Virginia Board of Education Agenda Item

Agenda Item: K **Date:** October 24, 2013

Title	Final Review of Revisions to the Virginia Board of Education's *Student Conduct Policy Guidelines* Consistent with Actions by the 2013 General Assembly		
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Purpose of Presentation:
Action required by state or federal law or regulation.

Previous Review or Action:
Previous Review: September 26, 2013
Action taken: The Board of Education accepted for first review the proposed updates to the *Student Conduct Policy Guidelines*.

Action Requested:
Final review: Action requested at this meeting.

Alignment with Board of Education Goals: Please indicate (X) all that apply:

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners
	Goal 5: Highly Qualified and Effective Educators
X	Goal 6: Sound Policies for Student Success
X	Goal 7: Safe and Secure Schools
	Other Priority or Initiative. Specify:

Background Information and Statutory Authority:
Goals 6 and 7: The recommended changes support the Board of Education's strategic goals of creating sound policies for student success and promoting safe and secure schools. The Board of Education's *Student Conduct Policy Guidelines* are intended to aid school boards in developing and implementing standards and policies for student behavior and accountability. School boards are required to adopt and revise regulations for codes of student conduct that are consistent with, but may be more stringent than, the guidelines. They were first developed in 1994 in response to the 1993 General Assembly action requiring the Board to establish such guidelines, according to § 22.1-279.6.A of the *Code of Virginia.* The guidelines were revised in 2001, 2004, 2006 and 2009 to reflect changes in federal and state laws. The 2013 General Assembly enacted HB 1864 (Robinson), HB 1871 (McClellan), and HB 2344 (Cole), which necessitate further revisions to the *Student Conduct Policy Guidelines.*

HB 1864 (Robinson) amended § 22.1-279.3:1.D of the *Code* to state that when a student commits a reportable offense (as enumerated in § 22.1-279.3:1.A) on a school bus, school property, or at a school-sponsored activity, that may constitute a criminal offense:

> *"...Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court...."*

HB 1871 (McClellan) amended § 22.1-276.01 of the *Code* by adding a definition for bullying as follows:

> *"'Bullying' means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. 'Bullying' includes cyber bullying. 'Bullying' does not include ordinary teasing, horseplay, argument, or peer conflict."*

In addition, the bill amended § 22.1-279.6. to add subsection D as follows:

> *"Each school board shall include in its code of student conduct, by July 1, 2014, policies and procedures that include a prohibition against bullying. Such policies and procedures shall be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A."*

HB 1871 also added § 22.1-291.4 to the *Code* requiring the following:

> *"Each school board shall implement, by July 1, 2014, policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.*
>
> *2. That the Board of Education shall develop, by January 1, 2014, model policies and procedures for use by each school board to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment."*

HB 2344 (Cole) amended the *Code* by adding § 22.1-79.4 dealing with school threat assessment teams and oversight committees. The bill requires the following:

> *"A. Each local school board shall adopt policies for the establishment of threat assessment teams,...*
> *B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams...*
> *C. Each division superintendent shall establish...a threat assessment team* [to serve one or more schools to] *...provide guidance...regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self...."*

Summary of Important Issues:
As shown in the attached revised *Student Conduct Policy Guidelines*, amendments to reflect 2013 legislative changes have been made as summarized in the table below. Content was added to the section on *Related Policy Issues, Reporting of Certain Offenses to Law Enforcement Authorities*, on page 30, to state that nothing prohibits school boards from requiring school-based graduated sanctions or educational programs before a delinquency charge is filed against a student who has committed a school-based offense that may be considered criminal with the juvenile courts. The bullying definition in the *Code* replaces the description of bullying in section III, *Standards of Student Conduct*, page 17. The legislative directives to provide policies and procedures to educate school board employees about bullying prevention and to provide guidance through threat assessment teams to students, faculty, and staff in recognition of threatening or aberrant student behavior is placed in section II, *In-Service Training of School Personnel*, page 16.

Other updates have been made to the guidelines, including the deletion of outdated information, the inclusion of current resources and publications, and minor edits.

The following table provides brief descriptions of the 2013 changes to the *Student Conduct Policy Guidelines* brought to the Board of Education for first review.

