



**MODEL GUIDANCE FOR
POSITIVE AND PREVENTIVE
CODE OF STUDENT CONDUCT POLICY AND
ALTERNATIVES TO SUSPENSION**

VIRGINIA BOARD OF EDUCATION

Revised June 2021

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, 2009, 2013, and 2014 primarily to incorporate changes in state laws enacted by the General Assembly. This 2017 revision has been a cooperative effort that included educators from across the state in focus group discussions. The Virginia Board of Education (BOE) and the Virginia Department of Education (VDOE) express sincere appreciation to members of the Virginia Student Support and Conduct Committee and the 2017 Student Conduct Policy Guidelines Advisory Group. Both groups generously contributed their time and expertise to the development of these guidelines.

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INTRODUCTION AND BACKGROUND

The Virginia Board of Education’s Student Conduct Policy Guidelines was first developed in 1994 in response to action by the 1993 General Assembly requiring the Virginia Board of Education to establish such guidelines.¹ In 2004, the Guidelines underwent a major revision in response to requirements of § 22.1-279.6. of the *Code of Virginia*, 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, 2009, and 2013 to incorporate changes in state laws and regulations.

In the spring of 2015, the Center for Public Integrity (CPI) released a study reporting that Virginia led the nation in sending students from schools to police or the courts, a trend referred to as the “school-to-prison pipeline.” According to the [CPI study](#), 16 students per 1,000 were referred from school to the juvenile justice system in Virginia.² This news prompted an investigation into the numbers behind the study. With the support of Governor Terry McAuliffe’s Children’s Cabinet, Dr. Gerard Lawson, associate professor in Virginia Tech’s School of Education, led a research team to distinguish between reports to law enforcement and actual student involvement with the court system. Dr. Lawson’s team concluded that the actual number of students who went to court from the Virginia schools was actually 2.4 per 1,000.³ Nonetheless, the [Lawson study](#) substantiated the CPI finding that African American students and students with disabilities were disproportionately represented in referrals to juvenile justice in Virginia schools.

Further investigation into the Department of Education’s Discipline, Crime, and Violence (DCV) data, also supported the finding that disparity existed for students with disabilities and African American students. Students with disabilities and African-American students were being suspended at two times the rate of non-disabled, white students. In addition, the majority of referrals reported in DCV data are related to behaviors that fall under the subjective label of “Disruption.” The data also revealed that the number of instructional days lost to suspensions and expulsions significantly affects student achievement.

With these factors in mind, the Board of Education undertook this revision to the *Student Code of Conduct Policy Guidelines*, including a change in the name of the document: *Model*

¹ § 22.1-279.6 of The *Code of Virginia*

² Retrieved from <https://www.publicintegrity.org/2015/04/10/17089/virginia-tops-nation-sending-students-cops-courts-where-does-your-state-rank>

³ Lawson, Dr. Gerard, et al, <https://vtnews.vt.edu/articles/2017/05/clahs-school-to-prison-pipeline.html>

Guidance for Positive and Preventive Code of Student Conduct Policy and Alternatives to Suspension. The goal of this document is to provide school boards with guidance to revise local student codes of conduct to create a positive and preventive approach to student conduct. 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*. As local school boards work to revise and adopt policies for codes of student conduct, keeping the USED Guiding Principles, the VTSS framework, and a positive instructional approach to behavior at the forefront will help ensure that schools are safe, supportive, and effective learning environments.

In addition, school divisions should recognize the need for addressing the changing demographics of the student population. Students from diverse backgrounds are becoming the majority demographic group in U.S. public schools.⁴ The culture of American schools tends to reflect and be more consonant with the beliefs and practices of Euro-American homes.⁵ Therefore, for ethnic minority children, the rich knowledge set, values, relational styles, and behavioral expectations cultivated and adaptive at home under one set of socialization beliefs and practices often do not match up well with those in educational settings.⁶ Students cannot be expected to intuit appropriate behavior; therefore, adults in the school are responsible for teaching and providing feedback to reinforce appropriate behavior and correct inappropriate behavior. Effective implementation of any code of conduct requires provisions that appropriate behaviors be taught, practiced across settings with feedback, reinforced, and taught again as indicated by the data. Research has shown that frequent out of school suspensions, zero-tolerance policies, and “get-tough” approaches to school safety are “ineffective and increase the risk for negative social and academic outcomes, especially for children from historically disadvantaged groups.”⁷ The 2017-2018 revision was undertaken to create a document that:

- Focuses on prevention;
- Recognizes the need for instructional interventions and behavioral supports when students do not meet behavioral expectations; and
- Defines equitable approaches to school discipline.

⁴ Best Practices for Embedding Multicultural Education, Hanover Research, April 2017.

⁵ Rogoff B. *The cultural nature of human development*. Oxford University Press; NY: 2003. [Google Scholar]

⁶ Bowman BT. *Love to read: Essays in developing and enhancing early literacy skills of African American children*. National Black Child Development Institute; Washington, DC: 2002.

⁷ Skiba, Russell, J., Losen, Daniel, *From Reaction to Prevention*, American Educator, Winter 2015-2016.

Approaching school discipline from an instructional prevention-based standpoint contributes to a positive school environment and ensures equity, fairness, and continuous improvement. Applying an instructional, prevention-based perspective to student behavior is fundamental in a multi-tiered system of support. In Virginia, the Virginia Tiered Systems of Supports (VTSS) provides a framework that allows divisions, schools, and communities to provide multiple levels of supports to students in a more effective and efficient, clearly defined process. It is a data-driven decision making framework for establishing the academic, behavioral, and social-emotional supports needed for a school to be an effective learning environment for all students.

