SCOTT COUNTY VIRGINIA PUBLIC SCHOOLS

"Inspiring Excellence and Empowering Potential"

SCHOOL BOARD MEMBERS

James Kay Jessee
Jeffrey A. Kegley
Gail L. McConnell
William R. Quillen, Jr.
L. Stephen Sallee, Jr.
H. Kelly Spivey, Jr.

DIVISION SUPERINTENDENT

John I. Ferguson
340 East Jackson Street
Gate City, Virginia 24251
Phone: (276) 386-6118
Fax: (276) 386-2684

RESOLUTION

SCOTT COUNTY SCHOOL BOARD

WHEREAS, in its 2013 session, the General Assembly enacted legislation, which was subsequently approved by the Governor, creating the Opportunity Educational Institution (OEI) and the Opportunity Educational Institution Board; and

WHEREAS, the legislation mandates that the OEI Board take over the supervision and operation of any local public schools that have been denied accreditation and authorizes the OEI Board to take over any local public school that has been accredited with warning for three consecutive years; and

WHEREAS, it is the firm conviction of the School Board that this legislation violates the Constitution of Virginia in that it usurps the role of local school boards in supervising and managing the public schools of the Commonwealth; now therefore;

THEREFORE, BE IT RESOLVED, that the Scott County School Board hereby supports the lawsuit brought forth by the Virginia School Boards Association and Norfolk City School Board to declare the OEI legislation unconstitutional and to enjoin the OEI Board from taking any action to implement the legislation.

_____

James K. Jessee, School Board Chairman
Scott County Public Schools

Date: _____

Loretta Page

From:	John Ferguson
Sent:	Friday, September 13, 2013 8:13 AM
To:	Loretta Page
Subject:	FW: SAMPLE RESOLUTION
Attachments:	OEI_SampleResolution.docx

Here is yet another resolution for school boards to consider.

From: Gina Patterson [mailto:vsba@eboardsolutions.com]
Sent: Friday, August 23, 2013 1:18 PM
To: John Ferguson
Subject: SAMPLE RESOLUTION

Good afternoon VSBA Members,

Thanks to all of you for the positive feedback in support of the OEI lawsuit being brought forth by the Virginia School Boards Association and Norfolk City School Board. Many of you have wanted to know how your local board could be a part of the lawsuit or provide support. Attached is a sample resolution we are asking local school boards around the state to adopt and share with your local media outlets as well as send a copy to VSBA.

Again, thanks for the support.

Thanks,

Gina G. Patterson, Deputy Executive Director
Virginia School Boards Association
200 Hansen Road, Suite 2
Charlottesville, VA 22911
800-446-8722 or 434-295-8722 Office
434-295-8785 Fax
gina@vsba.org, www.vsba.org

Virginia School Boards Association, a voluntary, nonpartisan organization of Virginia school boards, promotes excellence in public education through advocacy, training and services.

SAMPLE RESOLUTION

RESOLUTION
XYZ SCHOOL BOARD

WHEREAS, in its 2013 session, the General Assembly enacted legislation, which was subsequently approved by the Governor, creating the Opportunity Educational Institution (OEI) and the Opportunity Educational Institution Board; and

WHEREAS, the legislation mandates that the OEI Board take over the supervision and operation of any local public schools that have been denied accreditation and authorizes the OEI Board to take over any local public school that has been accredited with warning for three consecutive years; and

WHEREAS, it is the firm conviction of the School Board that this legislation violates the Constitution of Virginia in that it usurps the role of local school boards in supervising and managing the public schools of the Commonwealth; now therefore;

BE IT RESOLVED, the XYZ School Board hereby supports the lawsuit brought forth by the Virginia School Boards Association and Norfolk City School Board to declare the OEI legislation unconstitutional and to enjoin the OEI Board from taking any action to implement the legislation.

XYZ Public Schools
School Board

Loretta Page

From: Gina Patterson <vsba@eboardsolutions.com>
Sent: Tuesday, September 17, 2013 3:08 PM
To: Loretta Page
Subject: Signed Resolutions

To date we have heard from 42 school divisions on passing a resolution in support of the OEI lawsuit. If your division has signed a resolution and is not listed below, please let us know.

