer per school division to oversee implementation of culturally responsive practices. This may include monitoring completion of cultural competence professional development, reviewing lesson plans and curriculum, assessing cultural necessities, decreasing discipline disproportionality and closing opportunity gaps.

WORLD LANGUAGES

Studying world languages increases global awareness, cultural understanding, academic achievement and employment opportunities. Appreciation and exposure to other cultures through world language instruction is an important aspect of celebrating the diversity of our students and staff. Virginia PTA supports prescribing the development of a K-16 world language instructional program that supports new language acquisition, retention of heritage languages and programs to recruit and retain qualified world language teachers.

UNIFIED MENTAL HEALTH TEAMS

Suicide is the second leading cause of death for ages 15-34 and half of all lifetime mental illnesses are identified by age 14. Most students do not receive the mental health services they need due to stigma and lack of access to services and of those who do get help, most do so only in school. The impact of the COVID-19 pandemic combined with the consequences of persistent and unaddressed racial inequity heighten the need to prescribe unified mental health teams at nationally recommended ratios: School Counselors 1:250, School Psychologists (1:500-700); School Social Workers (1:250); and School Nurses (1:school).

SCHOOL NURSES:

Virginia PTA supports using a multi-factor health assessment approach that includes not only need for acute care, but also social determinants of health to determine effective school nurse workloads for safe care of students. School Boards are required to employ licensed instructional personnel who are qualified in the relevant subject areas. This same standard of care should apply to school nurses to ensure that every school is staffed with a licensed registered nurse who is trained in epidemiology, infectious disease control, mental health and trauma informed care and who is able to support acute and chronic health care needs while also training school staff on best safety practices.

SCHOOL NUTRITION INTEGRATION & PROCUREMENT SPECIALIST

Agriculture is the largest industry in Virginia, plays an important role in our daily lives and is evolving due to technology advancements, yet is undervalued. Agriculture education should be integrated directly in the Standards of Learning curriculum (instead of through the nutrition department) to support rural workforce education and development, increase locally grown foods in school cafeterias and provide hands-on learning for all students. Virginia PTA supports prescribing a School Nutrition Integration and Procurement specialist for each region or school division to support local economic activity, increase the quantity of locally sourced foods served in school cafeterias and expand support for classroom instruction.

Thank you for the opportunity to comment on the Standards of Quality and for the rigorous care you exercise in understanding and prescribing recommendations that address the need for staffing and instructional programs that support racial, economic and geographic equity for our schools.

Sincerely,

Jenna Alexander

Jenna Alexander
VP Advocacy, Virginia PTA

Donna Colombo

Donna Colombo
President, Virginia PTA

To Whom it May Concern,

I believe that the performance of the Fairfax County School System (FCPS) has failed to deliver educational standards of quality this past spring when schools were closed due to the pandemic. Sadly, as of July 2020 there was still no plan to prevent the failures of the 2020 spring session and no plan to deliver a quality education to FCPS students.

SOQs to promote educational equity (Priority 1) are not supported by current or planned FCPS virtual learning. Retaining FCPS teachers and administrators that refuse to teach until there is no medical risk to them holds FCPS families hostage; plans to support educator recruitment, development and retention (Priority 2) must ensure VA have a workforce willing to work with similar safeguards afforded to essential workers - not some arbitrary teacher's union demand. Lastly, revisions supporting the implementation of the Profile of a Virginia Graduate and the revised school accountability system (Priority 3) must not be waived every time a local school decides they need to close schools and teach virtually. There should be no less accountability for FCPS virtual learning than is expected from Virginia Virtual Academy.

While the Board may have recommitted to prioritizing equity in every facet of Virginia's public education system, to ensure every child receives what they need, when they need it, to access a high-quality public education regardless of race, socioeconomic status, or regional diversity, the truth is the Virginia Board of Education is allowing ineffective educational programs such as the virtual FCPS program that leaves many students disconnected and unsupported. Additionally, IEPs that cannot be supported by online learning are simply being ignored or staff are encouraging parents to sign away their child's right to IEP services.

While I support the expanded teacher and principal mentorship plans proposed I do not see how the specialist or language teachers do their work if they are not in the classroom with their students. Also, given we will likely return to the classroom before COVID is eradicated, there is likely a need for greater school nurse support than less. I recommend you reassess the school nurse support levels to ensure that both students, teachers and staff have access to immediate medical support.

Sincerely,

Tom Goudreau

The SOQ are antiquated and limit innovation in local school divisions.