The Virginia Department of Education working with a diverse group of stakeholders developed the *Model Guidance for Positive, and Preventive Code of Student Conduct Policy and Alternatives to Suspension*. To create local student conduct policies, school division leaders should work with staff, students, families, community based organizations, and other stakeholders to accurately assess a school's climate and the current status of school discipline, develop a shared vision for what it should be, and establish policies and practices to create a positive school environment where students and staff feel safe and supported.⁸ School board student conduct policies should reflect efforts to address identified needs and ensure equity for all students. These Guidelines are intended specifically to aid school boards in revising and implementing student conduct policies as the *Code of Virginia* requires. 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. (The Appendices include references to the *Code of Virginia*.)

The 2021 revision of this document includes multiple legislative changes and some reorganization of the content. Most notably, the 2020 Virginia General Assembly revised [§ 22.1-279.6](#) to require the Board of Education to include in its policy guidance “(iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct. (§ 22.1-279.6: A.)” In addition, the regulations called for in [§ 22.1-279.1:1](#) of the *Code of Virginia* on the use of restraint and seclusion became effective and are included in this revision. Some language in the original document has been modified to align more closely with prevention in tiered systems of supports and to address varied cultural perspectives. Finally, feedback from school divisions and professional organizations has informed some revisions.

⁸Morgan, E., Salomon, N., Plotkin, M., and Cohen, R. (2014) *The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System*. The Council of State Governments Justice Center. New York. p. ix.

Establishing a Purpose for Student Code of Conduct Policy

The *Code of Virginia* requires that the Board of Education provide model policy guidelines for local school divisions to use in developing a local student code of conduct. The purpose of this document is to guide school boards to establish a policy that:

1. Promotes a vision for improving conditions for learning so that all students experience a safe, supportive school environment that allows them to acquire the attributes outlined in the Virginia Board of Education's Profile of a Graduate.⁹
2. Advocates for professional learning for school staff and allocates resources to implement the local division's code of conduct using data to analyze and address challenges and successes.
3. Promotes the development of local division codes of conduct that clearly articulate expectation for student and adult behavior to enhance school safety and create equitable, supportive school environments.
4. Focuses on prevention and provides a leveled system of responses to discipline incidents that uses instructional, restorative, and age-appropriate responses before resorting to exclusionary practices while respecting the social-emotional development of children at elementary, middle, and high school.
5. Provides that all students who are removed from the classroom for disciplinary reasons are able to access services for a quality education and behavioral interventions needed to ensure their successful return to the setting from which they were removed.
6. Encourages partnerships with students and their families; behavioral health, child welfare, and juvenile justice professionals; law enforcement agencies; and other community members to assess and improve the school climate and conditions for learning.¹⁰

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.

⁹Virginia Department of Education Link: [Profile of a Virginia Graduate](#).

¹⁰ Morgan, E., Salomon, N., Plotkin, M., and Cohen, R., 23-25.

Authority and Duties of School Boards

Section 22.1-253.13:7.D.3. of the *Code of Virginia* (part of the section known as the Standards of Quality) requires local school boards to maintain and follow an up-to-date policy manual that includes “standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.” Local school boards should collaboratively develop programs and policies to prevent violence and crime on school property and at school-sponsored events, taking into account the views of all stakeholders and evaluating the implications of policies on conditions for learning to improve student achievement.¹¹

a. School Board Regulations

Section 22.1-78., of the *Code of Virginia* authorizes local school boards to adopt bylaws and regulations “for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.”¹² Regulations on codes of student conduct should be consistent with, but may be more stringent than, the guidelines of the Board. The tables of Leveled Responses to Student Behaviors in the *Preventative and Positive Approaches to Discipline* section of this document are intended to provide school divisions with a leveled system of student conduct descriptors, interventions, and disciplinary responses that include the requirements in the *Code of Virginia*. In general, local school board regulations governing student code of conduct must be reviewed biennially and must address the following:

- Discipline options and alternatives to preserve a safe, non-disruptive environment for effective teaching and learning;
- Procedures for suspension, expulsion, and exclusion decisions;
- Prohibitions against hazing and profane or obscene language or conduct;
- At the local board’s discretion, regulations regarding certain communications devices;

¹¹ § 22.1-279.9. of *The Code of Virginia*

¹² § 22.1-78. of *The Code of Virginia*

- Requirements, if any, regarding drug testing, including guidance for procedures relating to voluntary and mandatory drug testing in schools;
- Alcohol and drug possession and use;
- Search and seizure;
- Gang-related activity;
- Vandalism;
- Trespassing;
- Threats;
- Disciplining of students with disabilities;
- Intentional injury of others;
- Self-defense;
- Bullying, including the use of electronic means for purposes of bullying, harassment, and intimidation;
- Prohibition on possessing electronic cigarettes/vapor devices on a school bus, on school property, or at a school-sponsored activity;
- 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;
- Dissemination of such policies to students, their parents, and school personnel; and
- 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.¹³

¹³ §22.1-279.6 of *The Code of Virginia*

STUDENT CONDUCT POLICY GUIDELINES

Policy for Development and Review¹⁴

A school board policy should provide for the systematic review and updating 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, central office administrators most directly involved with student discipline (e.g., disciplinary hearing officer, student support services personnel), and representatives of school-based administrators, teachers, students, and parents.

