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### Legal Memo

#### **Parents Retain the Right to Object To Fairfax County Public Schools' "Student Rights and Responsibilities" Guidelines**

Fairfax County Public School parents have expressed concerns about the 2016-17 "Student Rights and Responsibilities" guidelines ("SR&Rs"), and in particular, the school board's addition of "sexual orientation" and "gender identity" to the definition of "discriminatory harassment." This Memorandum will explain the extent of the school board's authority and parents' and students' rights related to the SR&Rs.

Under Virginia law, lower-level governmental bodies such as school boards cannot add additional protected classes to nondiscrimination law, beyond the classifications set by the General Assembly. The General Assembly has not added "sexual orientation" or "gender identity" to Virginia's non-discrimination law, despite having numerous opportunities to do so. Consequently, the Fairfax County School Board did not have the authority to add those designations to their non-discrimination or student conduct policies.

Virginia law imposes upon parents the duty to assist schools in enforcing student codes of conduct, and also states that those codes of conduct must be supportive of individual rights. As part of this duty, school districts are required to provide parents with a copy of the standards of conduct and parents are to sign a statement of acknowledgement that they have **received** the documents. The law makes clear that "by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions." Under the letter of the law, parents do not waive their right to disagree with the policies if they sign the acknowledgement. However, parents might still be concerned that by signing they are somehow acquiescing to FCPS's inclusion of "sexual orientation" and "gender identity" in the code of conduct and might wish to not sign and not be presumed to be acquiescing to those changes. **The law does not impose a penalty upon parents if they fail to sign the acknowledgement.**

**Parents who want to express their disagreement with the school board's change to the non-discrimination policies by not signing the acknowledgement should enclose a copy of this memorandum with their signature below.** While that is not necessary, it would provide the school with the parents' reasoning and register their objection to the school board's action.

**I am exercising my rights under Virginia law to object to FCPS's changes to the nondiscrimination policy, as set forth above.**

Parent Signature \_\_\_\_\_ Printed name: \_\_\_\_\_

Name of Child (each child needs their own form) \_\_\_\_\_