

# **STUDENT CONDUCT POLICY GUIDELINES**

**2006 Update**

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Virginia Board of Education  
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# Acknowledgments

The Virginia Board of Education's *Student Conduct Policy Guidelines* underwent major revision in content and format in 2004 incorporating numerous changes in state and federal laws and regulations, relevant case law, and emerging best practice principles. The 2004 *Guidelines* were updated in both 2005 and 2006, primarily to incorporate changes in state laws enacted by the General Assembly in the 2005 and 2006 Sessions. The Virginia Board of Education and the Virginia Department of Education express sincere appreciation to members of the 2004 Student Conduct Policy Guidelines Advisory Group who generously contributed their time and expertise to the development of these guidelines.

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# I. INTRODUCTION

## ***Background***

The Virginia Board of Education's *Student Conduct Policy Guidelines* were first developed in 1994 in response to action by the 1993 General Assembly requiring the Virginia Board of Education to establish such guidelines. In 2004, the *Guidelines* underwent a major revision in response to requirements of § 22.1-279.6. of the *Code of Virginia*, and reflecting numerous changes in state and federal laws and regulations, relevant case law, and emerging best practice principles. The *Virginia Student Conduct Policy Guidelines, 2004*, were originally adopted by the Virginia Board of Education on September 22, 2004. The guidelines were updated in 2005 and in 2006 to incorporate recent changes in state laws and regulations. The guidelines are intended specifically to aid school boards in implementing student conduct policies. Local school boards are required to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, these guidelines.

## ***Legal Base***

### **Statutory Authority for Guidelines**

The Virginia Board of Education is required by law (§ 22.1-279.6. of the *Code of Virginia*) to establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies.

The guidelines and model policies are required to include, but not be limited to the following:

- (i) Criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes
- (ii) Standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, dissemination of such policies to students, their parents, and school personnel
- (iii) Standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

Procedures for suspension and expulsion are to be the minimum procedures that the school board may prescribe.

Section 22.1-279.6.C. requires the Board to establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended.

Also required by § 22.1-279.6. are standards for school board policies on alcohol and drugs and search and seizure, including guidance for procedures relating to voluntary and

mandatory drug testing in schools. *Guidelines Regarding Student Searches in Public Schools* were adopted by the Virginia Board of Education in 1999 and *Guidelines Concerning Student Drug Testing in Virginia Public Schools* were adopted by the Board in 2004. These guidelines can be found on the Virginia Department of Education Web site at <http://www.doe.virginia.gov/VDOE/studentsrvcs/>.

## **Authority and Duties of School Boards**

### ***Standards of Quality***

Section 22.1-253.13:7.D.3. of the *Code of Virginia* (part of the section of the Code known as the Standards of Quality) requires local school boards to maintain and follow an up-to-date policy manual that includes “standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.” Local school boards must give consideration to the views of teachers, parents, and other concerned citizens in the development of policies.

### ***School Board Regulations***

Section 22.1-78. of the *Code* authorizes local school boards to adopt bylaws and regulations “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.”

Section 22.1-279.6.B. of the *Code* requires local school boards to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards are required to include procedures for suspension, expulsion, and exclusion decisions, to biennially review student conduct code guidelines, and to include prohibitions against hazing and profane or obscene language or conduct. School boards are authorized to regulate certain communications devices and, at their discretion, require or encourage drug testing.

Section 22.1-279.9. of the *Code* requires school boards, in cooperation with the local law enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community-at-large, to develop programs to prevent violence and crime on school property and at school-sponsored events.

### ***Removal, Suspension and Expulsion of Pupils***

Section 22.1-276.2. of the *Code* gives teachers initial authority to remove a student from a class for disruptive behavior and requires all school boards to establish the criteria for teachers to remove disruptive students, requirements for reporting incidents of disruptive behavior, procedures for written notification to a student and the student’s parents, guidelines for alternative assignment and instruction of such students, and procedures for the return of students to class and teacher participation in the decision.

Section 22.1-277. of the *Code* authorizes the suspension or expulsion of pupils “for sufficient cause,” including acts off school property when the acts lead to an adjudication of delinquency, a conviction of certain offenses, or a charge that would be a felony if committed by an adult.

Authorization for short-term suspensions (10 school days or less) and procedures for suspension and for readmission are set forth in § 22.1-277.04. of the *Code*.

Authorization for long-term suspensions (more than 10 school days but less than 365 calendar days) and procedures for suspension and for readmission are set forth in § 22.1-277.05. of the *Code*.

Authorization for expulsion and procedures for expulsion and for readmission are set forth in § 22.1-277.06. Recommendations for expulsion for other than weapons and drug offenses are required to be based on consideration of factors specified in the *Code*, including the nature and seriousness of the violation and the student's disciplinary history.

Section 22.1-277.07. of the *Code* requires school boards to expel students who bring a firearm or other destructive device (defined in the Section) onto school property or to a school-sponsored event in violation of the Gun-Free Schools Act of 1994. School boards are authorized to consider factors listed in § 22.1-277.06. in determining "special circumstances" in particular cases that would justify another disciplinary action.

Section 22.1-277.08. of the *Code* requires school boards to expel students who bring a controlled substance, imitation controlled substance, or marijuana onto school property or to a school-sponsored event. School boards are authorized to consider factors listed in § 22.1-277.06. in determining "special circumstances" in particular cases that would justify another disciplinary action.

### ***Alternative Educational and Intervention Programs***

Section 22.1-277.2:1. of the *Code* authorizes school boards to require any student to attend an alternative education program under prescribed circumstances. Procedures to be followed when requiring an alternative education program are also prescribed. It should be noted that alternative education programs are authorized but not required by the *Code* to be established.

In its 2006 Session, the General Assembly added to the list of persons who may participate in the GED testing program to include (i) persons 16 years of age or older who have been expelled from school and (ii) persons required by court order to participate in the testing program (Section 22.1-254.2.A.6. and 7.).

School boards may require any student who has been found in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

## **Legal Responsibilities of Others**

### ***Role of the Principal and School Administration***

The Virginia Standards of Accreditation (2000), Section 8 VAC 20-131-210.A., states that the principal "is recognized as the instructional leader of the school and is responsible for effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources." Section B.2.

specifies that the principal shall "ensure that the school division's student code of conduct is enforced and seek to maintain a safe and secure school environment." Section 8 VAC 20-131-260.C.3., requires a school administration to ensure "a written procedure, in accordance with guidelines established by the local board, for responding to violent, disruptive or illegal activities by students on school property or during a school-sponsored activity."

### ***Parental Responsibility***

Section 22.1-279.3. of the *Code of Virginia* sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance. Procedures are set forth for notifying parents of their responsibilities, documenting the notification, and taking steps against parents for willful and unreasonable refusal to participate in efforts to improve their child's behavior or school attendance. Each parent of a student must sign a statement acknowledging the receipt of the school board's standards of student conduct and return it to the school.

Section 22.1-3.2.A.and B. of the *Code of Virginia* requires a parent or guardian to provide a public school, upon registration of a student, information concerning criminal convictions or delinquency adjudications for any offense listed in subsection G of § 16.1-260. These include homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, or distribution of Schedule I or II controlled substances or marijuana, arson, burglary and robbery, prohibited street gang activity, and recruitment for street gang activity. When the school registration results from foster care placement, the information is to be furnished by the local social services agency or licensed child-placing agency that made the foster care placement. This requirement was added by the 2006 General Assembly.

### ***Responsibilities of Law Enforcement Agencies***

Section 22.1-279.3:1.B. of the *Code of Virginia* requires law enforcement agencies to notify a division superintendent, a principal, or a designee when a student in their school commits certain offenses that would be a felony if committed by an adult or a violation of the Drug Control Act, or an adult misdemeanor as listed in § 22.1-279.3:1.A. and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. It further requires that any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection § 16.1-260 to report the information to the principal of the school in which the juvenile is enrolled. Requirements for law enforcement agencies to report the release status of the student and for school superintendents to inform principals were added by the 2006 General Assembly.

### ***Reports to Law Enforcement Agencies***

Section 22.1-279.3:1.A. of the *Code of Virginia* lists certain offenses that school officials are required to report to local law-enforcement agencies. Additional information about this requirement and a list of reportable offenses are on page 31 of these guidelines.



## II. STUDENT CONDUCT POLICY GUIDELINES

### ***Elements of Student Conduct Policy***

School board policies on student conduct should address certain basic elements including the following:

1. Statement of purpose and intent and/or philosophy
2. Roles and responsibilities for student conduct policy
3. Relationship to related policies and regulations
4. Disciplinary action criteria, procedures, and processes
5. Policy for the development, dissemination and periodic review of standards of student conduct
6. Training of school personnel
7. Standards for student conduct

Described below are each of the basic elements listed with corresponding sample policy statements. Section 22.1-279.6.B. of the *Code* requires local school boards to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board of Education.

### **1. Purpose and Intent; Philosophy**

Local school board policy on student conduct should include a statement of purpose and intent consistent with Virginia law. Examples of statutory language are as follows:

- The Standards of Quality (§ 22.1-253.13.7.D.3.) require standards and procedures “designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.”
- Section 22.1-279.3. sets forth parental responsibility and involvement requirements “in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.”
- Section 22.1-279.6. of the *Code* makes reference to incorporating discipline options and alternatives “to preserve a safe, non-disruptive environment for effective teaching and learning.”

### ***Sample Statements of Purpose and Intent***

- The development, implementation, and enforcement of the student conduct policy is intended to ensure a safe, non-disruptive environment for effective teaching and learning.
- Standards of student conduct are designed to protect the health, safety and welfare of students.
- It is the belief of the (name of school board) that all students have the right to an environment that is safe, drug-free, and conducive to learning. To that end, the student conduct policy sets forth standards for student conduct.
- The primary objectives of the standards of student conduct are (1) to provide standards and guidelines for student behavior; (2) to assist the student in becoming a responsible, productive, and self-disciplined citizen; and (3) to maintain a safe and orderly environment in the classroom and all other areas of the school.

## **2. Roles and Responsibilities**

Local school board policies should clearly define the roles and responsibilities of the school board, the superintendent, principals, teachers, and other staff with responsibility for enforcement of student conduct standards. Information about the duty of parents to assist the school in enforcing the standards of student conduct and compulsory school attendance also is appropriate to be included. A general statement about student rights and responsibilities also may be included, particularly when the local standards of student conduct articulate student rights and responsibilities related to specific conduct.