Dissemination and Implementation of Standards¹⁵

“The review should examine not only relevant statutory and case law and regulations, but also consider the policy and programmatic implications based on local discipline, achievement, demographic, attendance, and school climate survey 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 for improving conditions for learning, ensuring equity, identifying needed resources, and designing effective professional learning experiences regarding student conduct policies for administrators and other staff.

Local school boards must provide online access and printed copies as needed 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, behavioral expectations and procedures for addressing inappropriate behavior. School boards should provide translated versions of the code of conduct and related documents to populations whose first language is not English. Student conduct standards may be published as a simple, stand-alone document or as part of a lengthier, comprehensive handbook. School boards should determine the format and content most suited to local need. Dissemination procedures should also address the dissemination of standards to students and families who enroll after the beginning of the school year.

¹⁴ § 22.1-253.13:7. of *The Code of Virginia* Standard 7. School board policies.

¹⁵ § 22.1-253.13:7. of *The Code of Virginia* Standard 7. School board policies.

Local school boards must designate in policy implementation procedures for the Code of Conduct. Effective implementation procedures engage student, faculty and support personnel, parents, and community in learning activities designed to ensure that all participants in the school community have an opportunity to learn and apply the standards set forth in policy. Considerations for implementation procedures include multiple stakeholders, multiple opportunities for stakeholders to learn, multiple settings to facilitate community access, and multiple engagement strategies.”

Elements of a Student Conduct Policy

The items listed below should be addressed in local board policies regarding student conduct. Each of the elements listed are fully defined with guidance for developing local policy in this section. Relevant sections of the *Code of Virginia* and the *Standards of Quality* are referenced in the text and noted in the Appendices.

School Climate

School climate is defined by the “shared norms, beliefs, attitudes, experiences, and behaviors that shape the nature of the interactions between and among students, teachers and administrators.” These shared understandings reflect the organizational, instructional, and interpersonal expectations and experiences that set the parameters for behavior within a school and serve as the context for how students, staff, parents, and community report on the quality of the educational and social culture and climate of the school.¹⁶

Policies that focus on creating and maintaining a positive school climate are essential to maintaining an “atmosphere free of disruption and threat to persons or property and supportive of Individual rights” as required in the Standards of Quality (§ 22.1-253.13.7.D.3 and Section 22.1-279.6) of the *Code of Virginia*, which make reference to incorporating discipline options and alternatives “to preserve a safe, non-disruptive environment for effective teaching and learning.”¹⁷

Local school boards should collaboratively develop a philosophy statement that reflects the positive school climate that the division wants to promote in each of its schools. That philosophy should be disseminated to all stakeholders and be supported by policies and practices implemented at the school level.

¹⁶ Emmons et al., 1996; Johnson, Pas, & Bradshaw, 2015; La Salle, Meyers, Varjas, & Roach, 2014 as cited in

Technical Brief, School Climate: Academic Achievement and Social Behavior Competence Center for Positive Behavioral Interventions and Supports, September 14, 2016.

¹⁷ § 22.1-279.6. of *The Code of Virginia*

Local school board policy on student conduct should include a statement of purpose and intent consistent with Virginia law. In addition, local policies should also set the tone for school climate. School climate involves all of the members of the school community and is a reflection of the relationships, practices, and organization of the school community in establishing conditions for learning to support the physical and emotional safety, connection, support, and engagement of students. A safe, supportive, effective school environment:

- Fosters social and physical safety;
- Provides support that enables students and staff to realize high behavioral expectations;
- Ensures effective academic instruction that provides opportunities for authentic instructional engagement with high rates of positive, task specific feedback to master rigorous academic standards; and
- Encourages and maintains respectful, trusting, and caring relationships throughout the school community.

“Research shows that creating a positive school climate can help districts, schools, and teachers meet key goals, including boosting student achievement and closing achievement gaps; increasing high school graduation rates; decreasing teacher turnover and increasing teacher satisfaction; and turning around low-performing schools. Positive school climates also enhance safety in the school and community by increasing communication among students, families, and faculty, and reducing violence and bullying.”¹⁸

Commitment to Equity and Accountability for Equity

The United Nations Convention on the Rights of the Child states:

*To guarantee the human right to education, schools shall provide all children and youth with the learning tools and content necessary to reach their full potential, to participate fully and effectively in a free society, to live and work in dignity, to improve the quality of their lives, to make informed decisions and to continue learning throughout life.*¹⁹

¹⁸ U.S. Department of Education, *Directory of Federal School Climate and Discipline Resources*, Washington, D.C., 2014.

¹⁹ [A Model Code on Education and Dignity: Presenting a Human Rights Framework, Dignity in Schools](#), 2013 p. 7; U.N. Convention on the Rights of the Child art. 29 cmt. 1.12

In 2020, the Virginia General Assembly revised [§ 22.1-279.6](#), to require the Board of Education to include “(v) standards for reducing bias and harassment in the enforcement of any code of student conduct.” Using these standards, school divisions should develop policies and procedures to create conditions to provide the resources, services, and supports to every school community to ensure equity. Policies should ensure equitable access to education and achieve equitable outcomes in education for all students.

The Virginia Department of Education provides guidance for school divisions to align practices and policies to ensure equity in [Navigating EdEquity: Virginia’s Roadmap to Equity](#), which defines education equity as the elimination of the predictability of student outcomes based on race, gender, zip code, ability, socioeconomic status, or languages spoken at home.” (Appendix E provides an example of a Statement on Diversity, Inclusion, and Equity. Appendix G provides other resources to support equitable approaches to discipline.)