1. Albemarle County Public Schools
2. Augusta County School Board
3. Alexandria City School Board
4. Bedford County School Board
5. Botetourt County School Board
6. Bristol City School Board
7. Buckingham County School Board
8. Campbell County School Board
9. Carroll County School Board
10. Charlottesville School Board
11. Clarke County School Board
12. Cumberland County School Board
13. Falls Church City School Board
14. Fauquier County School Board
15. Floyd County School Board
16. Fluvanna County School Board
17. Gloucester County School Board
18. Harrisonburg City Schools
19. Halifax County School Board
20. Highland County School Board
21. Isle of Wight County School Board
22. Lancaster County School Board
23. Loudoun County School Board
24. Lynchburg City School Board
25. Madison County School Board
26. Martinsville City School Board
27. Nelson County School Board
28. New Kent County School Board
29. Norton City School Board
30. Orange County School Board
31. Petersburg City School Board
32. Pittsylvania County School Board
33. Rappahannock County School Board
34. Roanoke City School Board
35. Roanoke County School Board
36. Rockingham County School Board
37. Russell County School Board

38. Shenandoah County School Board
39. Smyth County Public Schools
40. Surry County School Board
41. Waynesboro City School Board
42. Wise County School Board

Thanks,

Gina G. Patterson, Deputy Executive Director
Virginia School Boards Association
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434-295-8785 Fax
gina@vsba.org, www.vsba.org

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Virginia School Boards Association
Leadership · Advocacy · Support

VSBA Media Contact
Barbara Coyle
VSBA Executive Director
E-mail: coyle@vsba.org
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Norfolk Public Schools
The cornerstone of a proudly diverse community

NPS Media Contact
Elizabeth Thiel Mather
NPS Senior Director of Communications
and Public Relations
E-mail: emather@nps.k12.va.us
Phone: 757-376-7324 (c)

Joint News Release

For Immediate Release

LAWSUIT FILED TO INVALIDATE LEGISLATION
Opportunity Educational Institution Violates Virginia Constitution

Norfolk, VA (September 13, 2013) – The Virginia School Boards Association (VSBA) and Norfolk City School Board filed suit today in the Circuit Court for the City of Norfolk requesting the Court to invalidate the legislation enacted by the General Assembly at its 2013 session creating the Opportunity Educational Institution (OEI) and the Opportunity Educational Institution Board. The Virginia School Boards Association and Norfolk City School Board request the court to declare the OEI legislation unconstitutional and to enjoin the OEI Board from taking any action to implement the legislation.

PDF of Lawsuit Filing
http://www.vaschoolboards.org/images/uploads/conferences/OEILawsuit.pdf

In the three weeks since an intent to file was declared, school boards from across Virginia have notified the VSBA that they have adopted resolutions in support of the lawsuit, including Alexandria City, Augusta County, Bedford County, Bristol City, Campbell County, Charlottesville City, Clarke County, Cumberland County, Falls Church City, Fauquier County, Floyd County, Gloucester County, Halifax County, Harrisonburg City, Lancaster County, Loudoun County, Lynchburg City, Madison County, Martinsville City, New Kent County, Norton City, Orange County, Petersburg City, Rappahannock County, Russell County, Shenandoah County, Waynesboro City, and Wise County.

What is the Opportunity Educational Institution (OEI)
The legislation declares the OEI to be a "statewide school division" administered and supervised by the OEI Board, which is declared to be a policy board in the executive branch of state government and an educational institution under Title 23 of the Code of Virginia, which relates to institutions of higher education. The legislation requires the OEI Board to take over the supervision and operation of any school in a local school division that has been denied accreditation and it permits the OEI Board to take over the supervision and operation of any school that has been accredited with warning for three consecutive years. The legislation further authorizes the OEI Board to require any school in a local school division that is in its third year of being accredited with warning to provide it with such information and documentation as the OEI Board deems appropriate.