The minimum staffing requirements for librarians need to be amended to provide flexibility for schools (especially large ones with over 1000 students) with innovative approaches to media center operations. The requirement for media clerks to serve in libraries for the same large schools needs to be at a local option, not a requirement....much like the flexibility granted for ITRT positions (see next paragraph).

ITRTs were a terrific way the Commonwealth invested in advancing instructional technology in the early 2000s. That mission has been fulfilled and so the flexibility to use the positions for ITRTs, Data Analysis Staff, etc. was a very wise and needed evolution of the position to meet the need. The state needs to give localities the same *local option* with other positions.

Thanks for reading!

Alan Seibert

Dear Board,

I am submitting comments related to the Department's review of its SOQ. The following are matters that I believe are either not adequately addressed or would benefit the students in K-12.

1. There appears to be no definition of the term "effective teacher". In the proposed change that requires districts to more equitably distribute experienced and "effective teachers", a definition of "effective" is needed to ensure teachers are fairly allotted. Prior VDOE data calls indicated that every single district has rated over 99% of its teachers as "effective". Not only is this no believable but it defeats the spirit of equitably distributing teachers to every school. A quantitative definition of effective, tied to either SOL or similar metrics such as student growth tools, is critical for this change to have significance.
2. There does not appear to be any standard metric used by Virginia school districts to measure student growth. Many districts use NWEA's Measures of Academic Progress for this purpose. However, there are no reporting requirements for student growth data, similar to SOL data, when schools conduct such tests. Districts distribute the data internally but charge fees for the public to gain access via FOIA requests. Residents and voters are unable to hold districts accountable without access to this type of growth data.
3. VDOE has already announced that accreditation for the next 2 school years has been waived. However, even though many districts are implementing virtual instruction, it is critical to understand how much students learn this year and gather data in the spring of 2021 to calculate accreditation scores for 2022-2023 (using spring 2021 and spring 2022 data). Parents want to see those scores and results. It is critical that SOL tests be administered in the spring of 2021 even if the scores will show below average results.
4. Parents want to see minimum instruction time standards for any virtual learning that is conducted by a school district. Some districts are requiring less than 12 hours per week of live instruction. This is far below what districts provide in-person and will result in months of lost learning each year. Minimum instruction time standards are critical for students to receive a fair and appropriate education.

Respectfully,
Brian Davison

Virginia Board of Education Members:

When it comes to improving the Standards of Quality we demand for our students in Virginia, the importance of professional school nursing cannot be overlooked any longer — especially when considering the ongoing coronavirus pandemic and its evolving effects on the 2020-2021 school year.

More than half of our nation's states have legislation mandating the hiring of registered school nurses. Sadly, Virginia is still not one of them. Over the past five years, legislation to mandate more professional nurses in Virginia's K-12 schools has been introduced and unfortunately defeated in the General Assembly.

While the practice of school nursing is often misunderstood by parents, educators, legislators, and other health professionals, rest assured that professional school nurses are an essential component of both our nation's health care continuum and achieving the goals of student learning and academic achievement.

Yes, schools exist for the purpose of education, but without professional nursing staff on site to monitor and maintain student health, educational efforts can and will falter. The relationship between student health and academic achievement is inherently conjoined. Former Surgeon General Joycelyn Elders said it best: "You can't educate people that are not healthy. But you certainly can't keep them healthy if they're not educated."

Professional school nurses are essential in identifying and addressing health issues which impact school performance. There is a plethora of evidence and case study data proving that the work of dedicated, on-site registered school nurses increases attendance and instructional time, promotes safety, decreases emergency and crisis management response times, and provides so many additional health and educational benefits.

Regarding the ongoing coronavirus pandemic, it's more important than ever to remember that professional school nurses also support education through the public health functions of epidemiology and infectious disease control. Besides ensuring compliance with immunization requirements, school nurses serve as sentinels in disease surveillance for their schools. As trained nursing professionals working with the Virginia Department of Health, they can detect patterns in illness during the early stages of an epidemic and develop interventions and recommended strategies for virus containment to prevent further spread.

As a standard of our profession, school nurses are the selfless guardians of health and wellbeing for all students. It's beyond time to recognize that undeniable value and include professional school nursing in your Standards of Quality. We ask that you require at least one full-time equivalent registered school nurse position in each elementary school, middle school, and high school in Virginia.

Sincerely,

Gina A. Bellamy MSA, BSN, RN, NCSN
President
Virginia Association of School Nurses