Page Number	Brief Description
Cover page and page 1	Current dates provided
Acknowledgments	Removed "Safe and Drug-Free Schools Program"; added "and 2013"; corrected telephone number
Table of Contents	Updated
2	Added *Code* reference for bullying prohibition policies and procedures
7	Added bullying and threat assessment policies to section 3. *Relationship to Existing Policies*
13	Added hyperlink to the *Regulations Governing Special Education Programs for Children with Disabilities*
16	Added provision of education of staff on bullying prevention and threat assessment team guidance on recognition of threatening and aberrant student behavior; Added substance abuse prevention and intervention training at the discretion of the school board
17	Under the section *Range of Correction Disciplinary Action*, changed "child study process" to "disability determination process"
21	Added the *Code* definition of "bullying" and updated the content on this page; Added "cyberstalking"; Referenced model policy guidelines to address bullying in schools

26	Added hyperlinks to internet safety guidelines and other resources
30	Added language that nothing prohibits school boards from imposing school-based graduated sanctions or educational programs before a delinquency charge is filed with the juvenile courts for a student who has committed an offense that may be criminal
32	Added a footnote to reference the new *Model Policy to Address Bullying in Virginia's Schools*
33	Added hyperlink to the Virginia Center for School Safety
35-44	Added amended language to Appendix A: *Code of Virginia* § 22.1-279.6 and included new 2013 *Code* changes affecting student conduct
45	Provided the current review date of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia.*
51-53	Updated guidelines, Web sites, publications, and titles under Appendix D: Related Resources

In response to the Board of Education's review on September 26, 2013, the following changes were made.

Page Number	Brief Description
Table of Contents ii	Appendix A was changed to read "Applicable Provisions of the *Code of Virginia.*"
17	"Disability determination process" was changed to "eligibility determination process" to more accurately align with the language of the regulations.
18-19	The section on alcohol and drugs was updated for clarification. It now reads "…This includes, but may not be limited to, alcohol, tobacco and inhalant products, and other controlled substances defined in the Drug Control Act, Chapter 15.1 of Title 54 of the *Code of Virginia*, such as …." In addition, the word "inhalant" was inserted into the sample conduct standard.
21	Deleted "cyberstalking" since it was removed from the *Model Policy to Address Bullying in Virginia's Schools*
35	Changed Appendix A to read "Applicable Provisions of the *Code of Virginia.*"

Impact on Fiscal and Human Resources:
There will be minimum impact on resources.

Timetable for Further Review/Action:
Upon final approval of the Board, the guidelines will be disseminated in electronic format and posted to the Virginia Department of Education Office of Student Services' Web site.

Superintendent's Recommendation:
The Superintendent of Public Instruction recommends that the Board of Education approve the revised *Student Conduct Policy Guidelines*.

STUDENT CONDUCT POLICY GUIDELINES

Virginia Board of Education

~~2009~~

2013

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 2005, 2006, ~~and~~ 2009, and 2013 primarily to incorporate changes in state laws enacted by the General Assembly. 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.

Members of the 2004 Student Conduct Policy Guidelines Advisory Group

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This document may be downloaded from the Virginia Department of Education Web site at www.doe.virginia.gov/
For additional information, contact Office of Student Services, ~~Safe and Drug-Free Schools Program~~ at (804) 225-~~2910~~ 2071.

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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, 2006, ~~and~~ 2009, and 2013 to incorporate 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:

1. 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

2. 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

3. 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*

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:

1. 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."

2. 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."

3. 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

1. The development, implementation, and enforcement of the student conduct policy is intended to ensure a safe, nondisruptive environment for effective teaching and learning.

2. Standards of student conduct are designed to protect the health, safety and welfare of students.

3. 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.

4. 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, bullying, drug testing, attendance, discipline of students with disabilities and threat assessments. 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 ten school days. However, in no case may a student be suspended based solely on instances of truancy.

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 ten 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 ten 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. However, in no case may a student be suspended based solely on instances of truancy.

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 30 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 30 days.

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

1. The length of the suspension

2. Information concerning the availability of community-based educational, alternative education, or intervention programs

3. 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 ten 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 ten 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 30 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:

1. The length of the expulsion

2. Information to the parent of the student concerning the availability of community-based educational, training, and intervention programs

3. 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

4. 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

5. 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 ten 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 (See Appendix A.). 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.

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. or synthetic cannabinoids as defined in § 22.1-248.1:1 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~~ 2010). ~~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:

1. 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

2. 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:

1. Purpose and intent of student conduct policy
2. Specific staff roles and responsibilities for implementing student conduct policy
3. Standards for student conduct
4. Disciplinary processes and procedures
5. Requirements and procedures for reporting offenses to local law enforcement authorities
6. 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 *Code of Virginia* at § 22.1-291.4 (Bullying prohibited) requires each school board to implement policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

Section 22.1-79.4.C. (Threat assessment teams and oversight committees) directs division superintendents to establish threat assessment teams for schools. The teams are to:

> *provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self…*

~~The use of methods such as scenarios and table-top exercises has been demonstrated to be effective for such training.~~ At the discretion of a local school board, depending on local conditions, consideration may also be given to including content on cultural awareness, gang awareness, and ~~bullying~~ substance abuse prevention and intervention.