-MORE-

2-2-2-2/VSBA & NPS LAWSUIT

Why is OEI Unconstitutional?

The Virginia School Boards Association and Norfolk School Board challenge the OEI legislation on two primary grounds.

1. The legislation violates Article VIII, Section 7, of the Constitution of Virginia, which provides that "the supervision of schools in each school division shall be vested in a school board." The OEI Board is not a school board. Rather, the legislation declares that the OEI Board to be a policy board in the executive branch of government and an education institution falling under Title 23 of the Code of Virginia, which relates to institutions of higher education.

2. The legislation violates Article VIII, Section 5, of the Constitution of Virginia, which provides that the State Board of Education shall create school divisions. The General Assembly, not the State Board of Education, created the OEI Board as a statewide school division. Consequently, the OEI legislation violates the constitutional mandate that school divisions be created by the Board of Education

Loss of Local Control, Dollars & Resources

When the OEI Board takes over a school, the school board of the local school division in which the school is located must transfer to the OEI Board all per pupil federal, state and local funding that goes to that school, including the local "aspirational" funding, that is the funds appropriated to the school board by the local appropriating body over and above the funding mandated by state law. In addition, the OEI Board is given the right to take possession and control of any facilities used by a school that is taken over, although the locality is still required to pay for any capital improvements to the facilities. Further, the school board and locality are prohibited from selling affected school facilities without permission of the OEI Board.

About the Virginia School Boards Association

The Virginia School Boards Association, a voluntary, nonpartisan organization of Virginia school boards, promotes excellence in public education through advocacy, training, and services. The Association offers conferences, information, training, and counseling designed to meet the needs of the Commonwealth's educational leaders.

About Norfolk Public Schools

The mission of Norfolk Public Schools, the cornerstone of a proudly diverse community, is to ensure that all students maximize their academic potential, develop skills for lifelong learning and are successful contributors to a global society, as distinguished by:

- Courageous advocacy for all students
- Family and community investment
- Data-driven personalized learning
- Strong and effective leadership teams
- Shared responsibility for teaching and learning
- Access to rigorous and rewarding college and career readiness opportunities

The Norfolk School Board in July 2013 adopted a Strategic Plan, which was developed during a yearlong process involving hundreds of community stakeholders. The plan will improve achievement for all students when fully implemented.

# # #

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

SCHOOL BOARD OF THE CITY OF NORFOLK and VIRGINIA SCHOOL BOARDS ASSOCIATION Plaintiffs, v. OPPORTUNITY EDUCATIONAL INSTITUTION, Serve: Senator Kenneth C. Alexander OEI Board Member 120 W. Berkley Ave. Norfolk, Virginia 23523 and OPPORTUNITY EDUCATIONAL INSTITUTION BOARD, Serve: Senator Kenneth C. Alexander OEI Board Member 120 W. Berkley Ave. Norfolk, Virginia 23523 Defendants.	Case No. _____

COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE AND OTHER RELIEF

Plaintiffs, School Board of the City of Norfolk ("School Board") and the Virginia School Boards Association ("VSBA"), by counsel, file this Complaint for Declaratory Judgment and Injunctive Relief ("Complaint"), pursuant to § 8.01-184, et seq., of the Code of Virginia. In support of their Complaint, Plaintiffs state as follows:

1. This is an action for declaratory and injunctive relief to enjoin the Defendants from taking over the supervision of any public school in the Commonwealth of Virginia.

Parties

2. Plaintiff School Board is a political subdivision of the Commonwealth of Virginia existing pursuant to the Constitution and statutes of the Commonwealth of Virginia and vested with the authority to supervise the public schools within the Norfolk school division, the geographical boundaries of which are the boundaries of the City of Norfolk. The School Board has its offices at 800 E. City Hall Avenue, Norfolk, Va. 23510.

3. Plaintiff VSBA is a voluntary, nonpartisan organization of Virginia school boards with the mission of promoting excellence in public education through advocacy, training and services. On behalf of its member school boards, VSBA advocates for, among other things, local control of public education and opposes the take-over of local schools and local tax dollars by a state agency. Currently, all of the 133 school boards in the Commonwealth, including plaintiff School Board, are members of the VSBA. VSBA has its offices at 200 Hansen Road, Charlottesville, Virginia 22911.

