



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF EDUCATION

**DATE:** August 18, 2023

**TO:** Division Superintendents

**FROM:** Dr. Lisa Coons, Superintendent of Public Instruction

**SUBJECT:** **Local School Board Compliance with Virginia Code § 22.1-23.3**

As you know, the Virginia Department of Education issued the final Model Policies on Ensuring Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools on July 18, 2023, in accordance with *Code of Virginia* § 22.1-23.3. Since this guidance was finalized, the Department has received several inquiries regarding school boards' obligations to adopt model policies consistent with those issued by the Department.

As noted by former Superintendent of Public Instruction James F. Lane in Superintendent's Memo #202-21 (July 30, 2021), the requirement that local school boards adopt policies consistent with those issued by the Department is codified in statute and therefore the law of the land. Like all other statutory mandates the General Assembly requires school boards to obey, local school boards must comply with this directive in order to be in compliance with state law. Local school boards that elect not to adopt policies consistent with those released by the Department for the upcoming school year assume all legal responsibility for noncompliance.

The *Code of Virginia* § 22.1-87 provides that "any parent, custodian, or legal guardian of a pupil attending the public schools in a school division who is aggrieved by an action of the school board may, within thirty days after such action, petition the circuit court having jurisdiction in the school division to review the action of the school board." Local school boards should consider the potential costs of civil litigation or other associated liabilities in evaluating the consequences of their actions.