VASS Fall Conference: Legal Hot Topics

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New Virginia Laws

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New Virginia Laws

The Virginia General Assembly enacted several employment laws in 2026 that will impact public school divisions

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New Virginia Laws

> Paid Family and Medical Leave

- Requires paid leave for
  - Employees' severe medical issues
  - Care for the employees' family members
  - "Safety leave"
- School divisions will have to allow for this kind of leave (but mostly have to do this already under the federal FMLA)

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New Virginia Laws

> Paid Family and Medical Leave

- The new wrinkle is that this leave is paid
- But school divisions will not be handling the payment directly
- Instead, divisions and employees will pay taxes and the state government (VEC) will administer the program
  - Similar to unemployment benefits, but for current employees
- Law does not take effect until 2028 – so look for guidance from VEC in 2027 or early 2028

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New Virginia Laws

> Paid Sick Leave

- Entitles employees to paid sick leave
- Unlike PFMLA, this leave is paid for and administered by school divisions

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New Virginia Laws

> Paid Sick Leave

- Employees must be able to earn sick leave at a rate of at least one hour of leave for every 30 hours worked
  - Use of paid sick leave can be capped at 40 hours per year
  - Divisions have to allow for carryover from one year to the next, but can cap sick leave banks at 40 hours total
  - Unused time does not have to be paid at the time of separation
- Likely applies to all “employees,” including substitute teachers
- If division already complies with these rules, it doesn’t have to offer more leave
- Rule goes into effect in July 2027

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New Virginia Laws

> Bi-Monthly Payments for All Employees

- General Assembly changed the definition of “employer” in an existing law to now include school divisions
  - This law requires bi-monthly payments for all employees
  - This law conflicts with another section in the Virginia Code which allows for monthly payments for all school division employees, so the recent change may not have been the General Assembly’s intent
- VASS will pursue clarification with the GA in the next session

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New Virginia Laws

> Pay Transparency and Pay History

– New Virginia law

- Requires employers to include pay ranges with job descriptions
- Prohibits employers from asking about applicant's pay history
- "Don't ask, do tell"

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Key Cases

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Key Cases

> National Transgender Sports Case

- West Virginia law prohibited transgender girls (i.e., biological boys) from participating in girls sports
- Student sued, alleging violations of Title IX and the U.S. Constitution (Equal Protection Clause)
- U.S. Supreme Court upheld West Virginia law: transgender bans comply with Title IX and U.S. Constitution

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Key Cases

> National Transgender Sports Case

- VHSL's rules mirror West Virginia's
  - Changed in 2025
  - Transgender boys can compete in boys sports
  - But transgender girls cannot compete in girls sports
  - So Supreme Court case doesn't change Virginia's rules
- Next up: *must* states prohibit transgender girls from competing in girls sports (Washington state case)

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Key Cases

> State Religious Expression Cases

– Two families are currently challenging VHSL's rules that require students to attend the schools they wish to represent in sports

- A homeschooled child (Roanoke)
- A student at a private Catholic school (Warren County)

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Key Cases

> State Religious Expression Cases

- Both plaintiffs allege that this rule burdens their freedom to religious exercise under Virginia's constitution and statutes
  - Parents believe that religious inculcation can only properly occur at home or at a Catholic school, respectively – but still want their kids to play on public school sports teams
- Both plaintiffs asked for injunctions from the courts – immediate relief so the students could compete on public high school sports teams while their claims are adjudicated
  - Both lost
  - Both have appealed to the Virginia Supreme Court
  - Virginia Supreme Court will hear oral arguments in March 2027

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Key Cases

> State Religious Expression Cases

- These cases could have an impact beyond sports:
  - Can parents pick and choose the parts of the public school experience they want for their children?
  - *See Mahmoud v. Taylor* (Montgomery Co., Maryland) (U.S. Supreme Court, 2025)
    - Parents had a Free Expression right to opt their children out of classroom instruction on LGBTQ-themed books

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Federal Scholarship Tax Credit

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Scholarship Tax Credit

> Education Freedom Tax Credit

– The One Big Beautiful Bill created an Education Freedom Tax Credit

- Taxpayers can claim a tax credit for contributions made to a “scholarship granting organization” up to $1,700 per person per year ($3,400 per couple)
- SGOs use contributions to endow scholarships for students at public schools
- Applies to contributions starting on January 1, 2027 (very soon)

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Scholarship Tax Credit

> Education Freedom Tax Credit

- Probably intended as a voucher program, but can also be used to direct funds to public schools
- IRS sets rules on SGO's (e.g., must give at least 10 scholarships per year to students in at least two schools)
- Virginia still has to opt-in to program
  - Governor's decision, by February 2027
  - Governor must submit SGO list by this date
  - VASS will continue to monitor and update

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Mandatory Reporter Refresher

- A principal and two central office administrators were recently charged with misdemeanors for failing to report suspected child sex abuse to CPS
  - This has happened before, but it's rare
- A good opportunity to refresh your staff's memory on their obligations
  1. All division staff are obligated to report suspected abuse or neglect of students to CPS within 24 hours of developing reasonable suspicion
     - Not expected to verify before reporting
  2. Staff members satisfy their obligations by reporting to their principal

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Questions?

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