III. STANDARDS OF STUDENT CONDUCT

Application of Policy

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

1. Standards of student conduct apply to all students under the jurisdiction of a school board.
2. 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.
3. Students are subject to corrective disciplinary action for misconduct that occurs:

    a. In school or on school property
    b. On a school vehicle
    c. While participating in or attending any school-sponsored activity or trip
    d. On the way to and from school, and
    e. 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 an act of violence by a mob, 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:

1. Admonition and counseling
2. Parent/pupil conference
3. Modification of student classroom assignment or schedule
4. Student behavior contract
5. Referral to student assistance programming services
6. After-school or in-school detention
7. Suspension of student privileges for a specified period
8. Removal from class
9. Initiation of ~~child study process~~ ~~disability~~ eligibility determination process
10. Referral to in-school intervention, mediation, or community service programs
11. Short-term suspension
12. Long-term suspension
13. Recommendation for expulsion
14. 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, alcohol, tobacco ~~products~~ and inhalant products, and other controlled substances defined in the Drug Control Act, Chapter 15.1 of Title 54 of the *Code of Virginia*, such as anabolic steroids, ~~inhalants,~~ stimulants, depressants, hallucinogens, marijuana, imitation and look-alike drugs, drug paraphernalia, and 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 inhalant ~~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 ten-day suspension and a recommendation for expulsion.

2. Physically assaulting a school staff member shall result in suspension from school for up to ten 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 the 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 not excused, and applicable disciplinary consequences and intervention assistance for unexcused absences and tardies. 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:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and

2. 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

3. 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

4. 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 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

Section § 22.1-276.01 of the *Code* defines bullying as any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. This includes cyberbullying. It does not include ordinary teasing, horseplay, argument, or peer conflict. School boards are expected to include bullying as a prohibited behavior in their student code of conduct.[2]

~~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~~	~~Harassment~~
~~Battery~~	~~False Imprisonment~~	~~Sexual harassment~~
~~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~~.

Patterns of behavior associated with bullying that are criminal offenses are as follows:

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

Another form of bullying occurs through the use of electronic means and is referred to as cyberbullying ~~or cyberstalking~~. Typically, cyberbullying is defined as using information and communication technologies, such as cell phone text messages and pictures and internet e-mail, social networking Web sites, 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:

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

[2] *Model Policy to Address Bullying in Virginia's Schools,* Virginia Board of Education 2013

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:
>
> 1. Cheating on a test or assigned work by giving, receiving, offering, and/or soliciting information
> 2. Plagiarizing by copying the language, structure, idea, and/or thoughts of another
> 3. 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:
>
> 1. 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.
>
> 2. A high school student may possess such 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.
>
> 3. 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 noncomplying 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.

The definition developed for use in the Virginia Department of Education report on discipline, crime and violence is as follows:

- 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. of the *Code* 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:

1. Prohibited criminal street gang activity pursuant to § 18.2-46.2.
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. (See Appendix A.) Also See Guidelines and Resources for Internet Safety in Schools (2007). ~~(August 2006). Virginia Department of Education, Office of Educational Technology. Available at http://www.doe.virginia.gov/VDOE/Technology/~~

The 2009 General Assembly amended § 22.1-279.6 of the *Code* to include the inappropriate "use of electronic means for purposes of bullying, harassment, and intimidation...." It is important that students become aware of the harm and consequences of internet misuse. (Reference *Bullying and Threats: Intimidation* in this document for policy guidance on pages 21 and 27.)

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.

> ***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.

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:

1. Willful causing or attempting to cause damage to school property
2. Theft of, taking, or trying to take another person's property or money by force, fear, or other means
3. 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 "to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or 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. The 2009 General Assembly amended § 22.1-279.6 of the *Code of Virginia* to prohibit the "use of electronic means for purposes of bullying, harassment, and intimidation...."

