

**BOARD MEMBERS' ANSWERS TO QUESTIONS POSED BY MEMBERS OF THE PUBLIC AT THE  
MAY 5, 2005 MEETING**

**Preface:** The Board members, with the assistance of staff, have done our best to answer the questions posed by the signers of this petition. We have made a comprehensive effort, devoting many hours with deliberate attention to detail, in order give a thorough response to the extent that we are able within the law. We have much work ahead, and we are focusing our attention on our primary goal: improving the achievement of all of our students. We will do everything within our power to hire a first rate superintendent to guide the division, and we will work closely with the community and the Advisory Commission in that effort.

Question #1: Superintendent Search: How will you avoid past mistakes?

- a. Were all Board members privy to all of the reports (positive and negative) submitted by Ray and Associates? Were the company's recommendations verified by the board? If not, why not?

**Answer:** *Yes. The firm disclosed all findings to all School Board members. No, the company's recommendations were not verified by the Board. Because citizen boards lack the time and expertise to conduct searches by themselves, it is common practice to hire professionals to facilitate the search process. Ray and Associates is a very well respected national firm. They were hired through a competitive process and selected based on their strong track record. Ray and Associates assured the Board during their interview and through their promotional literature that they take great care in matching candidates to jobs and that they do thorough background searches. In fact they advertise that they "verify and check references, qualifications and experience of applicants, conduct background investigations of leading candidates, ... [and] provide written confidential reports on recommended semi-finalists." In another piece of promotional literature Ray and Associates asserts that "we have the most complete and comprehensive investigative system to assure our clients of candidate quality [and that] we have been 100% successful in all of our searches."*

*While the Board maintains that it was reasonable to rely on the professionals it hired, we have learned of additional steps that can be taken to try to get the best possible result in matching a superintendent to our School Division. Despite our best efforts, there are no guarantees that an employment relationship will work out. As with marriage, sometimes employment relationships do not work even when they are comprised of good people with the same goals.*

- b. Will Ray and Associates be retained to conduct the next search? Why?

**Answer:** *No. The School Board does not believe that Ray and Associates fulfilled its obligations and promises in the first search. The Board has accordingly lost confidence in the firm.*

c. How will genuine public involvement be ensured during the next search?

Answer: *Each superintendent search is unique and based on the division's needs at the time. **The broader public was very much involved in the last two searches and will again be involved in this search process.** There will, of course, be the usual avenues of citizen input such as e-mails, phone calls, person-to-person conversations, letters, and public comment at Board meetings. **City Council, at the Board's request, has also appointed a citizen Commission which will offer advice to the Board.** This will include advice on how best to include citizen input while at the same time maintaining candidate confidentiality. Past searches have included community forums to get feedback on desired qualities and qualifications of a new superintendent. In the past, the Board has also included citizen panels in the process of interviewing the finalists. We have been advised by some professionals in the field that if the process is too open, it may decrease the number of applicants and the quality of the applicant pool. **As with past searches, the Board will strive to achieve a balance between maintaining the applicants' confidentiality and involving community members in the process.***

d. The results of the "360 Review " should be public information. Why haven't these results been made public and when will the board do so?

Answer: *While it is natural for the public to be curious about the content of such personnel evaluations, they are not public documents. Confidentiality was assured both to the superintendent and to those filling out the evaluations. The evaluations will not be made public.*

Question #2: Protocols: When did you make the business of the public schools, private?

a. Has the Board conducted at least 15 undisclosed, improperly recorded or secret meetings in violation of the Virginia Open Meetings Law?