4. Defendant Opportunity Educational Institution ("OEI") is a statewide school division established pursuant to §22.1-27.1 of the Code of Virginia.

5. Defendant Opportunity Educational Institution Board ("OEI Board") is a policy board in the executive branch of state government established pursuant to §22.1-27.1 of the Code of Virginia. It is also classified as an educational institution pursuant to §23-14 of the Code of Virginia.

JURISDICTION AND VENUE

6. The Court has personal jurisdiction over the Defendants in this action and subject matter jurisdiction over this action pursuant to Va. Code §8.01-620 and the Virginia Declaratory Judgment Act, Va. Code §8.01-184, et seq.

7. This Court is a proper venue for this action pursuant to §8.01-261(15)(c) of the Code of Virginia.

Facts

8. In its 2013 session, the General Assembly enacted legislation, which was subsequently approved by the Governor, establishing the OEI and the OEI Board (hereinafter "OEI Legislation"). See 2013 Va. Acts, ch. 805.

9. Specifically, the OEI Legislation provides, among other things, the following:

(a) Pursuant to §22.1-25 of the Code of Virginia, it purports to make the OEI a "statewide school division."

(b) Pursuant to §22.1-27.1 of the Code of Virginia, "the statewide Opportunity Educational Institution (the Institution) [was] established to provide an appropriate education for children attending any public elementary or secondary school that has been transferred to the Institution pursuant to [chapter 4.1 of Title 22.1]. The Institution [is] administered and supervised by the Opportunity Educational Institution Board (the Board), which is ... established as a policy board in the executive branch of state government."

(c) Pursuant to §22.1-27.2(B) of the Code of Virginia, "[s]upervision of any school that has been denied accreditation shall be transferred to the Opportunity Educational Institution" and "[s]upervision of any school that has been accredited with warning for three consecutive years may be transferred to the Opportunity Educational Institution following a majority vote by the Board to transfer such school to the Institution." Neither OEI nor the OEI

Board has any discretion whether to take over the supervision of a school that is denied accreditation.

(d) Pursuant to §22.1-27.2(A) of the Code of Virginia, "[i]n January of the third year that a school is accredited with warning, the [OEI] Board may require a school to disclose information and documentation pertaining to matters relevant to the operation of the school."

(e) Pursuant to §22.1-27.2(C), "[t]he [OEI] Board shall supervise and operate schools in the Opportunity Educational Institution in whatever manner that it determines to be most likely to achieve full accreditation for each school in the Institution."

(f) Pursuant to §22.1-27.5, "any student enrolled in a school under the supervision of the Institution shall have the per pupil funding of his school division of residence transferred to the Institution. . . . The Department of Education shall pay the state share per pupil funding directly to the Institution semimonthly. . . . The [OEI] Board shall invoice the affected local school divisions of residence on a monthly basis in order for a one-month portion of the local share per pupil amount and applicable federal share per pupil amount to be transferred from the local school division of residence to the Institution. The local school division of residence shall transfer the certified monthly local and federal share per pupil payments to the Institution within 30 calendar days of the receipt of the monthly invoice from the Institution." This will result in the transfer to OEI of not only the local funds required by the state-mandated Standards of Quality ("SOQ"), but also of any local funds appropriated to the school division of residence in excess of the state-mandated amount. Upon information and belief, currently every local school board in the Commonwealth receives from its local appropriating body funding above the minimum required by the Standards of Quality.

10. The School Board operates, and supervises the schools in the Norfolk school division.

11. The School Board has three schools that are currently denied accreditation by the Virginia Department of Education: Lafayette-Winona Middle School ("Lafayette-Winona") and William H. Ruffner Middle School ("Ruffner"), and Lindenwood Elementary School ("Lindenwood").

12. Lafayette-Winona, Ruffner, and Lindenwood are subject to automatic take-over by the OEI Board pursuant to §22.1-27.2(B) of the Code of Virginia.