### ***Sample Statement on Roles and Responsibilities***

School board members, school personnel, parents, and students share the responsibility to create and maintain a school environment that is safe and conducive to learning. It is the responsibility of the School Board to adopt policies and regulations. The superintendent has responsibility to issue standards of student conduct including a list of corrective disciplinary actions for violation of the standards. The school principal has responsibility to enforce the student conduct standards using reasonable judgment. Each parent has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance. Students are expected to attend school regularly and to demonstrate good citizenship, enjoying the rights and fulfilling responsibilities set forth in the student conduct standards.

### 3. Relationship to Existing Policies

The relationship of the student conduct policy to other related local policies, rules, and regulations should be explicitly stated. Other related local policies may include, but are not limited to, those governing student searches, drug testing, attendance, and discipline of students with disabilities. Relevant sources such as federal and state regulations and guidance may be cross-referenced. A list of such regulations, guidelines, and credible resource publications and sources is included as Appendix D.

### 4. Disciplinary Action: Criteria, Procedures, and Processes

#### ***Teacher Removal of a Student from Class***

Local school board policy should cite the initial authority of teachers to remove a student from a class for disruptive behavior and, in accordance with § 22.1-276.2. of the *Code*, is required to establish the following:

1. Criteria for teachers to remove disruptive students from their classes
2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class
3. Procedures for the written notification of a student and the student's parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease
4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals
5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which the student has been removed, and for the resolution of any disagreements between the principal and teacher regarding the return.

"Disruptive behavior" is defined in § 22.1-276.01. of the *Code* as conduct that interrupts or obstructs the learning environment.

#### ***Sample Statement on the Removal of a Student from Class***

Teachers shall have the initial authority to remove a student from a class for disruptive behavior that interrupts or obstructs the learning environment, using the following criteria:

- 1) The removal of the student is necessary to restore a learning environment free from interruptions or obstructions caused by the student's behavior.
- 2) The removal of the student occurs only after teacher or administrative interventions have failed to end the disruptive behavior. However, nothing shall preclude the immediate removal of a student for behavior that might warrant suspension from school.
- 3) The removal of a student is an appropriate response to student behavior that is a violation of the rules of conduct.
- 4) Written notice of the student's behavior and removal from class is given to the parent by the teacher.

### **Short-term Suspensions**

"Short-term suspension" is defined in § 22.1-277.04. of the *Code* as any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

A local school board policy should cite the authority to suspend a student, and include procedures for notice to the student, reporting to the parent and division superintendent, review upon petition, and for appeal consistent with § 22.1-277.04. of the *Code*. School boards may prescribe in regulation whether appeals of short-term suspensions may be made to the school board, a committee thereof, or to the division superintendent or his designee. "Superintendent's designee" is defined in § 22.1-276.01.B. as 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."

A school board policy must require, in accordance with § 22.1-277.04. of the *Code*, that any oral or written notice to the parent of a student suspended from school for not more than 10 school days include the following:

- The length of the suspension,
- Information regarding the availability of community-based educational programs, alternative education programs or other educational options, and
- The student's right to return to regular school attendance upon the expiration of the suspension.

A school board may include a statement specifying that the costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, is the responsibility of the parent of the student. A decision of the division superintendent or designee may be appealed to the school board or its committee, in accordance with local school board regulations.

#### **Sample Statement on Short-Term Suspension**

A student may be suspended out-of-school for violations of the *Code of Conduct*. For out-of school suspensions of 10 days or less, the school administrator shall inform the student of the specific violation and provide the student with opportunities to respond to the charges. The student may present the student's version of what occurred. When the school suspends a student, the school shall 1) notify the student of the right to appeal; 2) make a reasonable effort to notify the student's parent of the suspension, inform the parent that a copy of the rules governing suspensions and the procedures for appeal are being sent home with the student, and make arrangements for the student's return home; and 3) send written notification to the parent informing the parent of the suspension, of its reason, the length of the suspension, the right to appeal, the student's right to return to school, and any conditions for that return.

### **Long-term Suspensions**

"Long-term suspension" is defined in § 22.1-277.05. of the *Code* as any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.

A local school board policy should cite the authority to suspend a student and establish procedures for written notice to the pupil and parent of the action, its reason, and right to appeal in accordance with § 22.1-277.05. of the *Code of Virginia*. A school board may prescribe in regulation whether appeals of long-term suspensions may be to the school board, a committee thereof, or the division superintendent or his designee. If regulations provide for a hearing by the superintendent or designee, the regulations must provide for an appeal of the decision to the full school board and such an appeal must 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 must provide that the committee may confirm or disapprove the suspension of a student. The committee must be composed of at least three members and, if the committee's decision is not unanimous, the pupil or the pupil's parent may appeal the committee's decision to the full school board. Such an appeal must be decided by the school board within thirty days.

School board policy must require that the written notice of a suspension for more than ten days include the following:

- The length of the suspension
- Information concerning the availability of community-based educational, alternative education, or intervention programs
- The student's eligibility to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension.

A school board may include a statement specifying that the costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, is the responsibility of the parent of the student.

School board policy may permit or require students suspended for more than 10 days to attend an alternative education program provided by the school board for the term of the suspension in accordance with procedures set forth in § 22.1-277.2:1. of the *Code*. Alternative education programs are authorized but not required to be established.

#### ***Sample Statement on Long-Term Suspension***

A student may be suspended for more than 10 days following a hearing before a hearing officer designated by the superintendent. For certain offenses, a student may be suspended for the remainder of the semester or the school year. The school administration may determine that transfer to another school serves the best interest of the student and the school.

The discipline committee of the school board may confirm or disapprove the suspension of a student. A hearing shall be held before the discipline committee within ten days of the date of notice from the principal. If the decision of the three-member committee to uphold the suspension is unanimous, there is no right of appeal. If, however, the decision of the committee is not unanimous, the student and his/her parent/guardian may appeal the decision to the full board.

When a student is placed on long-term suspension, written notice of the suspension shall be sent in accordance with state law.

## **Expulsions**

"Expulsion" is defined in § 22.1-277.06. of the *Code of Virginia* as "any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion."

A local school board policy should cite the authority to expel a student and establish the procedures for written notice to the pupil and parent of the action, its reason, and right to a hearing and confirmation in accordance with § 22.1-277.06. of the *Code* and with regulations of the school board. A school board may prescribe in regulation whether the hearing is before the school board or a committee thereof. If the regulations provide for a hearing by a committee of the school board, the regulations must also provide that the committee may confirm or disapprove the expulsion. The committee must be composed of at least three members and, if the committee's decision is not unanimous, the pupil or pupil's parent may appeal the committee's decision to the full school board. Such an appeal must be decided by the school board within thirty days. School board policy must also provide for confirmation or disapproval of a proposed expulsion by the school board or a committee thereof, regardless of whether the pupil exercises the right to a hearing.

The school board policy must require, in accordance with § 22.1-277.06. of the *Code*, that the written notice of expulsion include the following:

- The length of the expulsion
- Information to the parent of the student concerning the availability of community-based educational, training, and intervention programs
- Whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion
- A notice advising that the student may petition the school board for readmission to be effective one calendar year from the date of the student's expulsion, if the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division
- The terms and conditions, if any, under which readmission may be granted

A school board may include a statement specifying that the costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, is the responsibility of the parent of the student.

School board policy may permit or require students expelled to attend an alternative education program provided by the school board for the term of the expulsion in accordance with procedures set forth in § 22.1-277.2:1. of the *Code*. Alternative education programs are authorized but not required to be established. In its 2006 Session, the General Assembly added to the list of persons who may participate in the GED testing program (i) those persons 16 years of age or older who have been expelled from school and (ii) persons required by court order to participate in the testing program (Section 22.1-254.2.A.6. and 7.).

A school board must establish, by regulation, a schedule by which pupils who have been expelled may apply and reapply for readmission to school. The schedule must be designed to ensure that the hearing or ruling on any initial petition for readmission, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. Some school divisions develop an individualized plan or contract for expelled students specifying conditions the student must meet for readmission and actions the student has agreed to take to meet the conditions.

Recommendations for expulsion for other than weapons- and drug-related violations (specified in §§ 22.1-277.07. and 22.1-277.08. of the, *Code of Virginia*) are required to be based on a consideration of factors listed below, as provided in § 22.1-277.06.C.

1. The nature and seriousness of the violation
2. The degree of danger to the school community
3. The student's disciplinary history, including the seriousness and number of previous infractions
4. The appropriateness and availability of an alternative education placement or program
5. The student's age and grade level
6. The results of any mental health, substance abuse, or special education assessments
7. The student's attendance and academic records
8. Other matters as deemed to be appropriate

It should be noted that no decision to expel a student may be reversed on the grounds that the above factors were not considered. These factors may be considered by a school board as "special circumstances" in cases involving weapons- and drug-related violations when determining whether a pupil will be provided an alternative educational placement.

#### ***Sample Statement on Expulsion***

A student may be expelled only by action of the school board or a disciplinary committee of the school board based on the recommendation of the principal and the superintendent.

In the case of a recommendation for expulsion by the principal, the superintendent or his designee shall conduct a review of the recommendation. The review shall take into account the following factors:

1. The nature and seriousness of the violation
2. The degree of danger to the school community
3. The student's disciplinary history, including the seriousness and number of previous infractions
4. The appropriateness and availability of an alternative education placement or program
5. The student's age and grade level
6. The results of any mental health, substance abuse, or special education assessments
7. The student's attendance and academic records
8. Such other matters as deemed to be appropriate.

**Sample Statement on Expulsion (continued)**

If the superintendent/designee upholds the recommendation, a hearing shall be held before the discipline committee within 10 days of the date of notice from the principal. If the decision of the three-member committee to uphold the expulsion is unanimous, there is no right of appeal. If, however, the decision of the committee is not unanimous, the student and his/her parent or guardian may appeal the decision to the full board.

When a student is expelled, written notice of the expulsion shall be sent in accordance with state law. The superintendent or his designee shall establish a schedule by which pupils who have been expelled may apply and reapply for readmission to school.