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. Students shall not use electronic technology or communication devices, such as the internet or cell phones, to intimidate or threaten for any 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:

1. Be without fault in provoking or bringing on the fight or incident
2. Have reasonably feared, under the circumstances as they appeared to him, that he was in danger of harm
3. 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. However, nothing in § 22.1-279.3:1.D.shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

§ 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 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, on a school bus, on school property, or at a school-sponsored activity;
iii. Any conduct involving alcohol, marijuana, synthetic cannabinoids as defined in § 18.2-248.1:1, 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 since the 2005-2006 school year, compliance with this requirement is 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 that 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 noncriminal actions? For example,

1. Under what circumstances will "bullying" be labeled "assault" or "extortion" or "hazing" and result in criminal charges?[3]
2. Under what circumstances will fighting result in charges of assault and battery?
3. When does a dispute over an allegedly borrowed jacket become a theft and result in a larceny charge?

Determination of criminal versus noncriminal 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:

1. Law enforcement officers are not school disciplinarians.
2. 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.
3. Classroom management rests with the teacher.
4. Disciplinary responses remain the responsibility of school administrators.
5. 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:

1. The purpose of establishing the school-law enforcement partnership
2. The roles and responsibilities of the school and the law enforcement agency

[3] *Model Policy to Address Bullying in Virginia's Schools,* Virginia Board of Education, 2013

3. The general chain of command and channels of communication
4. 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
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: APPLICABLE PROVISIONS OF THE *CODES OF VIRGINIA* ~~§ 22.1-279.6~~

§ 22.1-70.2. Acceptable Internet use policies for public and private schools.

A. Every two years, each local school board shall review, amend if necessary, and approve the school division's acceptable use policy for the Internet. At a minimum, the policy shall contain provisions that (i) are designed to prohibit use by division employees and students of the division's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet; (ii) seek to prevent access by students to material that the school division deems to be harmful to juveniles as defined in § 18.2-390; (iii) select a technology for the division's computers having Internet access to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1 and obscenity as defined in § 18.2-372; (iv) establish appropriate measures to be taken against persons who violate the policy; and (v) include a component on Internet safety for students that is integrated in a division's instructional program. The policy may include such other terms, conditions, and requirements as deemed appropriate, such as requiring written parental authorization for Internet use by juveniles or differentiating acceptable uses among elementary, middle, and high school students.

Each school division's policy shall be posted on its website in accordance with § 22.1-253.13:7. Additionally, each local school division shall certify compliance with these requirements annually to the Department of Education.

B. The superintendent shall take such steps as he deems appropriate to implement and enforce the division's policy.

C. In addition to the foregoing requirements regarding public school Internet use policies, the principal or other chief administrator of any private school that satisfies the compulsory school attendance law pursuant to § 22.1-254 and accepts federal funds for Internet access shall select a technology for its computers having Internet access to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1 and obscenity as defined in § 18.2-372.

D. The Superintendent of Public Instruction shall issue guidelines to school divisions regarding instructional programs related to Internet safety.
(1999, c. 64; 2001, c. 269; 2006, cc. 52, 474; 2010, c. 61.)

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in § 22.1-279.6 § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues that are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs consistent with the provisions of this section. The Department of Education shall assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools. With such funds as are made available for this purpose, the Department of Education shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Department of Education may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Department of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs, including a summer youth development academy.

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Alternative education program" includes night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

"Bullying" means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. "Bullying" includes cyber bullying. "Bullying" does not include ordinary teasing, horseplay, argument, or peer conflict.

"Disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than 30 calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

"Expulsion" means 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.

"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for more than 10 school days but less than 365 calendar days.

"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

B. For the purposes of §§-22.1-277, 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.2, and 22.1-277.2:1, "superintendent's designee" means 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.

§ 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, the use of electronic means for purposes of bullying, harassment, and intimidation, 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 by § 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.

C. Each school board shall include in its code of student conduct prohibitions against hazing and 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, that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct, by July 1, 2014, policies and procedures that include a prohibition against bullying. Such policies and procedures shall be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. 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.

F. Nothing in this section 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.

G. ~~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.

(*Code* 1950, §§ 22-230.1, 22-230.2; 1972, c. 604; 1980, c. 559; 1993, cc. 819, 856, 889; 1995, cc. 724, 801; 1997, cc. 391, 585, 608, 830; 1998, c. 902; 1999, c. 432; 2000, c. 360, §§ 22.1-277.02:1, 22.1-278, 22.1-278.2; 2001, cc. 688, 820; 2003, c. 899; 2004, cc. 574, 908, 939, 955; 2005, cc. 461, 484, 520; 2009, c. 431; 2013, c. 575.)

§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1; to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

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

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

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

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

D. No school operating a Junior Reserve Officers Training Corps (JROTC) program shall prohibit the JROTC program from conducting marksmanship training when such training is a normal element of such programs. Such programs may include training in the use of pneumatic guns. The administration of a school operating a JROTC program shall cooperate with the JROTC staff in implementing such marksmanship training.

E. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in

diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" does not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in subsection G of § 18.2-308.2:2.

"Firearm" means any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon. "Firearm" does not include any pneumatic gun, as defined in subsection E of § 15.2-915.4.

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

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

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

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

(1995, cc. 724, 801; 1999, cc. 707, 1027; 2000, c. 523, § 22.1-277.01; 2001, cc. 688, 820; 2003, cc. 843, 976; 2004, c. 930; 2006, c. 703; 2013, c. 288.)

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (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 that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, synthetic cannabinoids as defined in § 18.2-248.1:1, 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.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection 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. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, 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 G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public. In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B. A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not

be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law enforcement agency any incident described in clause (i) of subsection A. Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report 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.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.
The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section 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.
(1981, c. 189; 1990, cc. 517, 797; 1991, c. 295; 1994, cc. 265, 285; 1995, cc. 759, 773; 1996, cc. 916, 964; 1999, c. 970; 2000, cc. 79, 611, § 22.1-280.1; 2001, cc. 688, 820; 2002, c. 388; 2003, cc. 899, 954; 2004, cc. 517, 542, 939, 955; 2005, cc. 461, 484, 528; 2006, c. 146; 2010, c. 525; 2011, cc. 384, 410; 2013, c. 800.)

§ 22.1-291.4. Bullying prohibited.

Each school board shall implement, by July 1, 2014, policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

2. That the Board of Education shall develop, by January 1, 2014, model policies and procedures for use by each school board to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a bully-free environment.

APPENDIX B: DISCIPLINE OF STUDENTS WITH DISABILITIES

Excerpt from *The Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, effective ~~July 7, 2009~~ 2010, (the Virginia Regulations). These regulations replace Appendix B: discipline of Students With Disabilities in the 2006 Student *Code* of Conduct.

8VAC20-81-160. Discipline procedures.

A. General. (§ 22.1-277 of the *Code* of Virginia; 34 CFR 300.530(a); 34 CFR 300.324(a)(2)(i))

1. A child with a disability shall be entitled to the same due process rights that all children are entitled to under the *Code* of Virginia and the local educational agency's disciplinary policies and procedures.

2. In the event that the child's behavior impedes the child's learning or that of others, the IEP team shall consider the use of positive behavioral interventions, strategies, and supports to address the behavior. The IEP team shall consider either:
   a. Developing goals and services specific to the child's behavioral needs; or
   b. Conducting a functional behavioral assessment and determining the need for a behavioral intervention plan to address the child's behavioral needs.

3. School personnel may consider any unique circumstances on a case-by-case basis when deciding whether or not to order a change in placement for a child with a disability that violates a code of student conduct.
   a. In reviewing the disciplinary incident, school personnel may review the child's IEP and any behavioral intervention plan, or consult with the child's teacher(s) to provide further guidance in considering any unique circumstances related to the incident.
   b. School personnel may convene an IEP team for this purpose.

B. Short-term removals.

1. A short-term removal is for a period of time of up to 10 consecutive school days or 10 cumulative school days in a school year. (34 CFR 300.530(b))
   a. School personnel may short-term remove a child with a disability from the child's current educational setting to an appropriate interim alternative educational setting, another setting, or suspension, to the extent those alternatives are applied to a child without disabilities.
   b. Additional short-term removals may apply to a child with a disability in a school year for separate incidents of misconduct as long as the removals do not constitute a pattern. If the short-term removals constitute a pattern, the requirements of subsection C of this section apply.
      (1) The local educational agency determines when isolated, short-term removals for unrelated instances of misconduct are considered a pattern.
      (2) These removals only constitute a change in placement if the local educational agency determines there is a pattern.

2. Services during short-term removals.
   a. The local educational agency is not required to provide services during the first 10 school days in a school year that a child with a disability is short-term removed if services are not provided to a child without a disability who has been similarly removed. (34 CFR 300.530(b)(2))
   b. For additional short-term removals, which do not constitute a pattern, the local educational agency shall provide services to the extent determined necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals of the student's IEP. School personnel, in consultation with the student's special education teacher, make the service determinations. (34 CFR 300.530(b)(2))
   c. For additional short-term removals that do not constitute a pattern, the local educational agency shall ensure that children with disabilities are included in the Virginia Department of Education and division wide assessment programs in accordance with the provisions of subdivision 4 of 8VAC20-81-20. (20 USC § 1412(a)(16)(A))

C. Long-term removals.

1. A long-term removal is for more than 10 consecutive school days; or (34 CFR 300.530; 34 CFR 300.536)

2. The child has received a series of short-term removals that constitutes a pattern:
   a. Because the removals cumulate to more than 10 school days in a school year;
   b. Because the child's behavior is substantially similar to the child's behavior in previous incidents that results in a series of removals; and
   c. Because of such additional 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.

