

**VIRGINIA:**

**BEFORE THE COMMISSION ON LOCAL GOVERNMENT**

IN THE MATTER OF THE NOTICE OF THE )  
CITY OF MARTINSVILLE AND HENRY )  
COUNTY OF THEIR INTENTION TO )  
PETITION FOR THE APPROVAL OF A )  
VOLUNTARY SETTLEMENT OF TOWN )  
STATUS AND OTHER ISSUES )

---

**CITY OF MARTINSVILLE’S BRIEF ON THE  
DISSOLUTION OF THE MARTINSVILLE CITY SCHOOL DIVISION**

The City of Martinsville (“Martinsville”) submits this brief of legal authorities confirming that the acknowledgement in the Voluntary Settlement Agreement (the “VSA”) currently before the Commission on Local Government (the “Commission”) that the Martinsville City School Division (the “City School Division”) will dissolve upon Martinsville’s reversion from a city to a town, is consistent with the constitution and laws of the Commonwealth of Virginia.

**INTRODUCTION**

Consistent with past city-to-town reversions, § 5.01 of the VSA recognizes that the City School Division will cease to exist upon the effective date of Martinsville’s reversion to a town within, and constituting part of, Henry County and that Martinsville’s residents will be served by the Henry County School Division (the “County School Division”) from that date forward.

Martinsville and Henry County have agreed on this issue throughout the course of the proceedings before the Commission. The City of Bedford and Bedford County had a similar provision in their voluntary settlement agreement, and the State Board of Education recognized dissolution of city school divisions as a result of that voluntary settlement agreement, as well as the city-to-town reversion involving South Boston and Halifax County.

Martinsville respectfully submits this brief to explain the legal authority for the City School Division’s dissolution upon Martinsville’s reversion. Simply put, the State Board of Education created separate school divisions for the City of Martinsville and for Henry County, and when Martinsville reverts to a town within the County, the City School Division will dissolve, and students in Martinsville will then be served by the County School Division. There will no longer be a City of Martinsville, nor will there be a school division for that former City.

As will be explained, this result is consistent with the constitution and laws of Virginia, and assertions to the contrary are not well-founded.

## **BACKGROUND**

### **I. MARTINSVILLE’S REVERSION TO TOWN STATUS AND VSA WITH HENRY COUNTY.**

Presently, there are separate school divisions for the City of Martinsville and Henry County. This has been a significant reason for Martinsville’s decision to pursue city-to-town reversion, as its aging and decreasing population, decreasing public school enrollments, and dwindling tax base make it more difficult each year to adequately fund the City School Division. *See* Martinsville’s Notice at 9-10, 57-58 (Sept. 18, 2020).

#### **A. The Dissolution of Martinsville City Schools was a significant factor in the City Council’s vote to pursue reversion.**

On December 10, 2019, the City Council voted in favor of reversion based in part on a study into the feasibility of the County School Division’s assumption of educational responsibilities in Martinsville. *See id.* at 10. This study recognized that, under the status quo, Martinsville and the City School Division were experiencing “nearly catastrophic” losses of “direct state aid due to the continuous decline in enrollment,” creating the need for “substantial increases from local sources,” with “the continual decline in the numbers of pupils served” making it “difficult, if not impossible, to reduce proportionally the number of teachers and support

personnel.” S. John Davis & Assocs., Ltd., A STUDY REGARDING THE FEASIBILITY FOR CONSOLIDATION OF MARTINSVILLE CITY AND HENRY COUNTY SCHOOL DIVISIONS 6, 12, 17 (2019), available at <https://tinyurl.com/vxk8req>.

**B. The City School Division initially participated, but then withdrew from negotiations surrounding reversion.**

As noted during oral presentations to the Commission, representatives of the City School Division were included in and attended a mediation session with the County and its School Division in September 2020. The representatives of the City School Division present were City School Board Chairwoman Donna Dillard, City School Superintendent Dr. Zebedee Talley, Jr., and the City School Division’s Executive Director of Administrative Services, Travis Clemons. The parties fully expected that the City School Division would continue to cooperate in the negotiating process following that meeting, but unfortunately City Schools chose not to do so.

