

## STUDENTS

The superintendent shall be responsible for exercising the duty of seeing that all school-age children not otherwise excused from attending school receive an education either at a public school or by means of one of the alternatives set forth in the legal references to this policy.

Legal Reference

Code of Va., § 22.1-254 Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article - "A. Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent or provide for home instruction of such child as described in § [22.1-254.1](#).

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational prekindergarten program, including a Head Start program, or in a private, denominational or parochial educational prekindergarten program. Instruction in the home of a child or children by the parent, guardian or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § [22.1-253.13:1](#) and in § [22.1-254.01](#). However, the requirements of this section shall not apply to any child who has obtained a high school diploma, its equivalent, or a certificate of completion or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this

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subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; and

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

D. Local school boards may allow the requirements of subsection A of this section to be met under the following conditions:

For a student who is at least sixteen years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

a. Career guidance counseling;

b. Mandatory enrollment and attendance in a general educational development preparatory program or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such GED preparatory program or approved alternative education program to such principal or his designee;

c. Counseling on the economic impact of failing to complete high school; and

d. Procedures for reenrollment to comply with the requirements of subsection A of this section.

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A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be deemed to be in violation of subsection A of this section.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

E. A school board may, in accordance with the procedures set forth in § [22.1-277](#) and upon a finding that a school-age child has (i) committed an offense in violation of school board policies, (ii) been charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or (iii) been expelled from school attendance pursuant to § [22.1-277.01](#), require the child to attend an alternative education program as provided in § [22.1-209.1:2](#) or § [22.1-277.1](#).

F. Whenever a court orders any pupil into an alternative education program offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ [22.1-277](#), [22.1-277.01](#), and [22.1-277.2](#). As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

G. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

H. The provisions of this article shall not apply to:

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1. Children suffering from contagious or infectious diseases while suffering from such diseases;
2. Children whose immunizations against communicable diseases have not been completed as provided in § [22.1-271.2](#);
3. Children under ten years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;
4. Children between the ages of ten and seventeen, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and
5. Children excused pursuant to subsections B and C of this section.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education."

## § 22.1-254.01

(Effective until July 1, 2003) Certain students required to attend summer school or after-school sessions; promotion contingent upon remediation

In the event that a student is required to take a special program of prevention, intervention, or remediation in a public summer school program or to participate in another form of remediation as provided in subsection C of § [22.1-253.13:1](#) and in accordance with clause (ii) of subsection A of § 22.1-254, and the division superintendent determines that remediation of the student's poor academic performance, passage of the Literacy Passport Test or of a Standards of Learning assessment in grades three, five, or eight, or promotion is directly related to the student's attendance in such summer school program or participation in another form of remediation, and after a reasonable effort to seek the student's attendance in such session has failed, including direct notification of the parents or guardians of such student of the attendance requirement and failure of the parents or guardians to secure the student's attendance, the division superintendent may seek immediate compliance with the compulsory school attendance law as set forth in § 22.1-254.

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Code of Va., § 22.1-254.01 Version 2 (Effective July 1, 2003) Certain students required to attend summer school or after-school sessions - "In the event that a student is required to take a special program of prevention, intervention, or remediation in a public summer school program or to participate in another form of remediation as provided in subsection C of § [22.1-253.13:1](#) and in accordance with clause (ii) of subsection A of § 22.1-254, and the division superintendent determines that remediation of the student's poor academic performance, passage of the Standards of Learning Assessment in grades three, five, or eight, or promotion is directly related to the student's attendance in such summer school program or participation in another form of remediation, and after a reasonable effort to seek the student's attendance in such session has failed, including direct notification of the parents or guardians of such student of the attendance requirement and failure of the parents or guardians to secure the student's attendance, the division superintendent may seek immediate compliance with the compulsory school attendance law as set forth in § 22.1-254."

Code of Va., § 22.1-254.1 Declaration of policy; requirements for home instruction of children "A. When the requirements of this section have been satisfied, instruction of children by their parents is an acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday may elect to provide home instruction in lieu of school attendance if he (i) holds a baccalaureate degree in any subject from an accredited institution of higher education; or (ii) is a teacher of qualifications prescribed by the Board of Education; or (iii) has enrolled the child or children in a correspondence course approved by the Superintendent of Public Instruction; or (iv) provides a program of study or curriculum which, in the judgment of the division superintendent, includes the standards of learning objectives adopted by the Board of Education for language arts and mathematics and provides evidence that the parent is able to provide an adequate education for the child.

B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the division superintendent in August of his intention to so instruct the child and provide a description of the curriculum to be followed for the coming year and evidence of having met one of the criteria for providing home instruction as required by subsection A of this section. Effective July 1, 2000, parents electing to provide home instruction shall provide such annual notice no later than August 15. Any parent who moves into a school division or begins home instruction after the school year has begun shall notify the division superintendent of his intention to provide home instruction as soon as practicable and shall comply with the requirements of this section within thirty days of such notice. The division superintendent shall notify the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

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C. The parent who elects to provide home instruction shall provide the division superintendent by August 1 following the school year in which the child has received home instruction with either (i) evidence that the child has attained a composite score in or above the fourth stanine on a battery of achievement tests which have been approved by the Board of Education for use in the public schools or (ii) an evaluation or assessment which, in the judgment of the division superintendent, indicates that the child is achieving an adequate level of educational growth and progress.