**Expulsions for Weapons-Related Offenses**

School board policy, in accordance with § 22.1-277.07. of the *Code of Virginia*, must provide for the mandatory expulsion for a period of not less than one year (365 days) of any student determined to possess a firearm, destructive device, a firearm muffler or firearm silencer, or a pneumatic gun on-school property or at a school-sponsored activity. Definitions of "firearm," "destructive devices," and "pneumatic gun" are set forth in § 22.1-277.07.E. of the *Code*, and are consistent with the federal Gun-Free Schools Act. A copy of this Act is included as Appendix E. This prohibition does not apply to Junior Reserve Officers Training Corps (JROTC) programs or to the possession of firearms as part of the curriculum or other programs sponsored by the schools or other organization permitted by the school to use its premises. Note that the 2006 General Assembly clarified the offense as *possession*; previous law referred to "bringing" such firearms and devices to school.

A school board may establish policies and promulgate related guidelines for determining whether "special circumstances" exist that would allow for no disciplinary action or another disciplinary action, based on the facts of a particular situation. A school board may, by regulation, authorize the division superintendent or designee to conduct a preliminary review of such cases.

A school board policy may permit or require students expelled for weapons-related offenses to attend an alternative education program provided by the school board for the term of the expulsion.

**Sample Statement on Expulsion for Weapons-Related Offense**

Any student determined to be in possession of or to have brought any prohibited weapon onto school property or to a school-sponsored activity shall be expelled for a period of not less than one year (365 days). However, the school board may determine, based on the facts of a particular case, that special circumstances exist and another disciplinary action or term of expulsion is appropriate. The division superintendent may conduct a review in such cases to determine whether a disciplinary action other than expulsion is appropriate, and recommend that action to the school board for final determination.



### ***Expulsions for Drug-Related Offenses***

A school board policy, in accordance with § 22.1-277.08. of the *Code of Virginia*, must provide for the mandatory expulsion for a period of not less than one year of any student determined to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247. onto school property or to a school-sponsored activity.

“One year” is defined as 365 days as required in federal regulation.

A school board may establish policy and promulgate related guidelines for determining whether "special circumstances" exist that would allow for no disciplinary action or another disciplinary action, based on facts of a particular situation. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases.

School board policy may permit or require students expelled for drug-related offenses to attend an alternative education program provided by the school board for the term of the expulsion.

#### ***Sample Statement on Expulsion for Drug-Related Offense***

Any student determined to have distributed or manufactured a controlled substance including anabolic steroids or prescription drugs, an imitation controlled drug, or other prohibited substance on school property or at a school-sponsored activity shall be expelled for a period of not less than one year. However, the school board may determine, based on the facts of a particular case, that special circumstances exist and another disciplinary action or term of expulsion is appropriate. The division superintendent may conduct a review in such cases to determine whether a disciplinary action other than expulsion is appropriate, and recommend that action to the school board for final determination.

### ***Suspensions or Expulsions of Students with Disabilities***

Local school board policy should specify, at a minimum, that suspensions and/or expulsions of students with disabilities will be in compliance with state regulations and federal law. Reference may be made to *Regulations Governing Special Education Programs for Children with Disabilities* (2002) that are available from the Virginia Department of Education Web site at <http://www.doe.virginia.gov/VDOE/dueproc/>. Additional information on students with disabilities is included in Appendix B.

### ***Admission of Students Suspended or Expelled from Another School Division or a Private School***

Section 22.1-277.2. of the *Code* authorizes the exclusion of a student suspended or expelled from another school division or a private school upon a finding that the student presents a danger to the other students or staff of the school division. This action is permitted after:

- (i) Written notice to the student and student’s parent that the student may be subject to exclusion, the reasons therefore, and, in the event of such exclusion, the right to appeal the decision at a hearing before the school board or a committee thereof; and
- (ii) Review of the case by the division superintendent or designee and a recommendation of exclusion.

In cases where the suspension is for more than 30 days, the term of the exclusion may not exceed the duration of such suspension.

In cases of expelled students, the local school board may accept or waive any or all of any conditions for readmission imposed upon such a student by the expelling school board, but may not impose additional conditions for readmission to school.

A school board policy should cite the authority to exclude such students and establish procedures in accordance with § 22.1-277.2. of the *Code*. A school board may, but is not required, to permit students excluded to attend an alternative education program provided by the school board for the term of such exclusion.

***Sample Statement for Admission of Students Suspended or Expelled from Another School Division***

A student who has been expelled or suspended for more than 30 days from attendance at school by a school board or a private school, or for whom admission has been withdrawn by a private school, may be excluded from attendance for no more than one calendar year in the case of expulsion or withdrawal of admission, and in the case of suspension of more than 30 days, for not longer than the duration of such suspension. The school shall provide written notice to the student and his or her parent of the reasons for such possible exclusion and of the right to a hearing conducted by the division superintendent. The student may not attend school until a review of the case is conducted by the division superintendent. Exclusion shall be imposed upon a finding that the student presents a danger to the other students or staff members of the school division. The decision to exclude the student shall be final unless altered by the school board after timely written petition. Upon the expiration of the exclusion, the student may petition the division superintendent for admission.

## **5. Policy for Development, Dissemination and Periodic Review of Student Conduct Standards**

### ***Policy Development and Review***

A school board policy should provide for the systematic review and update of existing policies, related regulations, and student conduct standards on an annual basis. The policy review process should involve, at a minimum, school board counsel, administrators most directly involved with student discipline (e.g., disciplinary hearing officer), and representatives of school-based administrators, teachers, students, and parents. Consultation with law enforcement and juvenile court officials and with other community agencies can be very beneficial.

The review should examine not only relevant statutory and case law and regulations, but also consider the policy and programmatic implications of local discipline data. This type of comprehensive review has been demonstrated to yield information useful in updating policy and in improving the effectiveness of its implementation. A comprehensive review also can be helpful in designing effective in-service training on student conduct policies for administrators and other staff.

### ***Sample Statement on Review and Revision of Standards of Student Conduct***

An annual evaluation of the *Standards of Student Conduct* will be conducted within a month of the close of school. Revision, if necessary, will be completed prior to the opening of the next school year.

### ***Dissemination of Standards***

Local school boards must provide written copies of the school board's standards of student conduct to students, parents of enrolled students, and school personnel. The format for written dissemination should be one that is understandable to students, parents, and school personnel and may include, but not be limited to, statements of student rights and responsibilities, rules of conduct, and disciplinary procedures. School boards in localities with substantial numbers of non-English-speaking populations may require the translation of the standards and related materials.

Student conduct standards may be published as a simple, stand-alone document or as part of a more lengthy, comprehensive handbook. School boards should determine the format and content most suited to local need. Some school divisions have included letters from local juvenile judges stating court positions on such matters as parent responsibilities, school attendance and student conduct. A glossary may be included to aid understanding of terminology. Some school divisions have developed separate documents detailing due process procedures that are given to pupils when disciplinary action is taken against them.

Dissemination procedures may include student and faculty orientations and other activities designed to ensure that each student has an opportunity to become familiar with the conduct standards. Some school divisions require classroom teachers to review standards with their students and others administer quizzes to assess student understanding of rules and consequences. Appropriate adaptations should be employed for students with disabilities. Procedures should address also the dissemination of standards to students who enroll after the beginning of the school year and to their parents.

### ***Sample Statement on Distribution of Standards of Student Conduct***

A copy of the *Standards of Student Conduct* will be issued to all students within one month of the opening of school. All transfer students will be issued a copy of the *Standards* as a part of the registration process. Principals will stress to all students that compliance with the Standards is mandatory. The "Acknowledgment of Parent Responsibility" form must be signed by the parent or guardian and returned to the school.

Each year, during the first week of school, all students will be provided a period of instruction on the contents of the *Standards of Student Conduct*. This instruction will be followed by an assessment appropriate to the student's grade level.

## **6. In-Service Training of School Personnel**

Effective training of administrators and other staff with responsibility for implementation of student conduct policy is critical. Such training should be designed to include, but not be limited to, the following:

- Purpose and intent of student conduct policy
- Specific staff roles and responsibilities for implementing student conduct policy
- Standards for student conduct
- Disciplinary processes and procedures
- Requirements and procedures for reporting offenses to local law enforcement authorities
- Relationship of student conduct policy to other policies and procedures

Such training should be designed to equip school personnel with knowledge of best practices for effective conduct policy implementation. The use of methods such as scenarios and table-top exercises have been demonstrated to be effective for such training. At the discretion of a local school board, depending on local conditions, consideration may be given to also including content on cultural awareness, gang awareness, and bullying prevention and intervention.

# III. STANDARDS OF STUDENT CONDUCT

## Application of Policy

Local school board policies and/or regulations should state explicitly the following:

- Standards of student conduct apply to all students under the jurisdiction of a school board.
- Disciplinary action will be determined based on the facts of each incident in the reasonable discretion of the school board and other appropriate school officials.
- Students are subject to corrective disciplinary action for misconduct that occurs:
  - in school or on school property
  - on a school vehicle
  - while participating in or attending any school sponsored activity or trip
  - on the way to and from school and
  - off school property, when the acts lead to (1) an adjudication of delinquency or a conviction for an offense listed in § 16.1-305.1. of the *Code of Virginia* (unlawful purchase, possession or use of a weapon, homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances or marijuana, arson, and related crimes, and burglary and related offenses), criminal street gang activity or recruitment for such activity, or (2) a charge that would be a felony if committed by an adult.

## Range of Corrective Disciplinary Action

Codes of student conduct should identify a range of corrective disciplinary actions available to school administrators in response to misconduct. The options and alternatives may range from admonition to mandatory expulsion, and may include but not be limited to the following:

- Admonition and counseling
- Parent/pupil conference
- Modification of student classroom assignment or schedule
- Student behavior contract
- Referral to student support services
- After-school or in-school detention
- Suspension of student privileges for a specified period
- Removal from class
- Initiation of child study process
- Referral to in-school intervention, mediation, or community service programs
- Short-term suspension
- Long-term suspension
- Recommendation for expulsion
- Mandatory expulsion

### ***Differentiation of Sanctions by Grade Level***

Options for corrective disciplinary action for misconduct may be differentiated by grade level.

### ***Other Disciplinary Consequences***

A school board may allow a student who has been suspended to complete academic assignments during the period of suspension in accordance with conditions established by the school board. School board policy may provide for ongoing consequences after a student returns to school following suspension or expulsion including, but not limited to, probationary status requiring satisfactory performance and conduct, limitations of privileges, community service, or restitution.