**C. Even during the contested phase of the reversion proceedings, the parties agreed the Martinsville City School Division would dissolve and the County School Division would take over responsibility for educating students in the Town.**

In initiating reversion proceedings before this Commission on September 18, 2020, Martinsville acknowledged that, “[w]ith the reversion of Martinsville to town status, Henry County [or, more particularly, the County School Division] would assume full responsibility for operating the educational system for all residents of Henry County, including residents of Martinsville.” Martinsville’s Notice, *supra*, at 37.

In its response, Henry County likewise acknowledged that the County School Division “will assume full responsibility for public education of Martinsville’s school-aged population following reversion.” Henry Cnty.’s Resp. at 15 (Nov. 30, 2020).

**D. The VSA between Martinsville and Henry County contemplated the dissolution of the Martinsville City School Division.**

Martinsville and Henry County eventually approved the VSA and submitted it for the Commission’s review, asking that the Commission find that the VSA is in the best interests of the Commonwealth and recommend that the three-judge, special court (the “Special Court”) affirm and give full force and effect to the VSA. Notice of Martinsville & Henry Cnty. At 4 (Aug. 25, 2021). In the VSA, Martinsville and Henry County acknowledged that Martinsville’s reversion to town status would result in the County School Division’s assumption of educational responsibilities in the Town of Martinsville:

Upon the effective date of reversion, the Martinsville Public School Division shall cease to exist, and the residents of Martinsville shall be served by the Henry County Public School Division from that date forward. Henry County shall be entitled to receive all state and federal aid attributable to education within Martinsville after the effective date of reversion.

VSA § 5.01.

Recognizing the lack of cooperation by City Schools in the reversion process, the VSA also called for the cooperation of the City School Division and the County School Division in the transition of educational responsibilities to the County School Division, *id.* § 5.02, and addressed the disposition of the City School Division’s real and personal property, *id.* § 5.03-.05. The VSA additionally provided for “a comprehensive study of the Henry County Public School Division following the dissolution of the Martinsville Public School Division,” in which the Department of Education and Board of Education would be invited to participate. *Id.* § 5.06.

**II. DISSOLUTIONS OF CITY SCHOOL DIVISIONS IN PAST CITY-TO-TOWN REVERSIONS.**

The dissolution of the City School Division upon Martinsville’s reversion from a city to a town is consistent with the dissolution of city school divisions in prior city-to-town reversions.

**A. Bedford City School Division's dissolution.**

As recommended by this Commission and affirmed by the Special Court, the voluntary settlement agreement between the City of Bedford and Bedford County including the following provision acknowledging the dissolution of the city school division:

On the effective date of transition to town status, the existing City of Bedford School Board shall cease to exist.... The County of Bedford School Board and its division superintendent shall exercise all the power conferred and perform all the duties imposed upon them by general law and the State Board of Education to assure quality education for schoolchildren in the expanded area of the County including the Town of Bedford. The County shall be entitled to receive all state and federal educational aid attributable to schoolchildren within the Town after the effective date of transition to town status.

(**Exhibit A** – Voluntary Settlement of Transition to Town Status and Other Related Issues Between the City of Bedford and the County of Bedford § 5.1, *attached to* Final Order Validating & Affirming a Voluntary Settlement Agreement (Dec. 18, 2012), *in In re Pet'n by City of Bedford & Bedford Cnty.*, No. CL12-1306 (Bedford Cnty. Cir. Ct.).<sup>1</sup>)

Consistent with § 5.1 of the voluntary settlement agreement between the City of Bedford and Bedford County, the State Board of Education acknowledged that,

[e]ffective July 1, 2013, Bedford City will revert to town status within Bedford County, resulting in the dissolution of the Bedford City school division and the Bedford County school division becoming responsible for public education within the new town entity.

84 VA. BD. OF EDUC. MINUTES 170 (planning sess. Apr. 2013) (presentation of Kent Dickey, Dep'ty Superintendent for Fin. & Op'ns), *available at* <https://tinyurl.com/2n3npa7w>.<sup>2</sup>

---

<sup>1</sup> The exhibits to this brief are provided through the following Workshare link: [https://troutman.workshare.com/#folders/\\_g35dkuEJGvRZX1r](https://troutman.workshare.com/#folders/_g35dkuEJGvRZX1r).