In the event that evidence of progress as required in this subsection is not provided by the parent, the home instruction program for that child may be placed on probation for one year. Parents shall file with the division superintendent evidence of their ability to provide an adequate education for their child in compliance with subsection A of this section and a remediation plan for the probationary year which indicates their program is designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division superintendent, the home instruction may continue for one probationary year. If the remediation plan and evidence are not accepted or the required evidence of progress is not provided by August 1 following the probationary year, home instruction shall cease and the parent shall make other arrangements for the education of the child which comply with § 22.1-254. The requirements of subsection C shall not apply to children who are under the age of six as of September 30 of the school year.

D. For purposes of this section, "parent" means the biological parent or adoptive parent, guardian or other person having control or charge of a child.

Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school attendance by reason of bona fide religious training or belief pursuant to § 22.1-254 B 1.

E. Any party aggrieved by a decision of the division superintendent may appeal his decision within thirty days to an independent hearing officer. The independent hearing officer shall be chosen from the list maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing officer in a manner consistent with his findings."

Code of Va., § 22.1-254.2 Testing for general educational development; eligibility; guidelines "A. The Board of Education shall establish a program of testing for general educational development through which persons may earn a high school equivalency certificate. The following persons may participate in the testing program:

1. Persons who are at least eighteen years of age and not enrolled in public school or not otherwise meeting the school attendance requirements set forth in § 22.1-254;
2. Persons sixteen years of age or older who have been instructed by their parents in their home pursuant to § [22.1-254.1](#) and who have completed such home school instruction;

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3. Persons who have been excused from school attendance pursuant to subsections B and C of § 22.1-254; and

4. Persons for whom an individual student alternative education plan has been granted pursuant to subsection D of § 22.1-254.

Under no circumstances shall persons under the age of sixteen be eligible for the testing program.

B. From such funds as may be appropriated for this purpose, local school boards shall implement programs of preparation and testing for general educational development consistent with guidelines to be developed by the Board of Education. Such guidelines shall include a provision that allows preparatory and testing programs to be offered jointly by two or more school boards."

Code of Va., §22.1-263. Violation constitutes misdemeanor. " Any person violating the provisions of either § [22.1-254](#), except for clause (ii) of subsection A, §§ [22.1-255](#), [22.1-258](#), or § [22.1-267](#) shall be guilty of a Class 3 misdemeanor. Upon a finding that a person knowingly and willfully violated any provision of § [22.1-254](#), except for clause (ii) of subsection A, or any provision of §§ [22.1-255](#), [22.1-258](#), or § [22.1-267](#) and that such person has been convicted previously of a violation of any provision of § [22.1-254](#), except for clause (ii) of subsection A, or any provision of §§ [22.1-255](#), [22.1-258](#) or § [22.1-267](#), such person shall be guilty of a Class 2 misdemeanor."

Code of Va., § 22.1-264. Misdemeanor to make false statement as to age. Any person who makes a false statement concerning the age of a child between the ages set forth in §22.1-254 for the purpose of evading the provisions of this article shall be guilty of a Class 4 misdemeanor. (1997)

Code of Va., § 22.1-265. Inducing children to absent themselves. Any person who induces or attempts to induce any child to be absent unlawfully from school or who knowingly employs or harbors, while school is in session, any child absent unlawfully shall be guilty of a Class 3 misdemeanor and may be subject to the penalties provided by subdivision 5 a of subsection B of §16.1-278.5 or §18.2-371. Upon a finding that a person knowingly and willfully violated the provisions of this section and that such person has been convicted previously of a violation of this section, such person shall be guilty of a Class 2 misdemeanor. (1996)

Code of Va., § 22.1-266. Law-enforcement officers and truant children. Notwithstanding the provisions of §16.1-246, any law-enforcement officer as defined in §9-169 or any attendance officer may pick up any child who is reported to be truant from school by a school principal or division superintendent or who the law-enforcement officer or attendance officer reasonably determines, by reason of the child's age and circumstances, is truant from school and may deliver such child to the appropriate school and personnel thereof without charging the parent or guardian of such child with

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a violation of any provision of law. (1997)

Code of Va., § 22.1-267. Proceedings against habitually absent child. Any child permitted by any parent, guardian, or other person having control thereof to be habitually absent from school contrary to the provisions of this article may be proceeded against as a child in need of supervision as provided in Chapter 11 (§16.1-226 et seq.) of Title 16.1. (1997)

Code of Va., § 22.1-268. Duty of Commonwealth's attorneys to prosecute case arising under article; jurisdiction of offenses.--"It shall be the duty of the attorneys for the Commonwealth of the several counties and cities to prosecute all cases arising under this article. Juvenile and domestic relations district courts shall have exclusive original jurisdiction for the trial of such cases." (1980)

Code of Va., § 22.1-269. Board to enforce. The Board of Education shall have the authority and it shall be its duty to see that the provisions of this article are properly enforced throughout the Commonwealth. (1980)

Adopted by School Board: November 20, 1973

Revised by School Board: January 6, 1981