### **Administrative Discretion**

The degree of administrator discretion in determining appropriate disciplinary action granted by a school board is critical to the effectiveness of a school division's discipline policy and constitutes an issue that merits careful consideration. School boards have a legitimate interest in the consistency and fairness of policy implementation across school sites. To ensure greater consistency, some school boards have prescribed certain minimum and maximum disciplinary actions, others have identified levels of action appropriate for specified offenses and many have limited discretion in cases of very serious offenses. A closely related issue is planning for the training of school personnel in disciplinary policy, its enforcement and disciplinary procedures.

### **Offenses**

Definitions of offenses that are also violations of law should be consistent with statutory definitions. When offenses are not defined in the *Code of Virginia*, definitions developed for the Virginia Department of Education *Annual Discipline, Crime, and Violence Report* may be helpful in establishing local operational definitions.

### ***Alcohol and drugs***

Student conduct policy for alcohol and drugs should address the possession, use, consumption, purchase, distribution, manufacture, and/or sale of restricted substances on school property, on school vehicles, or during school sponsored activities on or off school property. This includes, but may not be limited to, tobacco products, anabolic steroids, inhalants, stimulants, depressants, hallucinogens, marijuana, imitation and look-alike drugs, drug paraphernalia, any prescription or non-prescription drug possessed in violation of school board policy and other controlled substances defined in the Drug Control Act, Chapter 15.1. of Title 54 of the *Code of Virginia*.

School boards may consider the use of graduated sanctions in which a substance abuse prevention/intervention program is available to students in cases of first possession or use violations. A student assistance program can serve as an important programmatic element for substance abuse prevention, intervention, and linkage to treatment.

School boards, in accordance with § 22.1-277.2:1. of the *Code*, may require any student who has been found in possession of, or under the influence of, drugs or alcohol in violation of school board policy to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

**Sample Conduct Standard: Alcohol and Other Drugs**

A student may not possess, use, or distribute alcohol, tobacco and/or tobacco products, and other drugs on school grounds, on school buses, or during school activities, on or off school property. This includes, but may not be limited to, smokeless tobacco, anabolic steroids, look-alike drugs, drug paraphernalia, and any drug not prescribed for the student by a physician.

Any student who possesses or uses prohibited substances may participate in prevention and intervention activities deemed appropriate by the superintendent.

**Assault; Assault and Battery**

An *assault* is a threat of bodily injury. A *battery* is any bodily hurt, however slight, done to another in an angry, rude or vengeful manner.

Student conduct policy should specifically prohibit the threatening or physical assaulting of students and of staff. Other related offenses that may be included as part of student conduct standards include sexual assault or battery (including improper touching), mob assault, and bullying.

**Sample Conduct Standard: Assault**

The following violations shall result in disciplinary action and may require mandatory sanctions:

- 1) Threatening or physically assaulting another student or another person (other than a staff member) who has reason to be at school, whether or not causing injury, shall result in disciplinary measures up to and including a 10-day suspension and a recommendation for expulsion.
- 2) Physically assaulting a school staff member shall result in suspension from school for up to 10 days, and the principal may recommend expulsion. In the event of injury to the staff member, expulsion shall be recommended.

**Attendance; Truancy**

Attendance requirements may be included as part of student conduct policy or may be addressed elsewhere in policy at the discretion of the school board. The policy should establish an expectation for regular attendance, criteria for absences to be excused, and applicable academic and disciplinary consequences of nonattendance and tardiest. The comprehensive policy should address parental responsibilities, duties of the school division's attendance officer and procedures for taking action against the child and/or parent for failure to comply with applicable law.

According to § 16.1-228.A. of the *Code of Virginia*, a "child in need of supervision" who is

truant means:

- A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and
- The child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, and
- The school division from which the child is absent or other appropriate agency has made a reasonable effort to affect the child's regular attendance without success, and
- The school division has provided documentation that it has complied with the provisions of § 22.1-258 that address actions to be taken when a pupil fails to report to school.

**Sample Conduct Standard: Attendance**

Student attendance is a cooperative effort; schools shall involve parents and students in accepting responsibility for regular attendance.

Each parent or guardian of a child within the compulsory school attendance age shall be responsible for the child's regular and punctual attendance at school as required by law.

Students shall attend school on a regular and punctual basis unless otherwise excused in accordance with school board regulation.

**Bomb Threat**

School board policy should specifically prohibit bomb threats. Other related offenses that may be constitute components of a comprehensive policy include, but are not limited to, conduct involving firebombs, explosives, incendiary devices or chemical bombs.

Threats to bomb or damage buildings and giving false information as to danger to such buildings are prohibited by § 18.2-83. of the *Code of Virginia*. Definitions of "explosive material," "fire bomb," and "hoax explosive device" are defined in § 18.2-85. of the *Code*.

**Sample Conduct Standard: Bomb Threat**

Students shall not engage in any illegal conduct involving firebombs, explosive or incendiary materials or devices, or hoax explosive devices, or chemical bombs as defined in the *Code of Virginia*. Moreover, students shall not make any threats or false threats to bomb other students, school personnel or property.



## **Bullying**

According to the National Center for Education Statistics, [*Indicators of School Crime and Safety*, 2002 (July 2004)], bullying can contribute to a climate of fear and intimidation in schools. Bullying is not specifically defined in Virginia law. Patterns of behavior associated with bullying that is criminal offenses are as follows:

Assault	Extortion	Hazing
Larceny	Theft	Sexual harassment
Battery	False Imprisonment	
Robbery	Threats	

Non-criminal behavior associated with bullying includes intimidation, taunting, name-calling, and insults. The definition developed for the Virginia Department of Education *Annual Discipline, Crime, and Violence Report* is “repeated negative behaviors intended to frighten or cause harm” that may include, but are not limited to, verbal or written threats or physical harm. Another form of bullying is cyber bullying, typically defined as using information and communication technologies such as e-mail, cell phone and pager text messages, instant messaging, defamatory personal Web sites, and defamatory online personal polling Web sites, to support deliberate, hostile behavior intended to harm others.

Section 22.1-208.01 requires each school board to establish, within existing programs, a character education program; these programs are required to address the inappropriateness of bullying.

### **Sample Conduct Standard: Bullying**

Students, either individually or as part of a group, shall not harass or bully others. The following conduct is illustrative of bullying:

- Physical intimidation, taunting, name calling, and insults
- Comments regarding the race, gender, religion, physical abilities or characteristics of associates of the targeted person
- Falsifying statements about other persons
- Use of technology such as e-mail, text messages, or Web sites to defame or harm others.

### **Bus-Related Offenses**

School board policy should clearly communicate that rules governing student conduct apply not only at school but also on a school vehicle, while on a school-sponsored trip, and on the way to and from school, including at the bus stop.

### **Sample Conduct Standard: Bus-Related Conduct**

Students are required to conduct themselves on school buses in a manner consistent with established standards for classroom behavior. Students who become disciplinary problems on school buses shall be reported to the principal by the driver and may have their riding privileges suspended. Students are also subject to the same disciplinary action as would be prescribed had the behavior occurred at school.

## ***Cheating***

Cheating is not defined in the *Code of Virginia*. A student conduct policy may address cheating as a single offense or approach it as one of several offenses related to integrity.

### ***Sample Conduct Standard: Cheating***

Students are expected to perform honestly on any assigned schoolwork or tests. The following actions are prohibited:

- Cheating on a test or assigned work by giving, receiving, offering, and/or soliciting information
- Plagiarizing by copying the language, structure, idea, and/or thoughts of another
- Falsifying statements on any assigned schoolwork, tests, or other school documents

## ***Communications Devices; Laser Pointers***

Section 22.1-279.6.B. of the *Code* authorizes school boards to regulate the use or possession of beepers or other portable communications devices and laser pointers and establish disciplinary procedures for students violating such regulations. Policies prohibiting or limiting the use of communications devices typically address beepers, cellular telephones, personal digital assistants (PDAs) and similar devices.

### ***Sample Conduct Standard: Communication Devices; Laser Pointers***

The following violations shall result in disciplinary action at the discretion of the principal:

Possession of any portable communication devices, including any beeper, cell phone, or other similar device, including any device capable of receiving or transmitting text messages, on school property and during the school day by an elementary or middle school student.

A high school student may possess such a portable communication device on school property during the school day; however, the device must be out of sight, turned off, and used only with authorization from the principal.

In addition to other disciplinary action associated with the possession or use of a portable communication device in violation of this provision, any such portable communication device shall be subject to confiscation by school officials and returned only to the student's parent or guardian.

## ***Disruptive Behavior***

"Disruptive behavior" is defined in § 22.1-276.01. of the *Code* as conduct that interrupts or obstructs the learning environment. Local school board policy should cite the initial authority of teachers to remove a student from a class for disruptive behavior.

The related offense of disorderly conduct is defined in § 18.2-415. as involving the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk. Conduct is deemed to be disorderly when it disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

**Sample Conduct Standard: Disruptive Behavior**

Students are entitled to a learning environment free of unnecessary disruption. Any physical or verbal disturbance within the school setting or during related activities, which interrupts or interferes with teaching and orderly conduct of school activities, is prohibited.

**Dress Standards**

Establishing standards for dress has the potential to be controversial. A key criteria used by many school boards in determining what is and is not acceptable dress is whether it interferes with or disrupts the educational environment. Health and safety are also primary considerations. Some policies approach dress standards as a component of personal symbolic expression that also addresses hairstyles and buttons and badges.

**Sample Conduct Standard: Dress Standard**

All students are expected to dress appropriately for a K-12 educational environment. Any clothing that interferes with or disrupts the educational environment is unacceptable. Clothing with language or images that are vulgar, discriminatory, or obscene, or clothing that promotes illegal or violent conduct, such as the unlawful use of weapons, drugs, alcohol, tobacco, or drug paraphernalia, or clothing that contains threats such as gang symbols is prohibited.

Clothing should fit, be neat and clean, and conform to standards of safety, good taste, and decency. Clothing that exposes cleavage, private parts, the midriff, or undergarments, or that is otherwise sexually provocative, is prohibited. Examples of prohibited clothing include, but are not limited to: sagging or low-cut pants, low-cut necklines that show cleavage, tube tops, halter tops, backless blouses or blouses with only ties in the back, clothing constructed of see-through materials, and head coverings unless required for religious or medical purposes.