<sup>2</sup> For additional statements to the same effect within the State Department of Education, see *First Review to Establish a Revised Composite Index for the Bedford County Public Schools, Effective July 1, 2013*, VA. BD. OF EDUC. AGENDA ITEM L, at 1 (Apr. 25, 2013) (presentation of Kent Dickey, Dep'ty Superintendent for Fin. & Op'ns), *available at* <https://tinyurl.com/b9f6te68>; *Final Review to Establish a Revised Composite Index for the Bedford County Public Schools Effective July 1,*

**B. South Boston City School Division’s dissolution.**

In the contested city-to-town reversion of South Boston, the Special Court granted South Boston town status, and in its orders, among other things, required conveyance of all city school division property to the county and allocated school-related funding and indebtedness. (**Exhibit B** – Order ¶ 2 (Dec. 30, 1994), *in City of South Boston v. Halifax Cnty.*, No. 92000086-00 (Halifax Cnty. Cir. Ct.), *referencing* Final Order & Opinion ¶ 7 (Dec. 2, 1992), *in id.*, *rev’d in part on other grounds* by 247 Va. 277 (1994)).

The Special Court’s orders acknowledged that the State Board of Education would formally recognize the dissolution, Final Order & Opinion, *supra*, ¶ 7 (recognizing that “only the Board” may technically “change” school divisions and ordering the county to operate city schools in compliance “with the designation heretofore or hereafter made by the State Board of Education as to the two existing school districts in the county and city”). The State Board of Education later recognized the city school division’s dissolution, citing South Boston’s reversion from a city to a town within Halifax County. (**Exhibit C** – BD. OF EDUC. AGENDA ITEM E (Jan. 12, 1995); BD. OF EDUC. AGENDA ITEM E (Feb. 23, 1995).<sup>3</sup>) This was treated as a ministerial act by the State Board of Education, *id.*, in recognition of the fact that the city school board no longer could exist, because the city no longer existed.<sup>4</sup>

---

2013, VA. BD. OF EDUC. AGENDA ITEM A, at 1 (May 23, 2013), *available at* <https://tinyurl.com/2vt6rph8>.

<sup>3</sup> Although these materials used the word “consolidation,” they indicated that “the Board of Supervisors for Halifax County and the City Council of the City of South Boston reached an agreement on the consolidation of the South Boston and Halifax County School Districts” after “South Boston initiated a City-to-Town reversion.” These materials did not reference Va. Code § 22.1-25 or indicate whether the city school board or county school board consented.

<sup>4</sup> An attorney and policy analyst with the Commission recognized that “the special court’s authority to impose terms and conditions in its order granting a reversion petition *includes the power to consolidate school divisions*. The South Boston case supports this view.” Adele

**C. Clifton Forge's reversion.**

In regard to the dissolution of the city school divisions, the city-to-town reversions of Martinsville, Bedford, and South Boston differed from the 2001 reversion of Clifton Forge to a town within Alleghany County.

The reversion and voluntary settlement proceedings involving Clifton Forge and Alleghany County occurred roughly two decades after the State Board of Education's consolidation of the city and county school divisions pursuant to the consolidation statute, Virginia Code § 22.1-25. (**Exhibit D** – 52 STATE BD. OF EDUC. MINUTES 178-79 (meeting of Dec. 11, 1981)). In consolidating the city and county school divisions, the State Board of Education “approved a resolution abolishing the City of Clifton Forge School Division and the Alleghany County School Division and creating a single school division for the county and city.” Letter from S. John Davis, Superintendent of Pub. Instr. (Dec. 28, 1981) [hereafter Superintendent of Pub. Instr., ALLEGHANY-CLIFTON FORGE CONSOLIDATION LETTER], *in* Mary Litts Burton, THE CONSOLIDATION OF ALLEGHANY COUNTY AND CLIFTON FORGE CITY SCHOOLS: A CASE STUDY app. F, at 229 (1989), available at <https://tinyurl.com/ysn62bts>.