3. The local educational agency determines on a case-by-case basis whether a pattern of removals constitutes a change in placement. This determination is subject to review through due process and judicial proceedings. (34 CFR 300.530(a) and (b) and 34 CFR 300.536)

4. On the date on which the decision is made to long-term remove the student because of a violation of a code of student conduct, the local educational agency shall notify the parent(s) of the decision and provide the parent(s) with the procedural safeguards. (34 CFR 300.530(h))

5. Special circumstances. (34 CFR 300.530(g))
   a. School personnel may remove a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if:
      (1) The child carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or
      (2) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or
      (3) The child inflicts serious bodily injury upon another person at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education.
   b. For purposes of this part, "weapon," "controlled substance," and "serious bodily injury" have the meaning given the terms under 8VAC20-81-10.

6. Services during long-term removals.
   a. A child with a disability who is long-term removed receives services during the disciplinary removal so as to enable the student to: (34 CFR 300.530(d))
      (1) Continue to receive educational services so as to enable the student to continue to participate in the general educational curriculum, although in another setting;
      (2) Continue to receive those services and modifications including those described in the child's current IEP that will enable the child to progress toward meeting the IEP goals; and
      (3) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.
   b. For long-term removals, the local educational agency shall ensure that children with disabilities are included in the Virginia Department of Education and divisionwide assessment programs in accordance with the provisions of subdivision 4 of 8VAC20-81-20. (20 USC § 1412(a)(16)(A))
   c. The IEP team determines the services needed for the child with a disability who has been long-term removed. (34 CFR 300.530(d)(5) and 34 CFR 300.531)

D. Manifestation determination. (34 CFR 300.530(c), (e), (f), and (g))

1. Manifestation determination is required if the local educational agency is contemplating a removal that constitutes a change in placement for a child with a disability who has violated a code of student conduct of the local educational agency that applies to all students.

2. The local educational agency, the parent(s), and relevant members of the child's IEP team, as determined by the parent and the local educational agency, constitute the IEP team that shall convene immediately, if possible, but not later than 10 school days after the date on which the decision to take the action is made.

3. The IEP team shall review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent(s).

4. The IEP team then shall determine the conduct to be a manifestation of the child's disability:
   (1) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
   (2) If the conduct in question was the direct result of the local educational agency's failure to implement the child's IEP.

5. If the IEP team determines that the local educational agency failed to implement the child's IEP, the local educational agency shall take immediate steps to remedy those deficiencies.

6. If the IEP team determines that the child's behavior was a manifestation of the child's disability:
   a. The IEP team shall return the child to the placement from which the child was removed unless the parent and the local educational agency agree to a change in placement as part of the modification of the behavioral intervention plan. The exception to this provision is when the child has been removed for not more than 45 school days to an interim alternative educational setting for matters described in subdivision C 5 a of this section. In that case, school personnel may keep the student in the interim alternative educational setting until the expiration of the 45-day period.

(1) Conduct a functional behavioral assessment, unless the local educational agency had conducted this assessment before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan for the child.
   (a) A functional behavioral assessment may include a review of existing data or new testing data or evaluation as determined by the IEP team.
   (b) If the IEP team determines that the functional behavioral assessment will include obtaining new testing data or evaluation, then the parent is entitled to an independent educational evaluation in accordance with 8VAC20-81-170 B if the parent disagrees with the evaluation or a component of the evaluation obtained by the local educational agency; or
(2) If a behavioral intervention plan already has been developed, review this plan, and modify it, as necessary, to address the behavior.

7. If the IEP team determines that the child's behavior was not a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except that services shall be provided in accordance with subdivision C 6 a of this section.

E. Appeal. (34 CFR 300.532(a) and (c))

1. If the child's parent(s) disagrees with the determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement under these disciplinary procedures, the parent(s) may request an expedited due process hearing.

2. A local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may request an expedited due process hearing.

3. The local educational agency is responsible for arranging the expedited due process in accordance with the Virginia Department of Education's hearing procedures at 8VAC20-81-210.
   a. The hearing shall occur within 20 school days of the date the request for the hearing is filed.
   b. The special education hearing officer shall make a determination within 10 school days after the hearing.
   c. Unless the parent(s) and the local educational agency agree in writing to waive the resolution meeting, or agree to use the mediation process,
      (1) A resolution meeting shall occur within 7 calendar days of receiving the request for a hearing.
      (2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of the receipt of the request for a hearing.
   d. The decisions on expedited due process hearings are appealable consistent with 8VAC20-81-210.