Specifically, regarding equity in school discipline, Positive Behavioral Interventions and Supports (PBIS) recommends that school board policies should include a five-point multicomponent approach to reduce disproportionality and ensure equity in school discipline. School Board policy can develop procedures to:

- Evaluate student code of conduct and school discipline policies for gender, racial, ethnic, linguistic, and cultural biases;
- Collect, use, and report disaggregated discipline data that clearly identify disparate discipline outcomes and utilize this data to inform professional development planning (A free guide to examine school discipline data is available at Safe Supportive Learning);
- Provide implicit bias training and implement protocols to mitigate bias in discipline decisions;
- Develop policies that include accountability for discipline disproportionality; and
- Implement a behavior framework that is preventative, restorative, multi-tiered, and culturally responsive.²⁰

In addition, school boards are encouraged to:

²⁰ A 5-Point Intervention Approach for Enhancing Equity in School Discipline: McIntosh, K., Girvan, E.L., Horner, R. H., Smolkowski, K. & Sugai, G. (2018). A 5-point approach for enhancing equity in school discipline. OSEP Technical Assistance Center on Positive Behavior Interventions and Supports.

- Involve parents and communities in analysis of school discipline data and in decision-making processes to address inequities; and
- Ensure that students who are enrolled in early childhood programs provided by the division receive high quality education that includes proven research-based interventions for challenging behavior and assessments that identify and address the causes of behavior that puts young students at risk for exclusion. The [*Virginia Guidelines for the Prevention of the Suspension and Expulsion of Young Children*](#) is a resource for policies and practices.

Dress and Grooming Standards

In 2020 House Bill 837 amended and reenacted § 22.1-276.01 and § 22.1-279.6 of the *Code of Virginia*. The *Code of Virginia* § 22.1-276.01 now includes a definition for dress and grooming: *"Dress or grooming code" means any practice, policy, or portion of a code of student conduct adopted by a school board that governs or restricts the attire, appearance, or grooming, including hairstyle, of any enrolled student.*

In addition to providing a definition of dress or grooming code, the General Assembly directed the Board of Education 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 shall include... (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct."* (§ 22.1-279.6: A.)

Subsection I. of § 22.1-279 outlines the requirements of a dress or grooming code for those school boards who decide to include a dress or groom code:

"Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, head-wraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code."

Local school board policies regarding dress code should serve to support equitable educational access for all students. Dress or grooming codes should ensure the health and

safety of students in a supportive school climate. The National Center on Safe, Supportive Learning Environments defines school safety as “schools and school-related activities where students are safe from violence, bullying, harassment, and substance use.” School health in Virginia public schools includes the physical and emotional well-being of students. Dress and grooming codes should not contribute to, encourage, or cause violence, bullying, or harassment or substance use. They should align with the physical and social emotional development of students.

Guidelines for Establishing Dress and Grooming Standards

The health and safety of students and a supportive school climate should form the foundation for any dress or grooming code of conduct. If a local school board chooses to establish a student dress or grooming policy, the following guidelines are intended to provide support in the development of the policy.

As required by law, dress and grooming policies must:

1. Be clear, specific, and objective in defining any terms used in the policy.
2. Permit any student to wear any religiously and ethnically specific or significant garment or head covering or hairstyle, including hijabs, yarmulkes, head-wraps, braids, locs, and cornrows.
3. Permit any student the right to dress in a manner that is consistent with their gender identity.
4. Maintain gender neutrality by subjecting all students to the same set of rules, expectations, and standards regardless of gender identity or gender expression.
5. In order to not have a disparate impact on students of a particular gender, attire related to school activities and events such as physical education uniforms, school ceremony attire, graduation gowns, band uniforms, orchestra uniforms, or other school specific dress, should be gender neutral. For example, schools may require formal attire for all students at a choral concert but should not specify that girls must wear dresses and boys must wear ties.
6. Explicitly prohibit *“any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire.”*
7. Explicitly prohibit *“any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.”*

The following are recommended as best practice. Dress and grooming policies should:

1. Be based on the health and safety of students in an inclusive school community.
2. Support student expression, but not allow that expression to negatively affect the health and safety of another student.
3. Prohibit garments and accessories that pose a risk of injury or compromise the safety of the student or to others.
4. Be written, enforced, and applied consistently and equally to all students regardless of race, ethnicity, gender, gender expression, sexual orientation, zip code, ability, socio-economic status, and/or languages spoken at home.
5. Provide guidance to staff for addressing student behavior that is related to the dress and grooming policies while maintaining the student's dignity. Dress code conversations should be private and focused on health, safety, and school climate considerations. Staff should never shame or belittle a student for dress or grooming choices.
6. Direct school personnel to work with students and families or caregivers, when appropriate, to promote understanding of the impact of student dress on health, safety, and school climate. School staff should listen to understand any cultural or situational issues regarding student dress when discussing dress code concerns.
7. Prohibit the use of exclusionary discipline sanctions for non-compliance with dress and grooming policies. Exclusion is not an effective response to dress code concerns and should not be employed as a response to dress code violations.

Definitions:

Ability - The term "ability" includes all students, those who have and those who have not been labeled with a specific disability or talent. This term is used so that any group of students - special education, gifted/talented, general education, advanced placement, honors, band student, etc. - is not negatively singled out in regard to dress code.

Exclusionary Discipline - Any practice that removes a student from their regularly scheduled program for a student conduct issue.

