

## STUDENTS

Conduct: Alternative or Adult Education Placement:

The superintendent, or his designee, may require any student to attend an alternative or adult education program under the following conditions:

If the student has 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 pursuant to § 22.1-277.1;

If the student has been found guilty or not innocent of a crime which resulted in or could have resulted in injury to others, or of a crime for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to § 16.1-305.1;

3. If the student has been expelled pursuant to § 22.1-277.01 or § 22.1-277.02.}

Legal Reference

Code of Va., § 22.1-78. Bylaws and regulations. --"A school board may adopt bylaws and regulations, not inconsistent with State statutes and regulations of the Board of Education, for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school." (1980)

Code of Va., § 16.1-305.1. Disclosure of disposition in certain delinquency cases -- "Upon disposition of a proceeding in a court of competent jurisdiction in which a juvenile is adjudicated delinquent or convicted of a crime based upon a violation of the law involving (i) a firearm offense pursuant to Article 4 (§18.2-279 et seq.), 5 (§18.2-288 et seq.), 6 (§18.2-299 et seq.), or 7 (§18.2-308 et seq.) of Chapter 7 of Title 18.2, (ii) homicide, pursuant to Article 1 (§18.2-31 et seq.) of Chapter 4 of Title 18.2, (iii) felonious assault and bodily wounding, pursuant to Article 4 (§18.2-51 et seq.) of Chapter 4 of Title 18.2, (iv) criminal sexual assault, pursuant to Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2, (v) manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§18.2-247 et seq.) of Chapter 7 of Title 18.2, (vi) manufacture, sale, gift, distribution, or possession of marijuana pursuant to Article 1 (§18.2-247 et seq.) of Chapter 7 of Title 18.2, (vii) arson and related crimes, pursuant to Article 1 (§18.2-77 et seq.) of Chapter 5 of Title 18.2, (viii) burglary and related offenses, pursuant to §§18.2-89 through 18.2-93, or (ix) robbery pursuant to §18.2-58, the clerk of the court in which the disposition is entered shall, within fifteen days if there has been no notice of an appeal, provide written notice of the disposition ordered by the court, including the nature of the offense upon which the adjudication or conviction was based, to the superintendent of the school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at the time of the offense. Further disclosure of this information by the superintendent to school personnel is authorized

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only as provided in §22.1-288.2.

Code of Va., § 16.1-309. Penalty (1989)--"A. Except as provided in §§16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information not otherwise available to the public concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions 1 through 5 of subsection A of §16.1-241 or who is in the custody of the State Department of Juvenile Justice, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Juvenile Justice or acquired in the course of official duties, shall be guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile who is suspected of committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§16.1-305.1 and 22.1-288.2, if the disclosure is made solely to enable school personnel to take appropriate actions within the school setting with regard to the juvenile or another student.

Code of Va., § 22.1-277.1.

Disciplinary authority of school boards under certain circumstances

A. A school board may, in accordance with the procedures set forth in § 22.1-277, require any student who has been (i) 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; (ii) found guilty or not innocent of a crime which resulted in or could have resulted in injury to others, or of a crime for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to § 16.1-305.1; or (iii) expelled pursuant to §22.1-277.01 or §22.1-277.02, to attend an alternative education program, including, but not limited to, night school, adult education, or any other educational program designed to offer instruction to students for whom the regular program of instruction may be inappropriate. A school board may require such student to attend such programs regardless of where the crime occurred.

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As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.

For the purposes of this section, the superintendent's designee shall be a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

Code of Va., § 22.1-277. Short-term and long-term suspension, and expulsion of pupils; generally --"A. Pupils may be suspended or expelled from attendance at school for sufficient cause.

B. A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal or in their absence any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts and opportunity to present his version shall be given as soon as practicable thereafter. Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior. The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

C. A pupil may be suspended from attendance at school for more than ten days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee

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thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within thirty days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.

D. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board. If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.

E. For the purposes of this section, the superintendent's designee shall be a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

F. The authority provided in §22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of this section.

Code of Va., § 22.1-277.01. Expulsion of students under certain circumstances; Board of Education designated agency; local school board application for assistance; reporting; exceptions.

--"A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-"Gun-Free Schools Act of 1994"), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in § 22.1-277, to have brought a firearm onto school property or to a school-sponsored activity as prohibited by §18.2-308.1, or to have brought a firearm as defined in subsection D of this section on school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to

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determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in § 22.1-277.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section;

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known which will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" shall not include any device which is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device.

"Firearm" means any weapon prohibited on school property or at a school-sponsored activity pursuant to §18.2-308.1, or (i) any weapon, including a starter gun, which will, or is designed or may readily be converted to, expel a projectile by the action of an explosive; (ii) the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device.

"One year" means 365 calendar days as required in federal regulations.

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E. The exemptions set out in §18.2-308 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

F. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government. As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil. (1995)

Virginia State Board of Education Regulations, "Standards for Accrediting Public Schools in Virginia" (September, 1997)

Code of Va., § 22.1-277.02

Suspension and expulsion upon receipt of certain reports

Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to §16.1-305.1 of an adjudication of delinquency or a conviction may be suspended or expelled from school attendance pursuant to § 22.1-277.

Adopted by School Board: December 4, 1990

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Conduct Invoking Punitive Action

Revised by School Board: October 18, 1999