F. Authority of the special education hearing officer. (34 CFR 300.532(a) and (b))

1. A local educational agency may request an expedited due process hearing under the Virginia Department of Education's due process hearing procedures to effect a change in placement of a child with a disability for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the local educational agency believes that the child's behavior is substantially likely to result in injury to self or others.

2. The special education hearing officer under 8VAC20-81-210 may:
   a. Return the child with a disability to the placement from which the child was removed if the special education hearing officer determines that the removal was a violation of subsections C and D of this section, or that the child's behavior was a manifestation of the child's disability; or
   b. Order a change in the placement to an appropriate interim alternative educational setting for not more than 45 school days if the special education hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the student or others.

3. A local educational agency may ask the special education hearing officer for an extension of 45 school days for the interim alternative educational setting of a child with a disability when school personnel believe that the child's return to the regular placement would result in injury to the student or others.

G. Placement during appeals. (34 CFR 300.533)

1. The child shall remain in the interim alternative educational setting pending the decision of the special education hearing officer, or

2. Until the expiration of the time for the disciplinary period set forth in this section, whichever comes first, unless the parent and the local educational agency agree otherwise.

H. Protection for children not yet eligible for special education and related services. (34 CFR 300.534)

1. A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct of the local educational agency may assert any of the protections

provided in this chapter if the local educational agency had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

2. A local educational agency shall be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred:
   (a) The parent(s) of the child expressed concern in writing (or orally if the parent(s) does not know how to write or has a disability that prevents a written statement) to school personnel that the child is in need of special education and related services;
   (b) The parent(s) of the child requested an evaluation of the child to be determined eligible for special education and related services; or
   (c) A teacher of the child or school personnel expressed concern about a pattern of behavior demonstrated by the child directly to the director of special education of the local educational agency or to other supervisory personnel of the local educational agency.

3. A local educational agency would not be deemed to have knowledge that a child is a child with a disability if:
   (a) The parent of the child has not allowed a previous evaluation of the child or has refused services; or
   (b) The child has been evaluated in accordance with 8VAC20-81-70 and 8VAC20-81-80 and determined ineligible for special education and related services.

4. If the local educational agency does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures applied to a child without a disability who engages in comparable behaviors.

5. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this section, the evaluation shall be conducted in an expedited manner.
   a. Until the evaluation is completed, the child remains in the educational placement determined by the school personnel, which can include suspension or expulsion without educational services.
   b. If the child is determined to be a child with a disability, taking into consideration information from the evaluations conducted by the local educational agency and information provided by the parent(s), the local educational agency shall provide special education and related services as required for a child with a disability who is disciplined.

I. Referral to and action by law enforcement and judicial authorities. (34 CFR 300.535)

1. Nothing in this chapter prohibits a local educational agency from reporting a crime by a child with a disability to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability to the extent such action applies to a student without a disability.

2. In reporting the crime, the local educational agency shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom school personnel report the crime. Transmission of such records shall be in accordance with requirements under the Management of the Student's Scholastic Record in the Public Schools of Virginia (8VAC20-150).

J. Information on disciplinary actions. (34 CFR 300.229)

1. The Virginia Department of Education requires that local educational agencies include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child.

2. Local educational agencies are responsible for transmitting the statement to the Virginia Department of Education upon request to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled students.

3. The statement may include:
   a. A description of any behavior engaged in by the child who required disciplinary action;
   b. A description of the disciplinary action; and
   c. Any other information that is relevant to the safety of the child and other individuals involved with the child.

4. If the child transfers from one school to another, the transmission of any of the child's records shall include the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

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

✓	Tasks
	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.

APPENDIX D: RELATED RESOURCES

The following list of related policies, regulations, nonregulatory 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
Guidelines Concerning Student Searches in Virginia Public Schools (Approved November 19, 1999)	§ 22.1-279.7, *Code of Virginia*	Student Search Guidelines. SUPT'S. MEMO NO. 9 (Administrative), March 17, 2000
Guidelines Concerning Student Drug Testing in Virginia Public Schools (Approved June 23, 2004)	§ 22.1-279.7, *Code of Virginia*	Drug Testing Guidelines. SUPT'S. MEMO NO. 148 (Informational), July 30, 2004
Persistently Dangerous Schools, Identification Process and Criteria under the No Child Left Behind Act of 2001 (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. SUPT'S. MEMO NO. 86 (Informational), May 9, 2003
Model Policy to Address Bullying in Virginia's Schools, 2013	§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations. § 22.1-276.01. Definitions. § 22.1-208.01. Character education required. § 22.1-291.4. Bullying prohibited.	