Gender Neutral - Dress codes that are gender neutral do not attribute one type of clothing to a specific gender. Gender specific clothing is generally attributed to either males or females, i.e.; dresses are for girls and pants are for boys. For example, schools may require formal attire for all students at a choral concert but should not specify that girls must wear dresses and boys must wear ties." Dress codes, including hairstyles, should encompass broad guidelines that are not gender-specific and are free of gender stereotypes. Here is an

example of how a gender-neutral dress code might read: “Clothing must be worn in a way such that genitals, buttocks, abdomen, and nipples are covered with opaque material” rather than prohibiting certain types of clothing typically associated with one gender (e.g., “a mini skirt” or “camisole”).

Gender Identity - A person’s internal sense of their own identity as a boy/man, girl/woman, something in between, or outside the male/female binary. Gender identity is an innate part of a person’s identity and can be the same or different than the sex assigned at birth.

Gender Expression - The manner in which a person represents or expresses their gender identity or role to others, often through appearance, clothing, hairstyles, behavior, activities, voice, or mannerisms. Gender expression may change over time and from day-to-day and is not necessarily related to the person’s gender identity.

Roles and Responsibilities

Local school board policies should clearly define the roles and responsibilities of the school board, the superintendent, principals, teachers, and other school personnel with responsibility for implementation of student conduct standards to create a safe, supportive, effective school environment. Student roles, rights and responsibilities should also be included, particularly when the local standards of student conduct articulate student rights and responsibilities related to specific conduct. Including information about the roles, rights and responsibilities of parents in regard to the standards of student conduct and compulsory school attendance is also appropriate. Student and parent rights and responsibilities are outlined in the next section (II.C.4.) of this document.

In addition, board policies should reflect the roles that other community partners might serve in regard to student conduct and achievement. Community partners might include law enforcement, social services, community service boards, mental health providers, and others. Specific guidance for how to work with these partners should be outlined in memoranda of understanding, which school board policy may require.

The *Code of Virginia* addresses the legal responsibilities of school boards, school administration, parents, and students in regard to student conduct. Following is guidance for establishing the roles of school administrators, parents, teachers, support personnel and law enforcement in creating and maintaining a safe, supportive, effective learning environment.

The Principal

School board policy should establish the role of the school principal to include working with parents, community members, students and staff to establish and maintain a positive

school climate that reflects the philosophy of the local school board. As leader of a team of essential stakeholders, the principal should demonstrate support for a prevention framework for behavior by:

- aligning philosophically with a positive approach to behavior,
- allocating funding,
- providing visibility (active communication with relevant stakeholders),
- supporting plans for implementation,
- allowing for professional learning,
- establishing coaching supports,
- providing performance feedback,
- establishing a team of leaders to drive implementation,
- utilizing specialized instructional support personnel to analyze data and develop interventions and supports, and
- involving teachers, families, and communities in data analysis and development of interventions and supports.

The Virginia Standards of Accreditation (2000), Section 8 VAC 20-131-210.A., state that the principal "is recognized as the instructional leader of the school and is responsible for effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources." Section B.2. specifies that the principal shall "ensure that the school division's student code of conduct is enforced and seek to maintain a safe and secure school environment." Section 8 VAC 20-131-260.C.3 requires a school administration to ensure "a written procedure, in accordance with guidelines established by the local board, for responding to violent, disruptive or illegal activities by students on school property or during a school-sponsored activity."

In 2020, [House Bill 257 and Senate Bill 729](#) eliminated the requirement that school principals report to law enforcement certain enumerated acts that may constitute a misdemeanor offense as outlined in subsection A of [§ 22.1-279.3:1](#). Subsection D now requires those acts to be reported if they may constitute a felony. The same section also states, "Nothing in this section shall require delinquency charges to be filed or prevent schools from dealing with school-based offenses through leveled sanctions or educational

programming before a delinquency charge is filed with the juvenile court.” Local board policy should establish the following:

1. Principals are responsible for managing student conduct on school premises, on the school bus, and at school sponsored events in accordance with local board policy;
2. Principals are responsible for establishing and implementing a clear, consistent, restorative process consistent with local board policy for removing students from an instructional setting at a teacher’s request and for returning the student to the instructional setting;
3. Law enforcement officers should not become involved in instances of student misconduct except at the request of the school principal unless there is imminent danger to students, staff, or community members;
4. Reports to law enforcement do not necessitate the filing of delinquency charges;
5. Law enforcement officers and school administrators should work together to implement systems of support to address juvenile delinquent behavior when possible; and
6. In instances where charges are filed, “local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, 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.”²¹

Families as Partners

Creating a positive school climate requires involving families and creating a welcoming atmosphere to ensure their participation. Today’s families are not necessarily traditional, composed of two parents and siblings. They often include stepparents, grandparents, aunts, uncles, stepchildren, and sometimes friends as caregivers. School board policy acknowledges non-traditional families and allows the family to designate who is to be considered a “parent” within the student’s family structure and within the boundaries of the law. Families should be involved in the analysis of data to inform developing policies

²¹ [§ 22.1-279.3:1](#), Subsection B

and practices to improve conditions for learning. They have a right to be informed and participate in decisions affecting their individual child and to access grievance procedures, which are addressed in Student and Parent Rights section of this document.

Section 22.1-279.3., of *The Code of Virginia* sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance. Parents are required to sign and return a statement acknowledging the receipt of the school board's standards of student conduct. Parents are also required to notify the school upon registration of a student, information concerning criminal convictions or delinquency adjudications for any offense listed in subsection G of § 16.1-260.