13. The School Board also has schools that are have been accredited with warning for three consecutive years: B.T. Washington High School, Lake Taylor Middle School, Campostella Elementary School and Tidewater Park Elementary School (the "accredited with warning three years schools"). Those schools are subject to take-over by the OEI Board, at the discretion of the OEI Board, pursuant to §22.1-27.2(B) of the Code of Virginia.

14. Lafayette-Winona is a middle school serving approximately 640 students in grades 6 through 8. Currently, Lafayette-Winona has a licensed faculty of 52, 40% of whom hold post-graduate degrees.

15. The academic program at Lafayette-Winona includes, among other things, reading, language arts, mathematics, social studies, science and family life. Administrators, faculty and staff encourage ALL students to become involved in an after-school activity. Some of the clubs at Lafayette-Winona include the National Junior Honor Society and the Excellence Girls Club. The Fine and Performing Arts Department has a band, orchestra and choral program. Students may also compete in Debate and Forensics. All students are eligible to participate in the interscholastic sports program as long as they have passed five classes (at least four of which must be core classes) the previous marking period.

16. The school leadership team at Lafayette-Winona includes the principal, one assistant principal, and one instructional specialist for math. The school support team includes one psychologist, one social worker, one nurse, one gifted instructor, six teacher assistants, 14 special education instructors, one English as a Second Language instructor, and three school counselors who provide an array of testing, counseling and other support services to students and families.

17. Ruffner is a community-based middle school serving approximately 741 students in grades 6 through 8, including 100 – 150 students from across the school division who are participating in the Young Scholar program. Currently, Ruffner has a licensed faculty of 55, 43% of whom hold post-graduate degrees.

18. The academic program at Ruffner includes, among other things, a large number of high school credit-bearing courses, including Art, Technology, Business, Algebra, Geometry, World Geography, Biology, Earth Science, French, Spanish, and Latin. Ruffner Academy embraces approximately 100 – 150 Young Scholars. The Young Scholars program is an application–based program for students who show unique academic promise and qualify through the School Board's gifted education services. Its core includes academically advanced curricula and opportunities for school and community leadership.

19. The school leadership team at Ruffner includes the principal, one assistant principal, and two instructional specialists, one each for reading and math. The school support team includes one psychologist,one social worker, one nurse, one gifted instructor, 11 teacher assistants, 14 special education instructors, one English as a Second Language instructor, one speech-language therapist, and three school counselors who provide an array of testing, counseling and other support services to students and families.

20. Lindenwood is an elementary school serving approximately 397 students in pre-kindergarten, kindergarten and grades one through five. Lindenwood has a licensed faculty of 27, 52% of whom hold graduate or post-graduate degrees.

21. The academic program at Lindenwood includes, among other things, reading, language, arts, mathematics, social studies, science and family life. Lindenwood has been selected to implement the International Baccalaureate (IB) theme as part of the NPS Transformation Initiative. The IB program starting at the elementary and moving into the middle school will provide a continuum of international education in preparation for the IB program at Granby High School. IB emphasizes academic and personal rigor while challenging students to excel in their studies and in their personal growth.

22. The Lindenwood school leadership team includes the principal, one assistant principal, two instructional inteventionists, and two instructional specialists, one each for reading and math. The school support team includes one psychologist, one social worker, one nurse, one parent liaison, two teacher assistants, two special education instructors, one English as a Second Language instructor, one speech-language therapist, and one school counselor who provide an array of testing, counseling and other support services to students and families.

23. The School Board, along with its Superintendent and administrative staff, have implemented numerous strategies and programs to improve student performance and achieve full accreditation at Lafayette-Winona, Ruffner, Lindenwood and other schools in the school division. For example, Lafayette-Winona, Ruffner, Lindenwood, and the accredited with warning three years schools (with the exception of Campostella Elementary) as well as other schools, are included in the school division's "NPS Transformation Initiative" to take effect in the 2014-2015 school year, which will have innovative, themed curricular programs, flexible instructional calendars, principals who are poised to focus on strong instructional leadership,

dedicated community partners, advisory councils and compacts or agreements between students, staff and parents, who will pledge to set and strive for high standards. As part of the NPS Transformation Initiative, the Superintendent and School Board are also seeking "public conversion charter" status for one or more of the Schools, which also will allow NPS to take advantage of grant dollars available at the state and federal level. Takeover of the listed schools, or any of them, will disrupt this Initiative and its planning.