Answer: *The Board has asked for clarification and details from the petitioners regarding this question, but such have not yet been provided. We will therefore attempt to address this concern generally and state that the Board has not held any improper secret meetings (see details below). **Throughout this year, staff has followed its normal procedure by notifying the public of meetings via several channels. Notice is sent by fax to all media outlets with the time, date, and agendas of all open and closed meetings and notices of open meetings are published in the daily paper. Dates and times of upcoming meetings are listed in each Board packet and announced at each Board meeting. The Board's agendas and packets are made available to the public and media at the same time they are sent to Board members. In addition, staff distributes the agendas and packets for bi-monthly School Board meetings electronically by e-mail to a list of parents and others and posts them on the CCS website. This list of e-mail addresses used by the Central Office Staff was originally developed through the combined efforts of the PTO Council and Central Office for the purpose of sending notices of school closing and delays. Staff then began adding to the e-mail list those people who requested information about Board meetings. A few months ago, it was suggested by members of the public that state law required everyone on this e-mail list to receive notice of all Board***

meetings, including closed sessions (*i.e.*, not just notice of the bi-monthly open meetings). As a result, Staff checked with counsel and reviewed the relevant portion of the Freedom of Information Act, which provides as follows:

*The Freedom of Information Act provides that:*

Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person.

Virginia Code § 2.2-3707(E)

*Rather than ferret out who on the e-mail list had requested notification of meetings versus those who had only requested notice of school closings and delays, Staff then began sending everyone on the list notice of all Board meetings.*

*As stated above, the School Board has had no illegal secret meetings this year. Like all School Boards and other public deliberative bodies, members do talk informally with each other one on one, by phone and in person. Moreover, like all prior School Boards, members meet periodically with staff one on one, or sometimes with two board members meeting at a time with one or more staff members, in order to keep apprised of school issues. School Board members would not be doing their jobs properly if the only time they discussed school issues was twice a month at School Board meetings. We do not believe the current Board members have had informal one-on-one discussions regarding school issues any more or less frequently than prior Boards. We probably have, however, talked about personnel issues informally one-on-one more often than have prior School Boards, due to the way this year has unfolded.*

b. Did the Board repeatedly discuss important public policy matters during these secret meetings such as: Flanagan testing, the PDK Curriculum Audit, the budget, division goals and objectives, and the hiring of additional Central Office personnel?

**Answer: *There have been no illegal secret meetings. Below is a more detailed response to the issues raised in this question.***

### **Flanagan Tests**

*The Board's retreat in Richmond started on July 18th and intentionally coincided with the Governor's annual one-day conference on education which was held on July 20th. The primary purpose of the retreat, which was conducted by a professional facilitator, was Board training. On the day of the conference, there were 85 presentations from which Board members could choose. Some CCS Board members and Dr. Griffin attended one entitled "Using Data in a Small Division to Adjust Instruction." The presentation was given by the curriculum coordinator for the Winchester Public Schools. He described how their division was successfully using the Flanagan Tests for Higher Standards to guide instruction and improve achievement.*

*The presentation appealed to those who heard it. **The Board had been talking for years about the need to make better use of data to improve the education of each child. With better assessments geared toward the SOLs, our Division, like other divisions, could target children’s learning needs and at the same time avoid re-teaching material the children have already mastered.** (Indeed, the Flanagan Tests for Higher Standards are used widely throughout the state for this purpose, including use by our neighbor, Albemarle). During breaks at the conference, Board members crossed paths and discussed informally some of the things they had learned at the conference, but at no time did the Board as a group discuss the Flanagan tests while in Richmond. Indeed, at the end of the Conference, the Board members left Richmond without ever reassembling as a group for any purpose.*

*Interest in the program and its relatively low cost led Dr. Griffin to purchase it on August 12th. (This is the invoice date; on August 26th, the invoice was paid.) On August 5th, Staff also purchased the Reports On-line System for grading, reporting and disaggregating bubble test scores. Both the Flanagan tests and the Reports On-line System were formally discussed at the August 19th Board meeting at which Mr. Gillaspie made a visual presentation of the system. It was further announced at that meeting that Mr. Flanagan, the tests’ creator, would hold a workshop for Division personnel on August 31st and that implementation would begin September 7th. **Looking back, it seems clear that the Board and Staff should have done more to explain these assessments to parents and students before implementation.***