Additionally, disciplinary action will be taken against any student taking part in gang-related activities that are disruptive to the school environment, which include the display of any apparel, jewelry, accessory, tattoo, or manner of grooming that, by virtue of its color, arrangement, trademark, or any other attribute, denotes membership in a gang that advocates illegal or disruptive behavior.

Parents of students requiring accommodation for religious beliefs, disabilities, or other good causes should contact the principal. Students not complying with this code will be asked to cover the non-complying clothing, change clothes, or go home. Repeated infractions will result in disciplinary action.

**Extortion**

Extortion is defined in § 18.2-59. of the *Code* as unlawfully obtaining or attempting to obtain something of value from another by compelling the other person to deliver it by the threat of eventual physical injury or other harm to that person or the person's property, or a third person. "Blackmail" is the common name for extortion where the threat is not physical but relates to exposing some secret or true or alleged fact, which would do harm to someone's circumstances or damage his or her reputation.

**Sample Conduct Standard: Extortion**

No student may obtain or attempt to obtain anything of value from another by using a threat of any kind.

**Fighting**

Fighting is not specifically defined in the *Code of Virginia*. The key element differentiating fighting from assault is the mutual nature of contact.

Definitions developed for use in the Virginia Department of Education report on discipline, crime and violence are as follows:

- Fighting with serious injury - Mutual participation in an incident involving physical violence, where there is serious injury. Requires medical attention.
- Fighting with no/minor injury - Mutual participation in an incident involving physical violence, where there is no or minor injury.

**Sample Conduct Standard: Fighting**

Exchanging mutual physical contact between two or more students by pushing, shoving, or hitting with or without injury is prohibited.

**Gambling**

Section 18.2-325. of the *Code of Virginia* defines illegal gambling as the “making, placing or receipt, of any bet or wager of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value.” A gambling device includes any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in illegal gambling operations or activity.

**Sample Conduct Standard: Gambling**

A student shall not bet money or other things of value, or knowingly play or participate in any game involving a bet on school property or during any school-sponsored activity.

### ***Gang-Related Activity***

"Criminal street gang" is defined in § 18.2-46.1. as meaning "any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities, (ii) which has an identifiable name or identifying sign or symbol, and (iii) whose members? individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction."

Note that the 2005 General Assembly increased criminal penalties for gang activities taking place within 1000 feet of any public or private school. The 2006 General Assembly passed legislation to make it illegal to point, hold, or brandish in a threatening manner a machete or any weapon with an exposed blade 12 inches or longer, unless for justifiable self defense. If the offense occurs within 1000 feet of school property, the punishment is a Class 6 felony. See § 18.2-282.1 of the *Code*.

Section 16.1-260.G. of the *Code* requires an intake officer to report to the division superintendent any student against whom a petition is filed for certain offenses including:

- Prohibited criminal street gang activity pursuant to § 18.2-46.2.
- Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3.

#### ***Sample Conduct Standard: Gang-Related Activity***

Gang-related activity will not be tolerated. Symbols of gang membership are expressly prohibited (i.e., clothing that symbolizes association, rituals associated with, or activities by an identified group of students).

### ***Hazing***

Local school board codes of student conduct, in accordance with § 22.1-279.6.B. of the *Code*, are required to prohibit hazing and to cite "the provisions of § 18.2-56., which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations; i.e, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both."

#### ***Sample Conduct Standard: Hazing***

No student shall engage in hazing. Hazing means to recklessly and intentionally endanger the health or safety of a student or students or to inflict bodily harm on a student or students in connection with or for the purpose of initiation, admission into or affiliation with, or as a condition for, continued membership in a club, organization, association, fraternity, sorority, or student body, regardless of whether the student or students so endangered or injured participated voluntarily in the activity.

Hazing is a Class 1 misdemeanor which may be punished by confinement in jail for up to 12 months and a fine of up to \$2,500, or both, in addition to any disciplinary consequences which may be imposed. In addition, any person receiving bodily injury by hazing has a right to sue, civilly, the person or persons guilty thereof, whether adults or minors. The principal of any school at which hazing which causes bodily injury occurs shall report the hazing to the local Commonwealth Attorney.

### **Internet Use**

Student conduct policy related to computer use should be developed in accordance with information provided in the Virginia Department of Education's *Acceptable Use Policies: A Handbook*, available on the Department's Web site at <http://www.doe.virginia.gov/>. In its 2006 Session, the General Assembly amended § 22.1-70.2 of the Code to require school divisions to add to their acceptable use policies a component on Internet safety for students that is integrated with a school division's instructional program. The Superintendent of Public Instruction is to issue guidelines to school divisions regarding instructional programs related to the internet. See SUPTS. MEMO NO. 15 (Administrative), April 21, 2006, Internet Safety Instruction in Schools. Also see *Guidelines and Resources for Internet Safety in Schools* (August 2006). Virginia Department of Education, Office of Educational Technology. Available at <http://www.doe.virginia.gov/VDOE/Technology/>

#### **Sample Conduct Standard: Profane or Obscene Language or Conduct**

Students shall not use vulgar, profane, or obscene language, or gestures, or engage in conduct that is vulgar, profane, or obscene, or disrupts the teaching and learning environment.

### **Profane or Obscene Language or Conduct**

School board student conduct policy, in accordance with § 22.1-279.6.B. of the Code, is required to prohibit profane or obscene language or conduct. These terms are not specifically defined in the *Code of Virginia*. Conduct typically prohibited under this provision includes swearing and obscene/offensive gestures, materials, and communications.

### **Property Violations**

Property violations include, but are not limited to, arson, destruction of property, vandalism, and theft.

Arson - § 18.2-79. of the *Code of Virginia*, prohibits the burning or destroying of any school. The destruction may be in whole or in part--only a *slight* burning is necessary to violate this section of the *Code*.

Destruction of property - § 22.1-280.4. of the *Code* authorizes school boards to seek reimbursement from a pupil or the pupil's parent for any "actual loss, breakage, or destruction of or failure to return property, owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies."

Theft - Larceny is the wrongful taking of the property of another without the owner's consent and with the intention to permanently deprive the owner of possession of the property.

Vandalism - § 18.2-138. of the *Code* prohibits the willful and malicious damaging of public buildings, including schools.

**Sample Conduct Standard: Property Offenses**

The following violations shall result in disciplinary action at the discretion of the principal and may require a report to local law enforcement authorities:

- Willful causing or attempting to cause damage to school property
- Theft of, taking, or trying to take another person's property or money by force, fear, or other means
- Vandalism, arson, or any threat or false threat to bomb, burn, damage, or destroy in any manner a school building or school property

A student (or the student's parent) shall be required to reimburse the school board for any actual loss of, breakage or, destruction of, or failure to return property owned by or under the control of the school board caused or committed by such student.

**Stalking**

Stalking is defined in § 18.2-60.3. of the *Code of Virginia* as conduct, occurring on more than one occasion and directed at another person, that places that other person in reasonable fear of death, criminal sexual assault, or bodily injury. The 2005 General Assembly added stalking to the list of offenses required to be reported to law enforcement officials (see page 31).

**Sample Conduct Standard: Stalking**

Students shall not engage in a pattern of behavior that places another person in fear of serious harm.

**Theft**

See Property Violations.

**Threats; Intimidation**

Threats to kill or to do bodily harm are specifically prohibited by § 18.2-60. of the *Code of Virginia*. The prohibition includes threats to any person or persons" (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus," Section 18.2-60.B. of the *Code* prohibits an oral threat to kill or to do bodily injury to any employee of any elementary, middle or secondary school, while on a school bus, on school property, or at a school-sponsored activity.

**Sample Conduct Standard: Threats; Intimidation**

Students shall not make any verbal or physical threat of bodily injury or use of force directed toward another person for the purpose of extortion or for any other reason.

### **Trespassing**

Trespassing upon church or school property, including school buses, is specifically prohibited by § 18.2-128. of the *Code of Virginia*. The definition developed for the Virginia Department of Education's discipline, crime, and violence report is as follows:

To enter or remain on a public school campus or school board facility without authorization or invitation and with no lawful purpose for entry, including students under suspension or expulsion, and unauthorized persons who enter or remain on a campus or school board facility after being directed to leave by the chief administrator or designee of the facility, campus, or function.

#### **Sample Conduct Standard: Trespassing**

A student shall not trespass on school property or use school facilities without proper authority or permission, or during a period of suspension or expulsion.

All visitors to a school or its grounds shall report to the main office immediately. Persons who fail to do so may be considered trespassers and subject to legal action, and student visitors who fail to do so also may be subject to disciplinary action as well as legal action. Any person whose presence or action interferes with or disrupts the operation of the school, its students, or school activities shall be prohibited from entering school or remaining on school property or remaining at a school-sponsored activity, wherever located.

### **Vandalism**

See Property Violations.

### **Weapons or Other Dangerous Articles**

Student conduct policy on weapons should address the possession, use, sale or purchase of restricted items on school property, on school vehicles, or during school sponsored activities on or off school property. This includes, but may not be limited to, any firearm or weapon. A school board additionally may prohibit the possession of unloaded weapons by students on their persons or in their lockers, backpacks, or vehicles.

Weapons for which mandatory expulsion is required include those enumerated in *Virginia Code* § 18.2-308.1., in the federal Gun-Free Schools Act, and in *Virginia Code* § 22.1-277.01.D. In accordance with § 22.1-277.01 of the *Code*, the expulsion shall be for no less than 365 days.

An exception to this policy may be made for students participating in an authorized extracurricular activity or team involving the use of firearms.

Carrying, bringing, using, or possessing dangerous instruments in any school building, on school grounds, in any school vehicle, or at any school-sponsored activity on or off school property is grounds for disciplinary action. Examples of dangerous instruments include letter openers, screwdrivers, hammers, hatchets, and other devices that could be used to inflict harm upon another person. Not subject to mandatory expulsion is possession of a knife that



is customarily used for food preparation or service and is possessed by the student for the sole purpose of personal food preparation and service.

***Sample Conduct Standard: Weapons***

Students shall not have in their possession any type of unauthorized firearm or other article which may be used as a weapon.

***Other Conduct***

A school board may consider including an “other conduct” category that addresses conduct not specifically listed elsewhere. The “other conduct” should be confined to that which disrupts the educational environment or is a violation of federal, state, or local law.