The consolidated school division was called the “Alleghany Highlands School Division.” *See, e.g.*, Comm’n on Local Gov’t, REPORT ON THE CITY OF CLIFTON FORGE – COUNTY OF ALLEGHANY VOLUNTARY SETTLEMENT AGREEMENT 19, 25 (2000), available at <https://tinyurl.com/u4kjf7v>. The Alleghany Highlands School Division operated pursuant to agreements with the governing bodies of Clifton Forge and Alleghany County, and the agreements

---

MacLean, REVERSION: FROM CITIES TO TOWNS (Va. Mun. League Aug. 1996) (emphasis added), available at <https://tinyurl.com/4xhbdxk8>. Although the author used the word “consolidate” in this passage, she also referred to the process as “an automatic dissolution of the former city’s school division” and clearly distinguished it from a true consolidation procedure under Va. Code § 22.1-25. *Id.*

addressed matters including the governing bodies' contributions for the operating expenses of the consolidated school division. The agreement in force before Clifton Forge's reversion was referred to as the "Amended Joint School Agreement."

In the voluntary settlement agreement recommended by this Commission and affirmed by the Special Court, Clifton Forge and Alleghany County acknowledged that, "[a]s a result of the City's transition to town status, the County shall assume full responsibility for the provision of public education and the operation of the school system. Accordingly, the Amended Joint School Agreement shall be dissolved." (**Exhibit E** – Voluntary Settlement of Town Status Issues Between the City of Clifton Forge and the County of Alleghany § 3.04(A), *attached to* Final Order Validating & Affirming a Voluntary Settlement Agreement Between the City of Clifton Forge and the County of Alleghany (Dec. 18, 2012), *in In re Pet'n by City of Clifton Forge & Alleghany Cnty.*, No. CL00-101 (Alleghany Cnty. Cir. Ct.).)

Of course, this result is consistent with Martinsville's view of the statutory framework for reversion (as opposed to consolidation), discussed in this memorandum. Upon reversion, with the City of Clifton Forge no longer in existence, its role in the previously consolidated school division likewise ceased.

**III. SOME HAVE ASSERTED THAT MARTINSVILLE'S REVERSION TO TOWN STATUS WILL NOT RESULT IN THE CITY SCHOOL DIVISION'S DISSOLUTION.**

On September 7 and 8, 2021, the Commission heard the oral presentations of Martinsville and Henry County in regard to their VSA. The only issue in dispute between Martinsville and Henry County was the effective date of reversion. On that matter, the VSA provides that "Martinsville's transition from an independent city to a town located within and constituting part of Henry County shall be effective as of the date established by the Special Court." *See* VSA § 11.01. The parties and their witnesses also agreed throughout their oral presentations that the



City School Division would dissolve, and the County School Division would become responsible for educating the students of the former City (reverted to a Town).

In the public meeting that followed the oral presentations on September 8, some assertions were made that the City School Division would not necessarily dissolve as a consequence of Martinsville's reversion from a city to a town. Local media also has given voice to some of these assertions. Purported bases for these assertions include (i) that the City School Division's dissolution is a "consolidation" with the County School Division under Va. Code § 22.1-25, which requires the City School Board's consent, and (ii) that the VSA's recognition of the City School Division's dissolution violates the Dillon Rule and the Virginia Constitution.

For the reasons set forth in this memorandum, these assertions are unfounded. The VSA is lawful and valid, and Martinsville's reversion from a city to a town will result in the City School Division's dissolution consistent with other reversion matters having been considered by this Commission and the Special Court.

### **LEGAL DISCUSSION**

#### **I. DISSOLUTION OF THE CITY SCHOOL DIVISION IS NOT A "CONSOLIDATION" AND DOES NOT REQUIRE SCHOOL BOARD CONSENT UNDER VA. CODE § 22.1-25(A)(2).**

As referenced above, some have asserted that the City School Division's dissolution is a "consolidation" of school divisions requiring the consent of the City School Board and County School Board under Virginia Code § 22.1-25(A)(2). These assertions stem from a misreading of § 22.1-25 and overlook the material differences from the dissolution of city school divisions resulting from prior city-to-town reversions.

**A. Dissolution of the City School Division resulting from city-to-town reversion is not a “consolidation” of school divisions.**

Reading Va. Code § 22.1-25 in light of its plain language, context, history, and constitutional backdrop, it is evident that the dissolution of a reverting city’s school division is not a “consolidation” of school divisions under Va. Code § 22.1-25(A)(2) and does not require the consent of the reverting city’s school board.

