

January 8, 2021

Virginia Department of Labor and Industry
600 E. Main Street, Suite 207
Richmond, VA 23219



A Union of Professionals

RE: Proposed Permanent Standard: Infectious Disease Prevention: SARS-CoV2 Virus That Causes COVID-19

Dear Mr. Withrow,

On behalf of American Federation of Teachers, Virginia and our thousands of members that work diligently in our public schools to provide quality education to our students, we strongly urge you to make the emergency standard permanent (ETS). The ETS expires on January 26th, but COVID-19 is far from over. It is critical that the Safety and Health Codes Board and Department of Labor and Industry finalize the permanent COVID-19 safety standard to ensure strong protections remain for Virginian workers. We appreciate your leadership on this issue to date and want to ensure that as Virginia students and staff return to school, they are healthy and safe indefinitely.

Some schools across Virginia are open for face-to-face instruction. As of December 2020, the Virginia Department of Education notes that 9 school districts are 100% in person and 71 districts are partially in person.ⁱ This means that currently, 80 of the 132 school districts in Virginia have some component of staff and students in buildings. Across the state, there have been hundreds of cases of COVID-19 in Virginia schools, including COVID-19 outbreaks as defined by the Virginia Department of Health. We expect these numbers to increase as educators return to in person classes. The permanent standard is necessary to protect our school community as we return to in person learning.

We want nothing more than for students and staff to be in school buildings for face-to-face learning, but we must reopen school buildings safely with proper science-based safeguards in place for our school staff, students and families. While the COVID-19 vaccine appears to be on the horizon for school staff, even with vaccines, it will take a long time to build immunity in the population and strong workplace safety protections will continue to be needed to prevent the spread of the virus. It is critical that school districts have one clear, consistent standard in place that protects all school staff, from our teachers to our custodians to our bus drivers to food service workers and instructional support staff. Every single staff member and student in Virginia deserves to be protected from COVID-19 at work. Standards at each school should not change due to federal inaction or political pressure.

As schools across the country try to reopen, we unfortunately have seen what happens when strong health and safety measures such as physical distancing, proper PPE, training, and reporting of infections are not in place. The science is clear. Schools are high risk settings for spread of COVID-19. The Virginia ETS must be made permanent, so we maintain a strong worker protection standard in Virginia to protect Virginia students and school employees. A permanent ETS is critical because it helps ensure school districts outline for employees a clear written plan for how to control COVID-19 workplace exposures using a hierarchy of controls. The standard includes strong training provisions, reporting and notification requirements, and protections against discrimination. These aspects of the standard are essential for employees creating safe environments for students. Currently, the proposed standard has delayed effective dates for essential requirements that are already in place, such as the training requirements. This would create a gap in coverage for key provisions of the rule that will be harmful to workers including school employees. Due to this, we believe it is critical that the standard go immediately into effect for continued coverage of training and other protections.

It is critical that a permanent ETS include language that provide ventilation requirements that ensure airborne transmission is addressed. The proposed standard updates the ventilation requirements to list specific measures to improve ventilation and maintains references to ASHRAE standards, the respected source of indoor air quality standards. These requirements will help to ensure that employers take appropriate specific measures to improve ventilation to keep our school buildings safe. The permanent ETS must also require that workplace outbreaks are reported to government agencies and made publicly available to help identify and slow the spread. This update must apply to outbreak notifications to the VDH and VOSH, which include K-12 school outbreaks. This is a critical aspect that must be incorporated to keep students, staff and families informed and safe in our school community.

In addition, the standard must ensure that adequate respiratory protection is provided to workers when necessary. The standard cannot rollback or weaken protections in the current rule. Further, face coverings must not be allowed in place of respiratory protection. We are concerned that the Virginia Department of Health has proposed changes to the rule to allow face coverings when respirators are actually needed to protect many workers from this virus. Reducing needed protections because of any shortages in supplies must not be in the rule itself and should be handled through enforcement discretion, as the agency always has. Face coverings protect others from the person wearing them and are not a replacement for strong respiratory protection that many workers need. This is especially important for our school employees, who work with vulnerable student populations that by the nature of their job, are not able to necessarily wear specific face coverings.

It is critical that workers, including school employees, are trained on how to properly use PPE. The proposal contains a new requirement to train workers on how to extend the use of PPE. Reusing single use PPE in the workplace is dangerous and places everyone at risk. This provision must be removed. Instead, workers must be trained on how to properly use PPE and on what makes this equipment the most effective. Any extended use during critical, actual shortages should be handled through enforcement discretion and not the final rule. This proposed provision lowers the bar for everyone and is harmful.

It is vital that the standard addresses all return to work situations. The return to work provisions have been updated to be consistent with current CDC guidance. However, guidance for how to return workers with asymptomatic COVID-19 is unclear. Asymptomatic individuals with COVID-19 are still a major source of workplace exposure and protective requirements must be included to ensure they do not return until they can no longer infect coworkers or students.

The permanent standard will help decrease the spread of COVID-19 in our schools and help limit community transmission. Each workplace and school district are different across Virginia and this standard is important because each workplace will be able to implement a tailored program of control practices that will help keep everyone safe. This is particularly important for staff in our schools who, by the nature of their job, cannot be 6 feet from their students (for example those who work with students that have certain disabilities, speech pathologists, etc), or their students cannot wear face-coverings in the classroom. Having a permanent standard that establishes strong health and safety practices will help isolate and control the spread of COVID-19.

The temporary standard was the first step we needed to help make our schools safer – now we need to make sure it is permanent because COVID-19 is not going away. We need a strong, comprehensive, and enforceable standard with no loopholes for employers that outlines clear requirements based on sound science and proven successful practices. We urge the Virginia Department of Labor and Industry to move forward with the permanent standard rulemaking right away to protect teachers, support staff, students, and our families. Our schools are open now and our school community needs these protections permanently.

Sincerely,

Thomas Calhoun
President
Norfolk Federation of Teachers

Jeion Ward
President
Hampton Federation of Teachers

Tina Williams
President
Fairfax County Federation of Teachers

ⁱ Virginia Department of Education. (2020). *State Snapshot: How Virginia Schools Are Reopening*.
http://www.doe.virginia.gov/support/health_medical/office/reopen-status.shtml