***Sample Conduct Standard: Other Conduct***

In addition to those specific standards, students shall not engage in any conduct which materially and substantially disrupts the ongoing educational process or which is otherwise in violation of federal, state, or local law.

***Self Defense***

A code of student conduct may, but is not required to, address consideration of self defense as a factor in determining appropriate disciplinary action. Procedures for such consideration should include an opportunity for the student(s) to present the student’s version of what occurred, as well as a review of facts, involving school personnel and others as appropriate. The fact-seeking process may include students and other staff who may have witnessed the incident or have observed previous interactions between the students involved. In cases where self defense is claimed, there may be a “history” between the students that often takes the investigation beyond looking at the single incident to examining patterns of interaction, past threats, and bullying. Persons from whom information is obtained could include a bus driver, other students, and parents.

School boards developing disciplinary policies including self defense should provide criteria that defines when an incident would be considered an act of self defense. Based on the criteria used in the judicial system for a claim of self defense to apply, the following conditions should be met. The person claiming self defense must:

- Be without fault in provoking or bringing on the fight or incident
- Have reasonably feared, under the circumstances as they appeared to him, that he was in danger of harm
- Have used no more force than was reasonably necessary to protect him from the threatened harm.

A school board’s policy addressing self defense should retain a prohibition for bringing weapons of any kind to school for the purpose of self defense and explicitly state that self defense does not constitute a valid defense against possession or use of a weapon on school property or at any school-sponsored activity.

### ***Sample Statement on Self Defense***

Students are subject to disciplinary action for misconduct. Cases for which self defense is claimed must meet the following criteria: (1) the claimant must not have provoked or behaved in a manner to cause the incident; (2) the claimant must have had reasonable fear of danger of harm; and (3) the claimant used no more force than needed for protection from the threatened harm. Such incidents should be reported immediately to school officials. When claims of self defense have been established, the administrator shall: (1) allow the student to present his version of what occurred and (2) review circumstances and relevant information from others pertaining to the incident, including relationships and previous patterns of interaction among the students involved. Findings from the review of circumstances and other relevant information should be considered in determining appropriate corrective disciplinary action. Claims of self defense do not constitute a valid defense against possession or use of a weapon on school property or at any school sponsored activity. Weapons are prohibited on school property and at school-sponsored events.

## ***Related Policy Issues***

### **Notification of Parental Responsibilities and Involvement**

A local school board policy must provide for notification of parental responsibilities in accordance with § 22.1-279.3. of the *Code of Virginia* that sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance.

Within one calendar month of the opening of school, school boards are required to send the parents of each enrolled student (i) a notice of parental responsibilities; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials must include a notice to the parents that, by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth. The notice also informs a parent of the right to express disagreement with a school's or school division's policies or decisions. A school board's policy should address documentation of receipt of materials, the conditions for requiring parent involvement, and criteria/steps for proceeding against parents in juvenile and domestic relations court for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance.

### **Reporting of Certain Offenses to Law Enforcement Authorities**

Local school board policy must provide for notification of local law enforcement authorities in accordance with § 22.1-279.3:1.D. of the *Code of Virginia* that requires principals to immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of §22.1-279.3:1.A. that may constitute a criminal offense. A principal may report to the local law-enforcement agency any incident described in clause (i) of subsection A. When there is injury, or the battery is against school personnel, reporting is mandatory.

Section 22.1-279.3:1.A. of the *Code* lists offenses as stated below:

- i. The assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity
- ii. The assault and battery which that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described § 18.2-60.3, in on a school bus, on school property, or at a school-sponsored activity
- iii. Any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications
- iv. Any threats against school personnel while on a school bus, on school property or at a school-sponsored activity
- v. The illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property
- vi. Any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity
- vii. Any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses, or
- viii. The arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefore

The principal or designee must also report these incidents to the superintendent of the school division, who then reports them to the Department of Education in accordance with § 22.1-279.3:1(C) of the *Code of Virginia*. Incidents are reported to the Department of Education in the *Annual Discipline, Crime and Violence Report*. Reports of such incidents must accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities. Effective for the 2005-2006 school year, compliance with this requirement will be documented in the *Annual Discipline, Crime and Violence Report*.

The principal or designee must also notify the parent of any student involved in the incidents listed above, as well as incidents committed by students enrolled at the school if the offense would be a felony if committed by an adult, regardless of where the offense is committed, or would be a violation of the Drug Control Act if it occurs on a school bus, school property, or at a school sponsored activity [§ 22.1-279.3:1(B) and (C)]. The 2005 General Assembly amended § 22.1-279.3:1.D. to require that principals notify parents that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

Whenever a student commits a reportable incident named in the *Code*, the student shall be required to participate in prevention and intervention activities as determined appropriate by the superintendent or designee (§ 22.1-279.3:1(C)). A school board may require reporting of other offenses. This determination is best made in consultation with local school and law enforcement officials.

## **Access to Certain Juvenile Records**

Section 16.1-300 of the *Code of Virginia* governs the confidentiality of Department of Juvenile Justice records of children who have been before a juvenile court, under probation supervision, received services from a court service unit, or who are committed to the Department of Juvenile Justice. In its 2006 Session, the General Assembly specified that a school administration is among the entities who may have access to these records by order of the court when they are deemed to have a legitimate interest in the case or the juvenile.

## **Clarifying the Parameters of Legal and Administrative Authorities**

An effective school-law enforcement partnership is characterized by clarity about the nature of misconduct that occurs, about respective law enforcement and administrator roles, and about available sanctions. Positive outcomes for students, for schools, and for school-law enforcement partnerships are far more likely to be achieved when law enforcement officers and school administrators' work together to apply available sanctions.

The first challenge is to establish clarity about what is a crime and what is a disciplinary matter -- what requires law enforcement response and what requires an administrative response? What behaviors distinguish between criminal and non-criminal actions? For example,

- Under what circumstances will "bullying" be labeled "assault" or "extortion" or "hazing" and result in criminal charges?
- Under what circumstances will fighting result in charges of assault and battery?
- When does a dispute over an allegedly borrowed jacket become a theft and result in a larceny charge?

Determination of criminal versus non-criminal behavior is a serious issue that requires examination and clear understanding between the school division and the law enforcement agency. According to the Northwest Regional Educational Laboratory's Clearinghouse on school safety, recent experience with school-law enforcement partnerships has taught the following:

- Law enforcement officers are not school disciplinarians.
- The officer's presence does not reduce the responsibility of teachers and of administrators to enforce school rules and the school division's student code of conduct.
- Classroom management rests with the teacher.
- Disciplinary responses remain the responsibility of school administrators.
- The focus of law enforcement involvement in conduct matters is properly centered on incidents that involve a violation of law.

Effective school-law enforcement partnerships handle all incidents--whether violations of codes of conduct or violations of law--in a manner designed to ensure an appropriate, coordinated response and improve the likelihood of a desirable outcome for the school, the student, and public safety.

When school-law enforcement partnerships are formed, commitments of the school division and of the law enforcement agency are best formalized in a written interagency agreement

called a Memorandum of Understanding (MOU) that outlines the purpose of the partnership and the fundamental responsibilities of each agency. The MOU establishes the framework in which a school resource officer (SRO) program operates. A MOU specifies, at minimum, the following:

- The purpose of establishing the school/law enforcement partnership
- The roles and responsibilities of the school and the law enforcement agency
- The general chain of command and channels of communication
- The schedule for updating and renewing the agreement

A more comprehensive MOU may incorporate key division-level policies and procedures including standard operating procedures for information sharing, investigation of crimes and interrogation, search and seizure and arrest of students, and procedures for handling critical incidents such as bomb threats, riots, and shootings.

Experience has shown that the process of developing the MOU and the operational procedures has great value in clarifying expectations and in anticipating and avoiding operational glitches during implementation. Both the MOU and operational procedures are *evolving documents*, and should be reviewed annually.

## **Key Definitions: School Resource Officer and School Security Officer**

"School resource officer" is defined in § 9.1-101. of the *Code of Virginia* as "a certified law enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools."

The roles of the School Resource Officer (SRO) in Virginia are identified as:

1. Law enforcement officer
2. Law-related educator
3. Community liaison and
4. Role model

"School security officer" is defined in § 9.1-101. of the *Code of Virginia* as "an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school."

Authoritative information about School Resource Officer (SRO) programs and about the training and certification of both school resource officers and school security officers is available from the Virginia Department of Criminal Justice Services, Virginia Center for School Safety.

# APPENDICES

## APPENDIX A: CODE OF VIRGINIA § 22.1-279.6

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required in § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

Each school board shall include, in its code of student conduct, prohibitions against hazing, profane or obscene language or conduct. School boards shall also cite, in their codes of student conduct, the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, i.e., confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both?

A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject. Nothing herein shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

C. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

# APPENDIX B: DISCIPLINE OF STUDENTS WITH DISABILITIES

Note: *The Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, effective March 27, 2002, (the Virginia Regulations), are being revised to comply with the changes outlined in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA '04).

In the interim, refer to *The Guidance Document on the Implementation of IDEA 2006 – Part B Requirements* (May 2005), available at the Virginia Department of Education's Web site:  
<http://www.pen.k12.va.us/VDOE/duproc/IDEA2004GuidanceDocument.pdf>

## Excerpts from Key Documents:

The following is a discipline-related excerpt from *The Regulations Governing Special Education for Children with Disabilities in Virginia* currently being revised according to the Individuals with Disabilities Education Act (IDEA):

### 8 VAC 20-80-68. Discipline procedures. (p. 56 of Regulations)

A. General. A student with a disability shall be entitled to the same due process rights that all students are entitled to under the Code of Virginia and the local educational agency's disciplinary policies and procedures. *COV §22.1-277*

#### B. Short-term removals. *34 CFR §§ 300.121; 300.519*

1. A student with a disability may be removed from the student's current educational setting up to 10 cumulative school days in a school year for any violation of school rules to the extent removal would be applied to a student without a disability.

2. A student with a disability may be removed from the student's current educational setting for a period of time that cumulatively exceeds 10 school days in a school year for separate incidents of misconduct as long as the removals do not constitute a pattern. If the removals do constitute a pattern, the requirements of subsection C of this section apply.

a. Isolated, short-term suspensions for unrelated instances of misconduct may not be considered a pattern.

b. These removals do not constitute a change in placement.