Recognizing the partnership between schools and families in making schools safe, effective learning environments and in promoting the social-emotional development of children is important. The policy should emphasize the significance of positive communication between families and educators and outline rights and responsibilities for communication regarding topics, such as dress and grooming, bullying, student progress, attendance, school calendars, technology use, student assistance programs, and prevention and intervention programs. Outlining avenues for families to communicate their concerns, to provide suggestions, and to access information regarding their children can help create a positive partnership between families and schools, thus strengthening the school community. Providing families with avenues of communication and access to proactive approaches in the conduct policy can re-frame the relationship regarding student conduct and create partners instead of adversaries when incidents arise.

Professional Teaching Staff

According to the Standards of Accreditation 8VAC20-131-220, "The professional teaching staff shall be responsible for providing instruction that is educationally sound in an atmosphere of mutual respect and courtesy...." Teachers are responsible for establishing and maintaining a safe, supportive environment that is developmentally and culturally responsive and promotes student academic, behavior and social-emotional development. Developing positive relationships with students that are built on mutual trust and respect have been shown to demonstrate some of the highest positive effects on student achievement and behavior. Developing relationships requires "specific skills of the teacher such as the skills of listening, empathy, caring and having a positive regard for others." The impact of teacher student relationship variables includes gains in positive behavior, critical/creative thinking, math, verbal skills, and overall grades. Because there is a correlational link among student behaviors, positive school climate, and academic achievement, board policy should address the following teachers' responsibilities:

- Develop positive relationships;

- Develop a safe, positive, and culturally responsive environment;
- Apply cultural competence to classroom management;
- Teach (and re-teach when necessary) behavioral expectations;
- Reinforce positive behavior;
- Provide instructional feedback on behaviors;
- Utilize the school's tiered framework of interventions and supports for students who are not meeting behavioral expectations;
- Recognize personal stress, reactions that may escalate negative student behavior, and personal bias; and
- Use individual and classroom data to progress monitor student behavior and the teacher's responses to behavior.

In addition, teachers should be provided training and follow up coaching that promotes positive relationships with other staff, parents, and families, and opportunities to develop partnerships that support students' development.

If a student is not meeting the behavioral expectations and the teacher has implemented classroom or school-based interventions as outlined in school procedures, the teacher may request that a student be removed from a class. Therefore, local school board policy should cite the initial authority of teachers to remove a student from a class for disruptive behavior in accordance with § 22.1-276.2., of the *Code of Virginia*. The local school board is required to establish the following:

1. Criteria for teachers to remove disruptive students from their classes.
2. Requirements for incident reports of student 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 is not remediated.
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.

Decisions regarding a removal may be made collaboratively using a school team that includes specialized instructional support personnel, the student and parents, the teacher, and a school-based administrator. When a student is removed from a class at a teacher's request, that student must continue to have access to graded work. The student should participate in behavioral interventions to support changing the behavior. The teacher should also receive support to address student behavior. The section *Preventive and Positive Approaches to Discipline* provides further guidance regarding the removal of a student by a teacher. Clear school board policy is vital to protecting the rights of both the teacher and the student.

Specialized Instructional Support Personnel

Specialized instructional support personnel (SISP) include those members of the staff who have direct responsibilities for providing for the physical, mental, and social-emotional health of students. They include school nurses, school counselors, school psychologists, school social workers, behavior specialists, and others who work in the school to provide for the health and development of students. Each of these professionals has a direct role in promoting and supporting a positive school climate that focuses on prevention, intervention, and support to assist students in meeting the behavioral expectations of the student code of conduct. As schools work to decrease the use of exclusionary practices, the role of SISP becomes more critical.²² Local school board policy should address the importance of the contributions of these professionals and clearly define their roles in creating safe, supportive, effective school environments. Local policy should communicate those roles to students, families, and the community so that stakeholders have access to the services and supports provided by these professionals.

In addition, some school divisions contract with health professionals from outside agencies. When that is the case, the school division should develop a clear memorandum of understanding with the agency providing the services. A sample from a Virginia school division and a community service board is included in Appendix E.

²² Cowan, K. C., Vaillancourt, K., Rossen, E., & Pollitt, K. (2013). *A Framework for safe and successful schools* [Brief]. Bethesda, MD: National Association of School Psychologists. p. 9.

School Counselors

School counseling programs support the Virginia Standards of Learning by providing guidance to students in their academic, career, and personal, and social development. School counselors collaborate with parents, teachers, administrators, and others to promote learning and to help students establish and achieve their education, career, and personal goals. School counselors provide leadership to ensure that students benefit from effective strategies and services aligned with [the Standards for School Counseling Programs in Virginia Public Schools](#). The standards are organized by grade level under the following goals:

- Academic Development – Students will acquire the academic preparation essential to choose from a variety of educational, training, and employment options upon completion of secondary school.
- Career Development – Students will investigate the world of work in order to make informed career decisions.
- Social-Emotional – Students will acquire an understanding of, and respect for, self and others, and the skills to be responsible citizens.

8VAC20-620-10. School guidance and counseling services states that personal/social counseling assists a student to develop an understanding of themselves, the rights and needs of others, how to resolve conflict and to define individual goals, reflecting their interests, abilities, and aptitudes. Such counseling may be provided either: (i) in groups (e.g., all fifth graders) in which generic issues of social development are addressed; or (ii) through structured individual or small group multi-session counseling which focuses on the specific concerns of the participant (e.g., divorce, abuse or aggressive behavior).