24. The School Board, together with the City Council of the City of Norfolk and the administrations of both, are in the process of planning and contracting for a new school to replace the present physical structure of Campostella Elementary School. This school is expected to cost many millions of dollars, to be funded ultimately by the locality. The potential for takeover of Campostella Elementary will be disruptive of the planning and construction process.

25. For the 2011-2012 school year, the last year for which finalized data is currently available, the total per pupil expenditure for public school students in Norfolk was $10,419, which included $1,956 in federal funds, $4,153 in state funds, $919 in state retail and use tax funds, and $3,392 in local funds.

26. Local funds are appropriated to the School Board by the Norfolk City Council ("the City"). Each year, the City appropriates local funds to the School Board in excess of the amount request by the Standards of Quality. For Fiscal Year 2013, the required local effort for Norfolk as prescribed by the Virginia Department of Education was $52.8 million, but the Norfolk City Council appropriated $114.2 million to support the School Board's education program, more than double the state requirement. The local funding in excess of the state-mandated amount is referred to as "aspirational" funding.

27. Upon information and belief, every local school board in the Commonwealth receives from its local appropriating body aspirational funding or local funding in excess of that required by the Standards of Quality.

28. The transfer of supervision of Lafayette-Winona, Ruffner, Lindenwood and other schools within the school division subject take-over by OEI (the "Schools") will cause irreparable harm to the School Board because, among other things, OEI will take possession and control of the school facilities operated by the School Board, OEI will assume supervision of the Schools and divest the School Board of its supervisory authority, and the School Board will be obligated to pay to OEI its average local per pupil funding, both state-mandated and aspirational.

29. In addition to Norfolk, the membership of the VSBA includes other local school boards that have schools that have been denied accreditation and/or that are accredited with warning and are, therefore, subject to take over by the OEI Board pursuant to § 22.1-27.2 (B) of the Code of Virginia.

30. The transfer of supervision of these schools will cause irreparable harm to the members school boards of the VSBA because, among other things, OEI will take possession and control of the school facilities owned and/or used by the member school boards, OEI will assume supervision of these schools and divest the member school boards of their supervisory authority over these schools, and the member school boards will be obligated to pay to OEI their average local per pupil funding, both state-mandated and aspirational.

31. Article VIII, §5(a), of the Constitution of Virginia provides that "[s]ubject to such criteria and conditions as the General Assembly may prescribe, the Board [of Education] shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the prescribed standards of quality, and shall periodically review the adequacy of existing school divisions for this purpose."

32. Article VIII, §7, of the Constitution of Virginia provides that "[t]he supervision of schools in each school division shall be vested in a school board, to be composed of members selected in the manner, for the term, possessing the qualifications, and to the number provided by law."

33. The OEI Legislation, and specifically §22.1-25(A)(4) and Chapter 4.1 of Title 22.1 of the Code of Virginia, are unconstitutional because they purport to establish a statewide school division, contrary to Article VIII, §5, of the Constitution of Virginia which vests the Board of Education, not the General Assembly, with the authority to establish school divisions.

34. The OEI Legislation, and specifically §22.1-25(A)(4) and Chapter 4.1 of Title 22.1 of the Code of Virginia, are unconstitutional because, contrary to Article VIII, §7, they purport to create a school division that is supervised by the OEI Board, which is not a school board. The OEI Board is a policy board in the executive branch of state government and an educational institution pursuant to Title 23.

35. The OEI Legislation, and specifically Chapter 4.1 of Title 22.1 of the Code of Virginia, is unconstitutional because it purports to divest Norfolk and other local school boards of the authority to supervise the public schools within their respective school divisions.