#### C. Long-term removals. *34 CFR § 300.121*

1. For purposes of removals of a student with a disability from the student's current educational placement, a change in placement occurs if: *34 CFR § 300.519*

a. The removal is for more than 10 consecutive school days; or

b. A series of removals constitutes a pattern because the removals cumulate to more than 10 school days in a school year and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

### 2. Authority of school personnel. *34 CFR § 300.520 and 522*

a. A student with a disability may be removed consistent with subdivision 1 of this subsection for any violation of school rules to the extent removal would be applied to students without disabilities.

b. School personnel may remove a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 calendar days, if:

- (1) The student carries a weapon to or possesses a weapon at school or a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or



- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school functions under the jurisdiction of a local educational agency or the Virginia Department of Education. For purposes of this part, the following definitions apply:
  - (a) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in § 202(c) of the Controlled Substances Act at 21 USC § 812 (c).
  - (b) Illegal drug means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.
  - (c) Weapon has the meaning given the term "dangerous weapon" in 18 USC § 930 (g), paragraph 2, as well as any weapon defined as a dangerous weapon in the Code of Virginia.

c. The interim alternative educational setting must be determined by an IEP team. The interim alternative educational setting must be selected so as to enable the student to:

- (1) Continue to progress in the general curriculum, although in another setting;
- (2) Continue to receive those services and modifications including those described in the student's current IEP that will enable the student to meet the IEP goals; and
- (3) Include services and modifications that address the behavior and are designed to prevent the behavior from recurring.

d. The local educational agency shall ensure that the following procedures are implemented either before or not later than 10 business days after either first removing the student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement under subdivision 1 of this subsection, including placements in interim alternative educational settings:

- (1) The IEP team shall convene to develop a behavioral assessment plan if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral plan for the student before the behavior resulted in the removal described in subdivision 1 of this subsection.
- (2) The functional behavioral assessment may be a review of existing data that can be completed at the IEP meeting. Parental consent is not necessary to review existing data.
- (3) The IEP team shall reconvene as soon as practicable after developing the assessment plan and completing the assessments required by the plan. The IEP team shall develop and implement appropriate behavioral interventions to address the behavior.
- (4) If the student had a behavioral intervention plan before engaging in the behavior, the IEP team shall convene to review the plan and its implementation and modify the plan and its implementation, as necessary, to address the behavior.

e. If the student who has a behavioral intervention plan and who has been removed from the student's current educational placement for more than 10 school days in a school year is subjected to a further removal that does not constitute a change in placement under subdivision 1 of this subsection, the IEP team shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more of the team members believe that modifications are needed in the student's behavioral intervention plan, the IEP team shall meet and modify the plan and its implementation as necessary.

### **3. Services during periods of disciplinary removal. 34 CFR §300.121 (d)**

a. The local educational agency is not required to provide services during the first 10 school days in a school year that a student with a disability is removed from the student's current educational setting if services are not provided to a student without a disability who has been similarly removed.

b. For a subsequent removal that is less than 10 school days in a school year, but exceeds 10 cumulative school days of removal, and which does not constitute a change in placement under subdivision 1 of this subsection, the local educational agency shall provide services to the extent determined necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of the student's IEP.

c. The procedures for determining services under subdivision 3 b of this subsection for periods of removals are as follows:

- (1) For removals for more than 10 school days in a school year which do not constitute a change in placement, school personnel, in consultation with the student's special education teacher, make the service determinations.
- (2) For removals that constitute a change in placement, the IEP team determines what services are needed.

**The following is a discipline-related excerpt from *The Guidance Document on the Implementation of IDEA 2006 – Part B Requirements (May 2005)*:**

**X. DISCIPLINE**

General Standard  
8 VAC 20-80-68 A IDEA '04 1415 (k)(1)(A)

REVISES the mandate to permit school personnel to consider any unique circumstances on a case-by-case basis when deciding to order a change in placement for a child violating a school conduct code.

NOTE: The new law has included a number of provisions already in the federal and Virginia Regulations; for example, that no later than the date of the decision to take disciplinary action, the school division shall notify the parents of the decision and of the procedural safeguards. [1415 (k) (1) (H)] Other provisions include those relative to the 10-day rule for short-term and long-term suspensions; provision of services; and, completion of the functional behavioral assessment and behavioral intervention plan.

Interim Alternative Educational Setting  
8 VAC 20-80-68 C.2.b IDEA '04 1415 (k)(1)(G)(iii) [causes]  
8 VAC 20-80-68 C.2.b IDEA '04 1415 (k)(1)(G) [timelines]

REVISES the mandate relative to causes triggering an Interim Alternative Educational Setting/ placement. The mandate regarding IAES removals for drugs or weapons has been expanded to include offenses wherein the student inflicts serious bodily injury upon another person at school or school event. "Serious bodily injury" means a bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty. [U.S.C. 1365 (g)]

REVISES the 45-calendar day removal to be a 45-school day removal.

Stay-put/Pendency  
8 VAC 20-80-68 C.7 IDEA '04 1415 (k)(4)(A)

REVISES the mandate to clarify that during due process hearings to contest disciplinary actions, the student remains in the discipline setting pending the hearing officer's decision or the expiration of the removal time, whichever occurs first, unless the parent and school division agree otherwise.

Expedited Hearing Timelines  
8 VAC 20-80-68 C.9; 20-80-76 M IDEA '04 1415 (k)(4)(B)

ADDS to the statute a timeline for processing expedited hearings. When a due process hearing is requested relative to disciplinary actions, the hearing has to be completed within expedited timelines. The new law requires that the hearing must occur within 20 school days of the request for the hearing. The hearing officer's decision must be rendered within 10 school days after the hearings.

NOTE: A timeline for expedited hearings is not in the current federal law and regulations but is in the Virginia Regulations. This new federal timeline revises the timeline in the Virginia Regulations. The new timeline adds approximately 10 more days to Virginia's timelines.

Manifestation Determination

8 VAC 20-80-68 B.5.b(2) IDEA '04 1415 (k)(1)(E)(i)(I) & (II) [causation standard]  
8 VAC 20-80-68 C.2.d IDEA '04 1415 (k)(1)(D)(ii) [FBA/BIP]

REVISES the causation standard. A manifestation determination shall be made by the parent, school division and relevant IEP team members to decide if the behavior was caused by, or had a direct or substantial relationship to the disability, or was the direct result of the failure to implement the IEP.

ADDS a provision already in the federal and Virginia Regulations, requiring that if the behavior was a manifestation of the child's disability, the IEP team must conduct a functional behavioral assessment (FBA) and behavioral intervention plan (BIP) for the child, or review an existing plan and modify it as necessary to address the behavior. The new law also clarifies, as in the current regulations, that if the behavior is a manifestation, the child is returned to the pre-discipline placement, unless the parent and school division agree otherwise.

Basis of Knowledge

8 VAC 20-80-68 C.8.b (2) and c IDEA '04 1415 (k)(5)(C)

REVISES the mandate to state that the protections of the IDEA, under 'basis of knowledge' requirements do not apply if:

- the parent has not allowed a previous evaluation of the student or has refused services; or,
- the student has been evaluated and determined ineligible for special education and related services.

ELIMINATES the indicator that the behavior or performance of the student demonstrates need for special education as triggering the 'basis of knowledge' requirements.

# APPENDIX C: SAMPLE FORMS AND FORMATS

## Sample: Parent Acknowledgment of Parental Responsibility

### Acknowledgment of Parental Responsibility

This form is for parents/legal guardians of all students enrolled in XXXX Public Schools to ensure that they have received and reviewed the following important documents.

Student Name \_\_\_\_\_ DOB \_\_\_\_\_

School \_\_\_\_\_

Homeroom Teacher \_\_\_\_\_ Grade \_\_\_\_\_

#### I have received and reviewed each of the following:

1. Standards of Student Conduct.
2. A copy of § 22.1-279.3. of the *Code of Virginia* that sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance.
3. A copy of the compulsory attendance law.

My signature acknowledges receipt of above-listed documents. By signing this statement of receipt, I do not waive, but expressly reserve, my rights protected by the constitution or laws of the United States or Virginia. I retain the right to express disagreement with a school's or school division's policies or decisions.

Print Parent/Legal Guardian/Eligible Student Name \_\_\_\_\_

Signature of Parent/Legal Guardian \_\_\_\_\_

Date \_\_\_\_\_

Signature of Student Age 18 or above \_\_\_\_\_

Date \_\_\_\_\_

**Please return this form to your child's homeroom teacher  
no later than [INSERT DATE].**

**Sample: Annual Policy Review Checklist**

✓	<b>Tasks</b>
	Review ongoing log of issues/concerns maintained since distribution of Standards
	November - Meet with elementary, middle, high school principals' committee
	December – Meet with legal counsel and superintendent
	January – March – Review relevant General Assembly bills and resolutions
	January – Draft preliminary changes/updates to Standards for review by superintendent and senior administration
	March – determine estimated number of copies of Standards needed in English and in other languages; obtain preliminary estimates of costs for translation and for printing
	April – Review final General Assembly action
	April – Attend school board work session
	May – Return to school board for final discussion and approval
	May – Coordinate production of document with graphics specialist
	Late May/early June – complete final review before printing; approve and send to printer
	Late May/early June – document sent for translation into required languages; as translations are completed, documents are approved and sent to printer
	New Standards in English and other languages are distributed to school sites via internal mail services
	August – In-service training is provided to school administrators and other school staff.

## Sample: Quick Guide to Rules of Conduct and Disciplinary Consequences

This Quick Guide contains examples of actions for which students may be disciplined, as well as the probable consequences. Typical situations are identified; other measures may be used.

### Suspension of 10 Days and Mandatory Recommendation for Expulsion

- Physical assault on staff with bodily injury
- Sexual assault or battery
- Mob assault
- Distribution or manufacture of alcohol or inhalants
- Possession of controlled or imitation controlled substance
- Illegal use or possession of prescription drugs (second offense)
- Distribution or manufacture of a controlled or imitation controlled substance, illegal drugs, or drug paraphernalia
- Unauthorized use or possession of any weapon or any object used as a weapon
- Under influence of marijuana or other controlled substance within 12 months of prior offense

### Suspension of Up to 10 Days

- Use, possession, or under influence of alcohol, inhalants, or nonalcoholic beer
- Under influence of marijuana or other controlled substance (first offense)
- Possession of drug paraphernalia (first offense)
- Distribution of nonprescription drugs.
- Illegal use or possession of prescription drugs (not classified as controlled substances) (first offense)
- Assault or assault and battery

### Discretion of the Principal (Consequences range from an intervention without suspension to a recommendation for expulsion.)