***The Flanagan Tests were implemented by Staff at the beginning of the school year in the manner recommended by the vendor but obviously it did not go as smoothly as we would have liked.** Nevertheless, teachers, principals, and coordinators have been working throughout the year to tailor the program to our schools and will continue to work on it so that next year it will be less intrusive and even more useful to our teaching staff. **The Board continues to support the use of benchmark assessments, with appropriate modifications, to improve teaching and learning.***

### **The PDK Audit**

***In the Spring of 2004, the School Board talked generally about bringing an outside expert in to evaluate our school system and formulate recommendations for improvement.** This general idea was no doubt mentioned to Dr. Griffin at some point, and it apparently was also high on her “to do” list. Consequently, on July 13, 2004, she signed a contract with Phi Delta Kappa for a curriculum audit of our schools. Such action was within the superintendent’s authority to contract on behalf of the division.*

***Dr. Griffin first announced the contract with PDK at the School Board/City Council lunch on July 16th, and a few days later it was again announced to the Board that there would be such an audit.** The description of the audit lasted no more than a few minutes, and there was little discussion. Board members were given a more detailed hand-out to peruse at a later time. Both then and now, the Board felt that it was a good idea to have outside experts evaluate our school district and recommend ways to make improvements. Phi Delta Kappa is a reputable educational association which has been doing audits in school divisions around the country for decades. Dr. Fenwick English, the lead auditor who worked on our Division’s audit, is considered by many to be the father of the curriculum audit, having started the process in 1979. He has authored or co-authored 21 books, including Deep Curriculum Alignment (2001).*

*The Charlottesville School System has obviously been providing an outstanding education to our*

*high achieving students for many years, but like other school systems around the nation, CCS has not been successful in closing the achievement gap despite a large assortment of programs aimed at the problem. Consequently, it made sense to seek outside advice on how best to improve the achievement of all children in our Division, and the Board did not have any issue with the decision.*

***The Board formally discussed and approved procurement of PDK to conduct an audit at the Board's regular meeting on August 19th.*** *After the audit was completed it was then discussed for about 45 minutes at the Board's Williamsburg retreat held on November 18th, 2004 (under agenda item "Budget Development—How Does the Curriculum Audit Fit In?"). The retreat coincided with the VSBA annual convention, which started November 17th and ended November 19th. Board members attended seminars during the days, and on the night of November 18th we met as a group for the retreat. The purpose of this retreat was primarily to talk about improving internal and external communications. The audit came up in the context of how it might affect the budget, and the discussion revolved around the procedural timing of the superintendent's proposed budget versus the timing of her recommendations concerning the PDK audit. (It should be noted that the Superintendent did not reveal her recommendations, or even whether she had formulated her recommendations, concerning the audit.) No conclusion was reached on this procedural matter, and the discussion continued at our next public meeting in Charlottesville.*

***No substantive discussion of the contents of the audit took place in Williamsburg.*** *In fact, it would not have been possible to have a real conversation about the audit's contents because the audit report had only been given to Board members a day or two before the start of the retreat. Most Board members did not bring it and had not had time to read any of it. A few Board members had read parts of it and were concerned about the original plan to present it to the public without first presenting it to staff members. Members who had read some of the report also wanted all Board members to have the opportunity to ask the auditors questions and raise concerns with them about the report before it was released to the public. Consequently, we discussed whether or not we should proceed with the previously announced plan to present the audit results to the public the following week. After discussing this procedural matter, it was decided to have the auditors present the report to principals and key staff the following week. At the same time, Board members would be given an opportunity to raise their individual questions and concerns with the auditors about the report.*

*On Monday, November 22nd, Board members met with the auditors by ones or twos, and it became clear that the auditors did not view this as a draft report but rather as a final report -- and that they were not going to make any changes to the report as a result of the Board input. It was the auditors' position that the Board hired PDK to perform a totally independent curriculum audit of the Division and that modifying the report at the Board's or the Superintendent's request would compromise the independent nature of their findings. **The results of the audit have been the subject of considerable debate and disagreement in our community, but the Board remains comfortable with the decision to have an outside audit, and no illegal secret meetings were held to discuss the audit.***