Under Article VIII, § 5(a) of the Virginia Constitution, the State Board of Education is vested with the authority to “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,” “[s]ubject to such criteria and conditions as the General Assembly may prescribe[.]” In the absence of applicable “criteria or conditions” prescribed by the General Assembly, the State Board of Education “may draw division lines as it pleases, subject only to the limitations prescribed in section 5(a) itself.” 2 A.E. Dick Howard, COMMENTARIES ON THE CONSTITUTION OF VIRGINIA 922 (1974).

Virginia Code § 22.1-25(A) includes “conditions” for the drawing of school division lines, and subsection (B) includes “criteria” for the same. The General Assembly’s prescribed “conditions” include:

1. The school divisions as they exist on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of this section except that when a town becomes an independent city, the town shall also become a school division.
2. No school division shall be divided or consolidated without the consent of the school board thereof and the governing body of the county or city affected or, if a town comprises the school division, of the town council.

....

Va. Code § 22.1-25(A).

The dissolution of the City School Division resulting from Martinsville’s transition from city to town status is not a “consolidation” within the meaning of Va. Code § 22.1-25(A)(2).

A “consolidation” is a “unification of two or more” divisions “by dissolving the existing ones and creating a single new” division. *See* BLACK’S LAW DICTIONARY (11th ed. 2019). When using the procedure in Va. Code § 22.1-25(A)(2), the State Board of Education has dissolved each of the consolidating city and county school divisions and created a new school division serving both the city and the county. *E.g.*, Va. Bd. of Educ., RESOLUTION FOR THE CONSOLIDATION OF THE ALLEGHANY COUNTY AND COVINGTON CITY SCHOOL DIVISIONS (Jan. 28, 2021) (resolving that the “Alleghany County School Division be dissolved,” the “City of Covington School Division be dissolved,” and a “new, consolidated school division consisting of such dissolved school divisions be established”), *in* VA. BD. OF EDUC. AGENDA ITEM F (Jan. 28, 2021), *available at* <https://tinyurl.com/t7knxtcp>; Superintendent of Pub. Instr., ALLEGHANY-CLIFTON FORGE CONSOLIDATION LETTER, *supra* (referencing State Board of Education’s consolidation “resolution abolishing the City of Clifton Forge School Division and the Alleghany County School Division and creating a single school division for the county and city”).

The City School Division will dissolve upon the City’s reversion to a town. The County School Division will not dissolve, and the County School Division’s boundaries will cover Martinsville as a town within and constituting part of the County. Under a plain reading of Va. Code § 22.1-25(A)(2), that is not a “consolidation” of school divisions and does not require “the consent of the school board[s] thereof.”

Moreover, Code § 22.1-25(A)(1) generally provides that no new school division can be created after July 1, 1978, absent “further action” by the State Board of Education. There was not a “Town of Martinsville School Division” on July 1, 1978, and there will not be a “Town of

Martinsville School Division” to assume responsibility for public education in the Town of Martinsville, unless the State Board of Education takes “further action” to create such a division. *See* Va. Code § 22.1-25(A)(1). Upon reversion, the responsibility for public education in the Town of Martinsville is necessarily assumed by the County School Division by operation of law.

This conclusion is further supported by the exception to Code § 22.1-25(A)(1)’s general requirement of “further action” to create new school divisions. That exception provides that, “when a town becomes an independent city, the town shall also become a school division.” *Id.* § 22.1-25(A)(1). The General Assembly’s enactment of this exception, and its omission of a comparable exception automatically creating a town school division when a city reverts to a town, shows that the City School Division does not automatically become the “Town of Martinsville School Division” upon Martinsville’s reversion.<sup>5</sup> *Cf.* 2 Howard, COMMENTARIES ON THE CONSTITUTION OF VIRGINIA, *supra*, at 922 (absent applicable statutory “condition,” State Board of Education has greater freedom regarding local school district lines). Had the General Assembly intended the automatic creation of a town school division upon city-to-town reversion, it would have said so, as it did regarding the automatic creation of city school divisions upon towns’ transitions to cities. *See Stonewall Dist. School Bd. v. Patterson*, 111 Va. 482, 487-88 (1910) (the General Assembly “is presumed to act with full knowledge of the law as it stands”).