36. The OEI Legislation, and specifically §22.1-27.6 of the Code of Virginia, is unconstitutional because it purports to require the local school board to relinquish control of school property to OEI and because it purports to prohibit school boards and city councils and boards of supervisors from selling real property without the permission of OEI.

COUNT I: DECLARATORY JUDGMENT

37. The preceding paragraphs are specifically incorporated herein as if set out fully.

38. A justiciable controversy and dispute exists between the School Board and VSBA, on the one hand, and OEI and the OEI Board, on the other, regarding the Defendants'

authority to take over supervision of the identified Norfolk schools and other public schools within the Commonwealth of Virginia.

39. It is the position of the School Board and VSBA that the OEI Legislation is unconstitutional and, therefore, OEI and the OEI Board do not have the authority or the right to take over the supervision of the said Norfolk schools or any other public school within the Commonwealth of Virginia.

40. Conversely, upon information and belief, it is the position of OEI and the OEI Board that they have the authority and the right to take over the supervision of the said Norfolk schools and other public schools within the Commonwealth of Virginia.

41. For the reasons set forth above, and those to be proved at the trial of this matter, Plaintiff requests that pursuant to Va. Code §8.01-184, et seq., the Court declare the rights of the parties, enter such other orders as are consistent with the Prayer for Relief set forth below, and award general relief.

COUNT 2: INJUNCTIVE RELIEF

42. The preceding paragraphs are specifically incorporated herein as if set out fully.

43. School Board and the other VSBA-member school boards have the Constitutional authority and right to supervise the public schools within their respective school divisions. The authority purportedly granted to the OEI and the OEI Board by the OEI Legislation to supervise certain public schools is a violation of Article VIII, §§5 and 7, of the Constitution of Virginia.

44. School Board, VSBA, and its member school boards will be irreparably harmed if Defendants OEI and the OEI Board are allowed to take over the supervision of the Norfolk schools and other public schools within the Commonwealth.

45. School Board, VSBA, and its member school boards will be irreparably harmed if they are required to pay to Defendants OEI and the OEI Board any portion of their local per pupil funding.

46. School Board, VSBA and its member school boards have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, for the reasons set forth in this Complaint, Plaintiffs pray that this Court grant the following relief:

1. Declare that the OEI Legislation, including §22.1-25(A)(4) and Chapter 4.1 of Title 22.1 of the Code of Virginia, is unconstitutional because they purport to establish a statewide school division, contrary to Article VIII, §5, of the Constitution of Virginia, which vests the Board of Education, not the General Assembly, with the authority to establish school divisions.

2. Declare that the OEI Legislation, including § 22.1-25(A)(4) and Chapter 4.1 of Title 22.1 of the Code of Virginia, is unconstitutional because, contrary to Article VIII, § 7, it purports to create a school division that is supervised by the OEI Board, which is not a school board.

3. Declare that the OEI Legislation, including Chapter 4.1 of Title 22.1 of the Code of Virginia, is unconstitutional because it purports to divest School Board and other local school boards of the authority to supervise the public schools within their respective school divisions.

4. Declare that the OEI Legislation, including §22.1-27.6 of the Code of Virginia, is unconstitutional because it purports to require the local school board to relinquish control of school property to OEI and because it purports to prohibit school boards and city councils and boards of supervisors from selling real property without the permission of OEI.

5. Enjoin OEI and the OEI Board from taking any action to implement the OEI Legislation, including, but not limited to, §22.1-25(A)(4) and Chapter 4.1 of Title 22.1 of the Code of Virginia.

6. Enjoin OEI and the OEI Board from taking over the supervision of the Norfolk schools or any other public school in the Commonwealth of Virginia.

7. Enjoin OEI and the OEI Board from taking control of any real property under the supervision or control of School Board or of any school board in the Commonwealth of Virginia.

8. Grant the Plaintiffs such further relief as the Court deems appropriate.

SCHOOL BOARD OF THE CITY OF NORFOLK
and VIRGINIA SCHOOL BOARDS
ASSOCIATION

By Counsel

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