### **The Budget**

***At the Williamsburg retreat, a draft of the Guiding Principles for developing the budget was handed out and discussed for about 5 minutes at the end of a very long night.*** *These basic goals were then discussed quite fully at open meetings in Charlottesville. The budget process was fully deliberated in public*

*meetings and there were no secret or illegal meetings of any sort. As with all past Boards, Board members talked with each other one on one, between meetings, regarding the budget. Board members also asked for and received information from Staff.*

### **Division Goals**

***The broad Division goals which are posted on the web site were discussed at open meetings and not in Richmond, Williamsburg, or at any closed meeting.***

### **Assistant Superintendents**

***The decision to hire two assistant superintendents was made in public at the August 19th meeting. The idea was not discussed at the Richmond retreat. There were no illegal secret meetings concerning this issue -- just the usual one-on-one discussions between Board members and between Board members and Staff. Dr. Griffin was very sure that she needed these positions in the '04-'05 school year to help her manage the changes that she saw as necessary for our Division, and the Board was eager to give her the support she needed to succeed. However, in hindsight, the Board should have made a point to discuss at a public meeting the pros and cons of adding an additional assistant superintendent.***

c. Have the tape recordings of all School Board meetings from July to November 2004 been destroyed? (Missing tapes include those for retreats in Richmond, July 18-19, 13 hours, and Williamsburg on November 18, 4+ hours. Both have been requested under Virginia's Freedom of Information Act.)

### **Answer: Regarding the Retreats**

***Following longstanding Board procedure, our excellent stenographer, Ms. Towler, was not brought to either retreat to handle the tape recording of or the preparation of the meeting minutes. Instead Mr. Thompson, as Clerk of the Board, undertook that task. Mr. Thompson also brought a tape recorder to both the Richmond and the Williamsburg retreats, although electronic recording is not required for Board meetings. Unfortunately, through human error, the approximately 6 hours of the Williamsburg retreat meeting on the night of November 18th did not get recorded. Mr. Thompson believes that he may have pushed just the record button instead of both the record button and the play button. (Mr. Thompson has many skills that have served this Division extremely well over his years of service and this past year, but his minute taking and button pushing skills may need some honing through professional development.)***

***Minutes of both retreats were prepared and approved by the Board, although it is acknowledged that they might have been more detailed than they are. In retrospect, the Board should have paid more attention to the quality of the minutes before they were approved. It should be noted that the Board has recently taken steps to improve its own attention to the accuracy and completeness of its meeting minutes, by having a rough draft sent out via e-mail to Board members shortly after each meeting for review while memories of the events are still fresh.***

### **Regarding the question of "destruction" of tapes in general from July through November**

***Recycling of tapes has been the standard operating procedure of Central Office Staff for about 3 years. The practice started when Staff learned, through the advice of counsel, that there was no requirement that the tapes be kept after the minutes of the taped meeting were approved by the Board. The state regulation in question lists the retention requirements for all kinds of public documents, including "Board/Commission/Conference/Committee Notes or Recordings of Meetings - Nonelectronic Meetings." For such a note or recording that "[t]emporarily documents proceedings of various meetings," including "stenographer's notes or audio or visual recordings," the regulation directs: "Destroy after **minutes** are transcribed and approved." (emphasis added)***  
Library of Virginia, Record Retention and Disposition Schedule,  
General Schedule No. 19, Series Nos. 10031

*There has been a suggestion by some in the public that the proper reading of the regulation should focus on the term "transcribe," which they suggest means that a tape recording cannot be destroyed until it has been transcribed word for word. But the word "transcribed" in the regulation is attached to the word "minutes" and not to the word "recordings." **Meeting minutes are by their nature a synopsis of what was said and the actions taken at a meeting, not a word-for-word transcription of what was said.***

*Indeed, the Freedom of Information Act itself states as follows:*

Minutes shall include, but are not limited to, (i) the date, time and location of the meeting, (ii) the members of the public body recorded as present and absent, and (iii) **a summary** of the discussion on matters proposed, deliberated or decided, and a record of any votes taken." (emphasis added)  
Virginia Code § 2.2-3707(l).