School Social Workers

School social workers “have special expertise in understanding family and community systems and linking students and their families with the community services that are essential for promoting student success. School social workers’ training includes specialized preparation in cultural diversity, systems theory, social justice, risk assessment and intervention, consultation and collaboration, and clinical intervention strategies to address the mental health needs of students. They work to remedy barriers to learning created because of poverty, inadequate health care, and neighborhood violence. School social workers often focus on providing supports to vulnerable populations of students that have a high risk for truancy and dropping out of school, such as homeless and foster children, migrant populations, students transitioning between school and treatment programs or the juvenile justice system, or students experiencing domestic violence. They work closely with teachers, administrators, parents, and other educators to provide

coordinated interventions and consultation designed to keep students in school and help their families access the supports needed to promote student success.”²³

School Psychologists

School psychologists have specialized training that enables them to understand and work with students to address their academic progress, behavior, social-emotional development, and relationships. “School psychologists specialize in analyzing complex student and school problems and selecting and implementing appropriate evidence-based interventions to improve outcomes at home and school.”²⁴ School psychologists can support school efforts by conducting needs assessments, establishing progress monitoring systems, evaluating and interpreting data, and helping use data to inform future directions. The school psychologist is an important member of the school team that addresses student progress. They may consult with teachers and parents to coordinate services and supports for students’ academic, social, and behavioral needs. “Since school psychologists are trained in counseling, positive behavior supports, and other school-based intervention techniques,” they are well-positioned to develop and provide classroom and targeted interventions. They are critical members of the student support teams and the crisis intervention teams. Their training in conducting risk and threat assessments and in evaluation, data collection, and interpretation can facilitate identifying and implementing the supports that students may need to ensure their success.

School Nurses

The school nurse provides emergency care assessments and interventions, management of acute and chronic health conditions, referral, and support to access primary care, preventive services, communicable disease control measures, counseling for health promotion, and identification and management of health-related barriers to student learning. The National Association of School Nurses (NASN) framework provides guidance for student-centered nursing care that occurs within the context of the students’ family and school community and provides guidance for the practicing school nurse to reach the goal of supporting student health and academic success by contributing to a healthy and safe school environment (NASN, 2016). The VDOE guidance documents and evidence-based practices for school nurses are available on the [School Health Services webpage](#).

²³. Cowan, p. 9

²⁴ Cowan, p. 9

Non-Certified Staff

All members of the school community should be engaged in and responsible for establishing a positive school climate. School boards are encouraged to state in policy that all employees are responsible for establishing and maintaining a positive school environment. School boards should also provide appropriate professional learning for all staff members in how to support a positive school environment. At the building level, school principals are responsible for engaging all members of the staff in establishing and supporting positive behavioral expectations, interventions, and supports. Every school employee is responsible for ensuring a safe, supportive, effective learning environment. Involving them, training them, and ensuring their commitment to student success is essential.

Law Enforcement Agencies/Personnel

School Resource Officer (SRO) 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.”²⁵

School Resource Officers who are assigned to schools should operate under a Memorandum of Understanding (MOU) that outlines the roles and responsibilities of the law enforcement agency, the school division, and personnel from both. In May of 2017, The Department of Criminal Justice Services (DCJS) released a model MOU to assist school divisions in developing a local guidance document. The model is available on the [Department of Criminal Justice Services website](#).

As noted in the DCJS model, the goals of an MOU are “to promote positive and supportive school climates and to create and maintain safe and secure school environments.”²⁶ The school division’s MOU with local law enforcement should clarify that:

“School administrators and teachers are responsible for school discipline. Although SROs are expected to be familiar with the school division code of student conduct, the rules of individual schools, and their application in day-to-day practice, SROs should not be involved with the enforcement of school rules or disciplinary infractions that are not violations of law.”²⁷

²⁵ § 9.1-101. of the *Code of Virginia*

²⁶ Atkinson, Anne J., Virginia School-Law Enforcement Partnership Model Memorandum of Understanding; [DCJS website](#). p.3.

²⁷Atkinson, p. 2.

Policies should reinforce 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.

Additionally, issues that do not present "real and immediate" threat of serious physical injury to a student, teacher, or other member of the school community, or are not a violation of the law, should be handled by school personnel and not by SROs, police, other law enforcement or security officers. Involving police in school discipline undermines positive school climate and student attendance and achievement. School personnel, in partnership with law enforcement and community diversion organizations, should develop positive behavioral interventions and supports to address adolescent behaviors that do not pose a serious or immediate threat to safety, including:

- DMinor disruptive or disrespectful conduct;
- Trespassing;
- Loitering;
- Profanity;
- Insubordination/defiance;
- Verbal abuse and/or harassment;
- Vandalism and/or graffiti;
- Failure to wear or correctly wear school uniform or follow policies regarding clothing;
- Possession of a prohibited item that does not violate the penal law (i.e., cell phones);
- Being late, cutting class, absenteeism, or truancy;
- Fighting that does not involve a weapon or injury;

- Perceived drunkenness or intoxication;
- Possession of a tool that could be taken to be, but is not intended as a weapon, such as a nail clipper or file, small pen knife, butter knife, toy gun, or pepper spray, unless that item is being brandished as a weapon; and
- Promoting or claiming of a neighborhood 123 or crew (including verbally, through graffiti, through clothing, or hand signs).²⁸

Well-trained SROs can “protect the community and the campus while supporting schools’ educational mission.”²⁹ An SRO may serve in the following roles:

- Law enforcement officer who responds to “requests for assistance from administrators and coordinates the response of other law enforcement resources to the school;”³⁰
- Expert “on law-related topics such as law enforcement practices, changes in relevant laws, crime trends, crime prevention, school safety strategies, and crisis response procedures;”³¹
- Community police officer who builds positive relationships with students, staff, and parents; and
- Participant on the “school’s policy making teams when it comes to environmental safety planning and facilities management, school safety policy, and emergency response preparedness.” They can participate in conducting “safety assessments of the campus,” in developing and implementing school safety plans and crisis plans,³² and in conducting threat assessments.