Thus, dissolutions of city school divisions resulting from city-to-town reversions are not covered by Va. Code § 22.1-25(A)(2) and do not require consent of the reverting city’s school board.

---

<sup>5</sup> The history of relevant enactments further confirms this. In 1980, the General Assembly added the provision automatically creating city school divisions when towns become independent cities. 1980 Va. Acts, ch. 559. In 1988, the General Assembly enacted the reversion statutes, 1988 Va. Acts, ch. 881, but the General Assembly has never amended Va. Code § 22.1-25(A)(1) to provide for the automatic creation of town school divisions upon city-to-town reversion.

**B. The territory subject to the supervision of a locality’s school division changes with the locality to which the school division is assigned.**

The County School Division’s assumption of responsibility for public education in the reverted Town of Martinsville is further confirmed by the expansion and contraction of local school divisions’ lines consistent with changes to the assigned localities.

As referenced above, the State Board of Education is constitutionally required to “divide the Commonwealth into school divisions of ... geographical area and school-age population...” Va. Const. art. VIII, § 5(a). Across the Commonwealth today, school divisions correspond to the geographical areas and school-age populations of various localities. When the territorial boundaries of a locality change, so, too, do the boundaries of a school division for that locality. Changes from proceedings analogous to reversion – such as city annexations of county territory – have never been understood as “divid[ing]” or “consolidat[ing]” school divisions under Va. Code § 22.1-25(A)(2). Rather, the city’s annexation of county territory has resulted in the annexing city’s school division assuming responsibility for public education in the area annexed from the county. *E.g., Rockingham Cnty. v. City of Harrisonburg*, 224 Va. 62, 87 (1982) (“Annexation will remove 421 students from the County’s schools and place them in the City’s schools.”).

The same is true for city-to-town reversions. When Martinsville reverts to a town, the “City of Martinsville” will no longer have any geographic area, and consequently there will not be a “City of Martinsville School Division.” That geographic area will belong to the new Town of Martinsville and will also be part of the County and covered by the County School Division. Thus, the County School Division will be responsible for education in the Town of Martinsville.

**C. Dissolution of the City School Division as a result of Martinsville’s reversion is consistent with reversion and voluntary settlement precedents.**

The legality of the City School Division’s dissolution, and the County School Division’s responsibility for public education in the reverted Town of Martinsville, is further confirmed by precedents under materially the same circumstances.

The General Assembly is presumed to know how an existing statute has been interpreted by public officials and relied on by the public, and that interpretation will generally be preferred “in the absence of [subsequent] legislation evincing a dissent.” *Smith v. Bryan*, 100 Va. 199, 204 (1902); *Appalachian Power Co. v. State Corp. Comm’n*, 284 Va. 695, 704, 704 n.7 (2012) (collecting cases).

As discussed further above, this Commission, the Special Court, and the State Board of Education have recognized the dissolution of cities’ school divisions as a result of the cities’ reversion to town status. The treatment of the city school divisions in relation to the reversion of Bedford and South Boston are materially indistinct from the treatment of the City School Division in this case. *See supra* Background pt. II.A, .B. It is immaterial that the Bedford City School Board and the South Boston City School Board had earlier contracted with the respective county school boards for furnishing various public school facilities and services. *Cf.* Va. Code § 22.1-27. Those contracts did not diminish the separate city school divisions or their school boards, which were still in existence while the respective reversion and voluntary settlement proceedings were underway. The separate city school divisions and their school boards were dissolved through the cities’ reversions – without invoking the procedures of Va. Code § 22.1-25(A)(2) or otherwise requiring the city school boards’ consent to their divisions’ dissolution. The State Board of Education then confirmed the dissolution of the city school divisions as a result of the cities’ reversion to town status.

There is no precedent supporting assertions that the City School Division's dissolution requires the City School Board's consent under Va. Code § 22.1-25(A)(2). Rather, the precedents fully support the City School Division's dissolution upon reversion as reflected in § 5.01 of the VSA.