- Threat to assault a staff member; threat or assault of another student
- Disruption, disobedience, insubordination, defiance of school officials
- Endangering well-being of others: fighting, bullying
- Possession or display of obscenity; indecent exposure
- Cursing, verbal abuse including gestures
- Fireworks – use or possession
- Forgery, cheating, plagiarism, dishonesty
- Gambling
- Improper touching
- Unauthorized or illegal use or disruption of information technology
- Unauthorized laser devices
- Gang-related activities
- Portable communications devices
- Attendance violations
- Use or possession of nonprescription drugs
- Vandalism of school property; bomb threats
- Unauthorized presence
- Tobacco violations
- Hazing

## Sample: Quick Guide to Disciplinary Action

<b>Suspension of 10 Days and Recommendation for Expulsion</b>	<b>Report to Law Enforcement</b>
Physical assault on staff member with bodily injury	Yes
Sexual assault or battery	Yes
Mob assault	Yes
Distribution or manufacture of alcohol or inhalants	Yes
Possession of controlled or imitation controlled substance	Yes
Illegal use or possession of prescription drugs (second offense)	Yes
Distribution or manufacture of a controlled or imitation controlled substance, illegal drugs, or drug paraphernalia	Yes
Unauthorized use or possession of any weapon or any object used as a weapon	Yes

<b>Suspension for Up to 10 Days</b>	<b>Report to Law Enforcement</b>
Threat to assault a staff member	Yes
Threat or assault of another student	Possible
Use, possession, or under influence of alcohol, inhalants, or nonalcoholic beer	Yes
Assault or assault and battery of another student or person other than staff member with bodily injury	Yes
Assault or assault and battery without bodily injury	Possible

<b>Discretion of the Principal</b>	<b>Report to Law Enforcement</b>
Improper touching	Possible
Endangering well-being of others: fighting, bullying	Possible
Fireworks – use or possession	Possible
Unauthorized or illegal use or disruption of information technology	Possible
Gang-related activities	Yes
Vandalism of school property; bomb threats	Yes
Theft	Possible
Unauthorized presence	Possible
Tobacco (second and subsequent violations)	Possible
Hazing	Yes (report to Commonwealth's Attorney)

## APPENDIX D: RELATED RESOURCES

The following list of related policies, regulations, non-regulatory guidance and credible resource publications is intended as supplemental information that may be used by school boards in the development of student conduct policy.

### Virginia Board of Education Guidelines

Title	Statutory Reference	Superintendents Memo
<i>Guidelines Concerning Student Searches in Virginia Public Schools</i> (Approved November 19, 1999)	§ 22.1-279.7, Code of Virginia	Student Search Guidelines. SUPTS. MEMO NO. 9 (Administrative), March 17, 2000
<i>Guidelines Concerning Student Drug Testing in Virginia Public Schools</i> (Approved June 23, 2004)	§ 22.1-279.7, Code of Virginia	Drug Testing Guidelines. SUPTS. MEMO NO. 148 (Informational), July 30, 2004
<i>Persistently Dangerous Schools, Identification Process and Criteria under the No Child Left Behind Act of 2001</i> (Approved April 29, 2003)	No Child Left Behind Act of 2001, at Title IX, Section 9532.	Unsafe School Choice Option: Identification of Persistently Dangerous Schools. SUPTS. MEMO NO. 86 (Informational), May 9, 2003

### Related Virginia Regulations and Guidelines

#### Standards of Quality

Section 22.1-253.13:7., *Code of Virginia*

#### Standards of Accreditation

Section 8 VAC 20-131-210.A., Role of the Principal

Section 8 VAC 20-131-260.C.3., Facilities and Safety

*Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (March 27, 2002). Virginia Department of Education. Available at <http://www.doe.virginia.gov/VDOE/Instruction/Sped/varegs.pdf>  
See Section 8 VAC 20-80-68 - Discipline Procedures (p. 56)

*Guidelines for the Management of the Student's Scholastic Record in the Public Schools of Virginia* (May 2004). Full document available on the Virginia Department of Education Web site at <http://www.doe.virginia.gov/VDOE/studentsrvcs/MSSRedit.pdf>



## Related Federal Regulations, and Non-Regulatory Guidance

*Safe and Drug-Free Schools and Communities Act Grant Programs: Guidance for State and Local Implementation of Programs* (December 2002). U.S. Department of Education. Available online <http://www.ed.gov/programs/dvpformula/legislation.html>

*Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act* (January 22, 2004). U.S. Department of Education. Available at <http://www.ed.gov/programs/dvpformula/legislation.html>

*Unsafe School Choice Option Non-Regulatory Guidance* (May, 2004). U.S. Department of Education. Available at <http://www.ed.gov/policy/elsec/guid/unsafeschoolchoice.pdf/>

## Related Resource Materials and Publications

*Virginia School Search Resource Guide*. (October 2000). Virginia Department of Education. Available online at: <http://www.doe.virginia.gov/VDOE/Instruction/ssg.pdf>

*Virginia Juvenile Law Handbook for School Administrators: 2004 Update*. Virginia Department of Criminal Justice Services. Available online at [www.dcja.org/vcss/](http://www.dcja.org/vcss/)

"Discipline of Students with Disabilities." Available at Virginia Department of Education's Website: <http://www.doe.virginia.gov/VDOE/sped>.

### Attendance

*Improving School Attendance: A Resource Guide for Virginia Schools* (2005). Virginia Department of Education. Available at <http://www.doe.virginia.gov/VDOE/studentstvcs/>

### Computer Use

*Acceptable Use Policies: A Handbook*. Virginia Department of Education. Available at <http://www.doe.virginia.gov/VDOE/Technology/AUP/home.shtml#intro>

### Crisis Management

*Model School Crisis Management Plan* (2002). Virginia Department of Education. Download at <http://www.pen.k12.va.us/VDOE/Instruction/model.html>

*Resource Guide for Crisis Management in Schools*. (2002). Virginia Department of Education. Download at <http://www.safeanddrugfreeva.org/CrisisGuide2002Final.pdf>

*Practical Information on Crisis Planning: A Guide for Schools and Communities* (2003). Download at <http://www.ed.gov/admins/lead/safety/emergencyplan/crisisplanning.pdf>

*Disaster Preparedness and Response for Schools*. National Clearinghouse for Educational Facilities. See resources at <http://www.edfacilities.org/rl/disaster.cfm>

*The Virginia Educator's Guide for Planning and Conducting School Emergency Drills*. Virginia Department of Criminal Justice Services. Available online at <http://www.dcjs.virginia.gov/vcss/>

### Bomb Threats

*Bomb Threat Assessment Guide* (Oct. 2003), an interactive CD-ROM, developed by the U.S. Department of Education and the Bureau of Alcohol, Tobacco, and Firearms. Access at <http://www.threatplan.org/>

### Internet/Technology Use

*Acceptable Use Policies: A Handbook* (2003). Virginia Department of Education. Available at <http://www.doe.virginia.gov/VDOE/Technology/AUP/home.shtml#intro>

*Guidelines and Resources for Internet Safety in Schools* (August 2006). Virginia Department of Education, Office of Educational Technology. Available at <http://www.doe.virginia.gov/VDOE/Technology>

### School-Law Enforcement Partnerships

*Fostering School-Law Enforcement Partnerships* (2002). National Resource Center for Safe Schools, School Safety Guide #6. Available from [http://www.safetyzone.org/safe\\_secure.htm](http://www.safetyzone.org/safe_secure.htm) | "Cops in Schools: COPS Commitment to Schools" *COPS Fact Sheet* (March 10, 2004), U.S. Department of Justice. Available online at <http://www.cops.usdoj.gov>

## **Other Sources of Information**

Virginia Center for School Safety (<http://www.dcjs.org/vcss/>) - Information is available on the following topics and issues:

- School safety audits
- School resource officer (SRO) training and programs
- School security officer (SSO) training
- School critical incident response

# **APPENDIX E: PUBLIC LAW 107-110, NO CHILD LEFT BEHIND ACT OF 2001, TITLE IV, PART A, SECTION 4141, GUN-FREE REQUIREMENTS**

## **SEC. 4141. GUN-FREE REQUIREMENTS.**

(a) **SHORT TITLE-** This subpart may be cited as the Gun-Free Schools Act.

(b) **REQUIREMENTS-**

(1) **IN GENERAL-** Each State receiving Federal funds under any title of this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

2) **CONSTRUCTION-** Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

(3) **DEFINITION-** For the purpose of this section, the term firearm has the same meaning given such term in section 921(a) of title 18, United States Code.

(c) **SPECIAL RULE-** The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

(d) **REPORT TO STATE-** Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any title of this Act shall provide to the State, in the application requesting such assistance -

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including -

- (A) the name of the school concerned;
- (B) the number of students expelled from such school; and
- (C) the type of firearms concerned.

(e) **REPORTING-** Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

(f) **DEFINITION-** For the purpose of subsection (d), the term school means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

(g) EXCEPTION- Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

(h) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL-

(1) IN GENERAL- No funds shall be made available under any title of this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(2) DEFINITION- For the purpose of this subsection, the term school has the same meaning given to such term by section 921(a) of title 18, United States Code.

### **Definitions of “Other Firearms”**

Firearms other than handguns, rifles or shotguns as defined in Section 921, Title 18 of the United States Code. According to Section 921, the following are within the definitions:

- any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile from the action of any explosive;
- the frame or receiver of any weapon described above;
- any firearm muffler or firearm silencer;
- any destructive device, which includes:

(a) any explosive, incendiary, or poison gas

- (1) Bomb;
- (2) Grenade,
- (3) Rocket having a propellant charge of more than four ounces,
- (4) Missile having an explosive or incendiary charge of more than one-quarter ounce,
- (5) Mine, or
- (6) Similar device.

(b) any weapon which will, or which 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.

(c) any combination or parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled.

Note: This definition does not apply to items such as toy guns, cap guns, bb guns, and pellet guns. According to Section 921, antique firearms are not included in the definition.