

Dear Members,

As we near the close of 2020, I have 3 simple words I want you to repeat to yourself whenever you are feeling the weight of the world on your shoulders.

We hear you.

SEA has been working on a daily basis since March. Even before SCPS closed due to the pandemic, SEA was forecasting triages and resources needed to support the Division through the summer, and into the foreseeable future. Despite constantly changing regulatory and economic factors from the local to federal level, SEA has achieved remarkable work in supporting the Mission of the Division.

None of that success would have been possible without you, and the adjustments will continue to be a day-to-day task.

With many developments coming in the next few weeks, the following are some very important considerations playing into SCPS, and resources you have at your disposal:

1. Federal Funding

- Currently, there is no funding package yet passed by Congress for the government. This means a potential government shutdown starting 12/14.
- Currently, there is no funding package yet passed by Congress for the continuation of CARES or FFCR. This means potential loss of COVID-related health care assistance, unemployment assistance, student loan assistance, and protections against evictions after 12/31.
- Negotiations between both houses hinge on whether or not further stimulus and/or funds for CARES and FFCR will be included in the package to avoid a government shutdown.

2. Town Halls w/Dr. Kizner

- Dr. Kizner has graciously collaborated with SEA to host Secondary and Elementary town halls. He completely understands anxiety is rising as community cases grow, and wants to answer questions staff may have.
- [High Schools town halls](#) are 12/14 and 1/12, both from 4-5 pm.
- [Middle School town halls](#) are 12/8 and 1/15, both from 4-5 pm.
- Elem School town halls are also being scheduled.

3. COVID-19 Exposure and Cases

- We will, and must, acknowledge the **current** science and data regarding exposure and cases.
- On one hand, we are seeing an incredible rise in cases. The **current** data, according to VDH and in discussions with our regional health district, is undeniable.

- On the other hand, the same **current** data and discussions with VDH and our regional health district show that mitigation strategies are working in SCPS.
- When you check the [SCPS dashboard](#), please remember that these figures are not cherry picked, misconstrued, or falsified to support any instructional plan.
- All of this is truly a day-by-day analysis. Dr. Kizner is in daily discussions with health officials, and SEA is constantly in discussions with him.
- If you have any concern about your wellbeing, please reach out to Robin Gardner to discuss your situation and a potential need to submit/petition an exemption waiver from HR.

4. VEA Legal Analysis on Vaccine Mandates

- Governor Northam has confirmed that while the vaccines are being fast-tracked, they are not bypassing developmental safety regulations.
- As of 11/30, Dr. Lilian Peake (state epidemiologist) confirmed that there is no current intention by the state to make COVID-19 vaccines mandated in the Commonwealth. This does not mean public schools may/may not require vaccinations.
- The Addendum at the end of the letter is the analysis from VEA Legal services regarding Public School employees and COVID-19 Vaccination

5. SEA and You

- All of this puts Public School employees at the center of incredible pressure and stress. As you deliver instruction while running the gauntlet, remember that you have the right to take care of yourself.
- It's OK to use your leave.
- Access the [Employee Assistance Program](#) for 24/7 confidential services. This is a benefit all SCPS employees have.
- Access your [VEA and NEA member benefits](#) for savings on everyday purchases, interest-free lines of credit, and other services you may need.
- Contact your Building Rep, any member of the SEA Exec Board, or Robin Gardner if there is something you need.

Always remember, there is no more important resource to a student than their Educator, and you are needed now more than ever. Take care of YOU.

And always remember, Stafford: We hear you.

Christian P. Peabody
 Building Representative, Falmouth Elementary
 President, Stafford Education Association (SEA)
 District Q Vice-Chair, Virginia Education Association (VEA)
Puritan1987@gmail.com

December 4th, 2020

-Addendum-

VEA Legal Analysis on COVID-19 Vaccinations and Public School Employees

This is a service paid for by your membership, and is not approved for open distribution.

"Please understand I cannot make any representations about what VEA's position will be when a vaccine is available to school employees in Virginia. We really need to wait for the science. I am confident NEA will also provide guidance based on the data once pharmaceutical companies release their studies.

Our legal opinion will have to follow the science and advice of medical experts. Health care providers will also be first in line so their experience will inform varied approaches for school employees. I am also encouraged that our Governor is a medical doctor and Stafford has an excellent Superintendent. We also do not know whether school divisions will make vaccines mandatory or optional for Virginia school employees. I am confident our legislative team will follow such efforts closely and take appropriate actions.

Can a school division require employees to get a vaccine? The answer is yes, with exceptions.

The answer is governed by the Americans With Disabilities Act ("ADA"). A vaccine must be job related, consistent with business necessity or justified as a direct threat, and no broader or more intrusive than necessary to comply with the ADA. So, employees that work in a high-risk environment with high risk populations may be required by their employers to get COVID vaccines.

This puts schools in a strange spot in view of the fact that officials currently claim young children don't transmit COVID 19 to justify in person instruction. On the other hand, I am not at all sure it's true that schools are low risk forums. We need more data from places like Florida and Hanover, Virginia that have five days per week in-person instruction. The rate of new cases per 100,000 in Hanover is very high. Although the school division claims it's not causing community spread, few believe it because there is no testing to prove or disprove that fact.

Assuming a school division meets the above threshold for mandatory vaccines, it must still accommodate employees with (1) sincere religious beliefs and (2) disabilities or medical conditions under the ADA. The later applies only to the employees own medical disability, not family members.

The above are the legal parameters I'll use as information as vaccines unfold. Again, we have no idea whether vaccines will be mandatory for school employees. Until then, I encourage everyone to educate yourself as much as possible to examine the science behind the vaccines that eventually become public. We will remain available to support members as they make the best decisions for themselves and their families."

-Cathie Lee, VEA Legal Attorney

"I supplement Attorney Catherine Lee's excellent response to questions about vaccination by sharing the [link to Guidance](#) from the Equal Employment Opportunity Commission explaining employers should encourage, not require, vaccination:

13. May an employer covered by the ADA and Title VII of the Civil Rights Act of 1964 compel all of its employees to take the influenza vaccine regardless of their medical conditions or their religious beliefs during a pandemic?

No. An employee may be entitled to an exemption from a mandatory vaccination requirement based on an ADA disability that prevents him from taking the influenza vaccine. This would be a reasonable accommodation barring undue hardship (significant difficulty or expense). Similarly, under Title VII of the Civil Rights Act of 1964, once an employer receives notice that an employee's sincerely held religious belief, practice, or observance prevents him from taking the influenza vaccine, the employer must provide a reasonable accommodation unless it would pose an undue hardship as defined by Title VII ("more than de minimis cost" to the operation of the employer's business, which is a lower standard than under the ADA).

Generally, ADA-covered employers should consider simply encouraging employees to get the influenza vaccine rather than requiring them to take it.

**As of the date this document is being issued, there is no vaccine available for COVID-19.*"*

-Dena Rozenkrantz, Director of VEA Legal Services