## **II. THE VSA DOES NOT VIOLATE THE DILLON RULE.**

Some have also asserted that the VSA violates the Dillon Rule, claiming that Martinsville and Henry County lack statutory authority to dissolve the City School Division, or that the City School Board must be made a party to the proceedings. However, the Dillon Rule will not be violated by the reversion's natural effect of dissolving the City School Division, nor is the City School Board a proper party to the reversion proceedings.

The Dillon Rule provides that localities have only those powers expressly granted by the General Assembly, powers necessarily or fairly implied from the express powers, and powers that are essential and indispensable. *Jennings v. Northumberland Cnty. Bd. of Sup'rs*, 281 Va. 511, 516 (2011); *City of Richmond v. Henrico Cnty. Bd. of Sup'rs*, 199 Va. 679, 684 (1958).

Consistent with the statutory analysis above, the VSA does not violate the Dillon Rule. Martinsville and Henry County have clearly-established authority to enter into a voluntary settlement agreement including terms related to reversion and the resulting dissolution of the City School Division – with or without their local school boards' consent. And the Dillon Rule does not diminish the constitutional significance of the State Board of Education's ministerial recognition of the City School Division's dissolution. *See* Va. Const. art. XVIII, § 5(a).

As "localities of the Commonwealth," Va. Code § 15.2-3400 – and a "city" and "adjoining county" in particular, *id.* § 15.2-4103 – Martinsville and Henry County have express statutory authority to agree to enter into a voluntary settlement agreement regarding reversion and other

matters. The General Assembly has enacted statutory procedures for accomplishing city-to-town reversions, whether contested or through a voluntary settlement agreement. *Id.* §§ 15.2-3400 & -4100, et seq.

By definition, localities do not offend the Dillon Rule when they adhere to statutory procedures. The reversion statutes make very clear who are the necessary parties to a reversion proceeding, and they do not include the City School Board (or the County School Board, for that matter). Of course, the public policy reason for this omission from the statute is obvious. If given authority in the reversion process, a city school board would always exercise that authority to veto reversion, since reversion necessarily means the dissolution of the city school division. Nonetheless, as discussed *supra*, Background pt. I.B, representatives of the city school division *were* invited to participate in the negotiation process. At the time the parties believed and hoped the City School Board would cooperate, ensuring a smooth transition. Unfortunately, the City School Division ultimately decided not to participate in the process. But that does not somehow mean the parties to have violated the Dillon Rule. The parties fully complied with the reversion statutes, with or without school board participation.

Further, arguments based on the Dillon Rule against the VSA overlook the Supreme Court of Virginia's recognition that "[s]chool boards only have those powers expressly granted or necessarily implied by statute." *Sosebee v. Franklin Cnty. Sch. Bd.*, 299 Va. 17, 25 (2020); *Kellam v. City of Norfolk School Bd.*, 202 Va. 252, 254 (1960). The statutory authority of a local school board itself is confined to day-to-day supervisory matters regarding the operation of schools in its division. *See generally* Va. Code § 22.1-71, et seq. There is no authority under Virginia law granting a city school board a right to veto, or to forestall by withholding its consent to, the terms and conditions of a city's reversion to town status resulting in the city school division's dissolution.



Martinsville and Henry County have followed the General Assembly’s statutory procedures, and the VSA does not violate the Dillon Rule simply because the inevitable, natural effect of its implementation is the dissolution of the City School Division.

### **III. THE CITY SCHOOL DIVISION’S DISSOLUTION IS CONSTITUTIONAL.**

There also have been misplaced assertions that a reversion resulting in the City School Division’s dissolution violates Article VIII, § 7, of the Virginia Constitution: “The supervision of schools in each school division shall be vested in a school board...”

Article VIII, § 7 requires “a school board” to supervise “schools in each school division.” The word “a” is ordinarily considered to be an unrestrictive modifier, synonymous with “any,” and considered to apply without limitation. *See Botkin v. Commonwealth*, 296 Va. 309, 314 (2018); *Phelps v. Commonwealth*, 275 Va. 139, 142 (2008). Schools within the boundaries of the reverted Town of Martinsville – i.e., in the Henry County School Division – will be subject to the supervision of the County School Board. Coinciding with the dissolution of the City School Division and the expansion of the County School Division, the transition in responsibility from the City School Board to the County School Board ensures that supervision by a local school board will be consistently maintained. *See VSA § 5.01*. That satisfies the requirement of Article VIII, § 7.