***Nevertheless, when this issue of the "destruction" of tapes was brought to Board members' attention, Mr. Thompson was asked to start saving the tapes, which he gladly did.***

- Question #3: Fiduciary Duties: Did the Board violate procurement policies & laws?  
a. Has the Board determined whether it violated CCS policies and the Virginia Procurement Act with the purchases of the Flanagan testing systems and the PDK Audit?

***Answer: CCS Policy 4 - 7 basically tracks the language of the Virginia Procurement Act. Under the Act, a public body should have competitive negotiation for contracts for professional services "if the aggregate or the sum of all phases" is expected to exceed \$30,000; procedures should still provide for competition "wherever practicable" even for purchases below \$30,000. Virginia Code §§ 2.2-4303, 2.2-4343. The superintendent called a few different companies for quotes and information and decided on the PDK package for a contract price of \$28,545. Given that PDK estimated its expenses at \$6,000 before the contract was signed, it would have been better practice to have put the project out to bid using a written solicitation process.***

***While purchase of the Flanagan Tests for Higher Standards (\$28,600) and the related but separate purchase of the Reports On-line System (\$21,075) both approached the \$30,000 mark that would have***

***triggered the need for a more formal bidding process, the Board believes that both procurements are within the guidelines of the Virginia Procurement Act. The Reports On-line System is a stand-alone product that can be used to grade and disaggregate test scores for any bubble tests, and it definitely is being used by our teachers with many non-Flanagan tests. Staff did make informal calls to competitors for the purpose of price comparisons. Central office, however, does have an internal regulation for bid procedures, which provides that staff should get written quotations, rather than oral quotations from at least three vendors, where practicable, for purchases over \$15,000. Central Office Staff have been instructed to review purchasing procedures and ensure that all future purchases are in compliance with both the Virginia Procurement Act, CCS policy 4 -7, and applicable internal regulations.***

b. Under what authority did the School Board transfer money, estimated in excess of \$1 million, from approved classroom and instructional budgets to non-instructional uses?

Answer: *The School Board has asked for clarification of this question from the petitioners but none has been received to date. It would be difficult to even attempt to answer without having some idea as to what the questioner is referring.*

c. What was the ultimate monetary cost of buying out the superintendent and where did this money come from? Has a spending freeze on all instructional materials been imposed and if so, is this action related to the buy-out of the superintendent?

Answer: *The terms of the superintendent's resignation are a personnel matter which cannot be disclosed. Any budgetary impacts will be accurately reflected in the Division's books in accordance with Board policy and state law. No spending freeze on instructional budgets has been imposed.*

Question #4: Personnel: Have personnel decisions been ethical and in accord with policy?.

a. Did the Board undertake or approve hiring practices that were either in violation of existing CCS personnel policies or unethical (e.g. creating two new superintendent level positions without public discussion and allowing the former superintendent to hire the former School Board chair who hired her?)

Answer: *The School Board did not violate any hiring policy when it voted on August 19th to approve the two new assistant superintendent positions. Regarding the decision to hire a former Board chair as an administrative assistant, it is longstanding Board policy that the Board does not "approve" the hiring of any classified positions (e.g., administrative assistants), and it did not do so in this case. As with many Divisions, the hiring decisions regarding classified personnel are left up to the Superintendent so that needs can be met without waiting for Board action. At a recent meeting, the Board discussed whether it should*



*change this policy so that the Board would have to approve all hirings, including those of classified personnel. The Board decided not to change the policy at this time. It should be noted, however, that the former Board chair has extensive administrative experience, having worked for 24 years in the Martha Jefferson Hospital Laboratories offices (formerly Cellular Studies, Inc.). The position was advertised in accordance with CCS personnel policy; applications were received and interviews conducted*

b. Why did the board fail to investigate allegations of a developing hostile work environment created by the former superintendent after receiving warnings from numerous sources as early as August, 2004?

Answer: ***Members of The Board took personnel issues seriously, starting from the moment they first arose. Board members not only investigated the issues but acted on them. The details of those actions are, of course, personnel matters that cannot be released to the public.***