Related *Code of Virginia* Sections, Regulations and Guidelines

Standards of Quality
Section 22.1-253.13:7. *Code of Virginia*

Standards of Accreditation
8 VAC 20-131-210 ~~22.1-253.13:5~~ Role of the Principal
8 VAC 20-131-260 ~~22.1-279.8~~ Facilities and Safety

Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations in Virginia Public Schools. (2005) Virginia Department of Education.

Guidelines for the Management of the Student's Scholastic Record in the Public Schools of Virginia (May 2004).

Regulations Governing Special Education Programs for Children with Disabilities in Virginia (~~July 7, 2009~~ 2010). Virginia Department of Education. See Section 8 VAC 20-81-160 - Discipline Procedures (p. 80.)

Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Protocols
Code of Virginia § 22.1-79.4. Threat assessment teams and oversight committees.

Internet/Technology Use
Acceptable Use Policies: A Handbook. Virginia Department of Education.

Guidelines and Resources for Internet Safety in Schools (August 2006). Virginia Department of Education, Office of Educational Technology.

Related Federal Regulations, and Nonregulatory Guidance

Office of Safe and Healthy Students in the Office of Elementary and Secondary Education at U.S. Department of Education Web site (Formerly Safe and Drug-Free Schools and Communities Act Programs: Guidance for State and Local Implementation of Programs.)

~~*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 www2.ed.gov/programs/dvpformula/guidance.doc*~~

Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act (January 22, 2004). U.S. Department of Education. ~~Available at www2.ed.gov/programs/dvpformula/gfsaguid03.doc~~

Unsafe School Choice Option Non-Regulatory Guidance (May, 2004). U.S. Department of Education.

Related Resource Materials, Publications and Web sites

Preventing and Managing Student Discipline Problems

A Parent's Guide to Understanding Student Discipline Policies and Practices, Virginia Department of Education

Bullying Prevention, Virginia Department of Education, Student and School Supports Web page

Character Education, Virginia Department of Education, Student and School Supports Web page

Dropout & Truancy Prevention, Virginia Department of Education, Student and School Supports Web page

Functional Behavioral Assessment, Behavioral Intervention Plans, and Positive Intervention and Supports: An Essential Part of Effective Schoolwide Discipline in Virginia (2008) (AKA Positive Behavioral Interventions and Supports) Virginia Department of Education Web page

Improving School Attendance: A Resource Guide for Virginia Schools (2005). Virginia Department of Education

National School Climate Center Web site

Positive Behavioral Interventions and Supports (Virginia Tiered System of Supports) Web site and publications

Safe Supportive Learning: Engagement/Safety/Environment U.S. Department of Education Web site

Student Assistance Programming: Creating Positive Conditions for Learning, 2013. Virginia Department of Education Web page and publications

Transformative Classroom Management – Professional development online series, Virginia Department of Education, Office of School Improvement and Reform Web page

Virginia Juvenile Law Handbook for School Administrators 2013 Update. Virginia Department of Criminal Justice Services

Virginia School Search Resource Guide. (October 2000). Virginia Department of Education

Safety and Crisis Management

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.

Disaster Preparedness and Response for Schools. National Clearinghouse for Educational Facilities.

Model School Crisis Management Plan (2002). Virginia Department of Education.

Practical Information on Crisis Planning: A Guide for Schools and Communities (2003) (2007).

Resource Guide for Crisis Management and Emergency Response in Virginia Schools. (2002) (2007). Virginia Department of Education.

Safety and Crisis Management, Virginia Department of Education, Student and School Support Web page

~~School-Law Enforcement Partnerships~~
~~*Fostering School-Law Enforcement Partnerships* (2003). National Resource Center for Safe Schools, School Safety Guide 5. Available from http://www.safetyzone.org/safe_secure.html~~

The Virginia Educator's Guide for Planning and Conducting School Emergency Drills. Virginia Department of Criminal Justice Services.

Virginia Center for School Safety Web site contains information ~~is available~~ on the following topics and issues:

1. School safety audits
2. School personnel training and programs
3. School resource officer (SRO) training and programs
4. School security officer (SSO) training
5. School critical incident response
6. Publications related to school safety and security

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:

1. 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
2. the frame or receiver of any weapon described above
3. any firearm muffler or firearm silencer
4. 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.