The “supervision” vested by Article VIII, § 7 does not mean “constitutional autonomy.” *See Commonwealth v. Arlington Cnty. Bd.*, 217 Va. 558, 576 (1977). Article VIII, § 7 “vests in the local school boards the responsibilities for day-to-day supervision of the local school systems” such that they are responsible “for the application of statewide and local policies, rules, and regulations adopted for the day-to-day management of the public schools.” *Dennis v. Rappahannock Cnty. Sch. Bd.*, 582 F. Supp. 536, 543 (W.D. Va. 1984). Such day-to-day

supervision cannot be construed so broadly as to encroach upon the constitutional authority of other governmental bodies, such as the General Assembly’s authority regarding the organization and government of counties, cities, and towns, Va. Const. art. VII, § 2, or the State Board of Education’s authority to “divide the Commonwealth into school divisions,” *id.* art. VIII, § 5(a).<sup>6</sup>

The change in a local school division as a result of city-to-town reversion is consistent with the constitutional authority of the General Assembly, which has authorized such reversions by statute, and consistent with the constitutional authority of the State Board of Education, which has expressly acknowledged such changes in school divisions where prior city-to-town reversions have occurred. These matters do not diminish the day-to-day supervision of a local school board, whether it is the city school board before reversion or the county school board after it.

### **CONCLUSION**

For the foregoing reasons, there are no statutory or constitutional impediments to the VSA’s validity or approval, with or without the consent of any local school boards. We respectfully request that the Commission favorably report the VSA and recommend its approval by the Special Court.


---

<sup>6</sup> See *Arlington Cnty. Bd.*, 217 Va. at 575 (reading Article VIII, § 7 in light of other constitutional authorities); *Rappahannock Cnty. Sch. Bd.*, 582 F. Supp. at 543 (same); see also *Kopalchick v. Catholic Diocese of Richmond*, 274 Va. 332, 339 (2007) (“constitution must be viewed and construed as a whole, and every section, phrase and word given effect and harmonized if possible”); *King & Queen Bd. of Sup’rs v. Cox*, 155 Va. 687, 704 (1931) (“No single section of the Constitution should be construed alone....”).

Respectfully submitted,

CITY OF MARTINSVILLE

Dated: September 17, 2021

By:   
\_\_\_\_\_  
John S. West (VSB No. 34771)  
Stephen C. Piepgrass (VSB No. 71361)  
Robert S. Claiborne, Jr. (VSB No. 86332)  
Troutman Pepper Hamilton Sanders LLP  
1001 Haxall Point, Suite 1500  
Richmond, Virginia 23219  
Telephone: 804.697.1200  
Facsimile: 804.697.1339  
john.west@troutman.com  
stephen.piepgrass@troutman.com  
robert.claiborne@troutman.com

Eric H. Monday (VSB No. 38839)  
City Attorney  
P.O. Box 1112  
55 West Church Street, Suite 213  
Martinsville Virginia 24112  
Telephone: 276.403.5198  
Facsimile: 276.403.5194  
emonday@ci.martinsville.va.us

**CERTIFICATE OF SERVICE**


I hereby certify that on this 17th day of September, 2021, a true copy of the foregoing was served upon Henry County's counsel by U.S. mail to:

Jeremy E. Carroll  
Guynn, Waddell, Carroll & Lockaby, P.C.  
415 South College Avenue  
Salem, Virginia 24153  
Telephone: 540.387.2320  
Facsimile: 540.389.2350  
jeremyc@guynnwaddell.com

*Counsel for Henry County*

George A.H. Lyle  
Henry County Attorney  
P.O. Box 7  
Collinsville, Virginia 24078  
Telephone: 276.634.4606  
Facsimile 276.634.4781  
glyle@co.henry.va.us

*Counsel for Henry County*

By:   
Stephen C. Piepgrass (VSB No. 71361)  
Troutman Pepper Hamilton Sanders, LLP  
1001 Haxall Point, Suite 1500  
Richmond, Virginia 23219  
Telephone: 804.697.1200  
Facsimile: 804.698.5147  
stephen.piepgrass@troutman.com

*Counsel for the City of Martinsville*