In addition, § 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

²⁸ Dignity in Schools, [Dignity in Schools website](#)

²⁹ Cowan, K.C., p. 9.

³⁰ Atkinson, p. 3.

³¹ Atkinson, p. 3.

³² Cowan, p. 10.

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.

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 included in the *Related Policy Issues* section of this document.

School security officer, SSO, 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.”³³

School board policy should clearly define the roles and responsibilities of any school security personnel as allowed by the *Code of Virginia*. Local policy should be specific about the SSO’s role in regard to student discipline, detaining students, the use of seclusion and restraint, the limitations on an SSO’s authority, and the expectation for SSO’s to be involved in the positive, preventive approaches to discipline in a tiered system of supports.

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 Center for School and Campus Safety](#) at the Virginia Department of Criminal Justice Services.

Role of the Community

Schools and school divisions should not be expected to stand alone when addressing the needs of struggling students; therefore, it is vital that schools and school divisions develop collaborative partnerships within the community to meet the needs of students.

Development of partnerships with mental health agencies, juvenile justice, and social service agencies as well as businesses and nonprofit organizations are critical to establishing a network of services and supports that ensure success for all students and

³³ § 9.1-101. of the *Code of Virginia*

create safe, supportive learning environments.³⁴ In order to create effective community partnerships, school board vision and policy development should include broad community representation and formalized partnerships with local agencies through memoranda of understanding. Those partnerships will improve the board’s ability “to implement its vision for improved conditions for learning and to support students with unmet behavioral and related needs.”³⁵

Student and Parent Rights

School Attendance

All children and youth have the right to a free public education from age 5 to 20 (up to age 22 if IDEA-eligible), and to attend the public school where they are a bona fide resident. In Virginia, the law also requires children to attend school from kindergarten through their eighteenth birthday, unless the student reaches completion before age 18 or falls into one of a few limited exemptions, such as home-schooling, certified health or safety concerns, and conscientious religious objection.

Schools should design attendance policies to encourage regular attendance and address underlying causes of chronic absence and truancy to avoid punishment or criminalization of students. Virginia law also makes clear that in no case may students be suspended solely for instances of truancy.³⁶

Students experiencing homelessness,³⁷ students in the foster care system,³⁸ immigrant students, and students whose first language is not English also have rights and protections under federal and state law with regard to school enrollment. Schools should ensure that students and caregivers are aware of and understand language-accessible codes of conduct.

Schools are to record any student who is suspended or expelled from their regular school for discipline incidents as absent unless the student is physically present at an alternative education program approved by the school board. Schools are to report the suspension or

³⁴ Skiba, Russell, J., Losen, Daniel, p. 11.

³⁵ Morgan, E., Salomon, p.2.

³⁶ §22.1-277 of the Code of Virginia

³⁷ See generally, Education for Homeless Children and Youths Program Non-Regulatory Guidance (2018), available at: <https://www2.ed.gov/programs/homeless/legislation.html>

³⁸ Fostering Connections to Success and Increasing Adoptions Act of 2008, PL 110-351

expulsion of a student from the student's regular school in the discipline data collection even though the student is attending an alternative program.

School Discipline

All students have a right to adequate and meaningful due process prior to being excluded from school for disciplinary purposes. Schools should ensure that students and families understand school discipline processes and their related right to due process.

Students have the right to be informed of any suspension, given specific reasons for the suspension, and offered the opportunity to tell their side of the story before being suspended.

Short-term suspensions:³⁹ Students and families have the right to receive in writing a description of the incident, the date the student may return to school, and notice of their right to appeal. This letter must also be sent to the school superintendent or designee. Upon written request by the student or parent/guardian, the superintendent must review the suspension. If no alternative education program is provided, schools must ensure that suspended students are able to access and complete graded work during and after the suspension.⁴⁰

Long-term suspensions:⁴¹ Students and families have the right to written notice from the Superintendent about the conditions of a long-term suspension and their relevant due process rights. The student has a right to the following:

- A hearing in front of the Superintendent or their designee;
- An appeal of an unfavorable decision to the School Board;
- Consideration of a variety of factors aside from the offense itself, among them: age and grade level; the student's academic and behavioral history; the availability of alternatives; mental health, substance abuse, or special education assessments; and any other relevant matters; and
- Upon appeal to the School Board, a written decision within 30 days.

³⁹ §22.1-277.04 of the *Code of Virginia*

⁴⁰ [22.1-277.04](#) and [22.1-277.05](#) of the *Code of Virginia*

⁴¹ §22.1-277.05 of the *Code of Virginia*

Schools should provide an academically appropriate alternative education program that permits students serving a long-term suspension to maintain sufficient progress in the curriculum and allow a smooth transition back into the student's school once the suspension term concludes. If no alternative education program is provided, schools must ensure that suspended students are able to access and complete graded work during and after the suspension. Schools may provide opportunities for earlier re-admittance based on student progress.

Expulsion:⁴² Students have the same due process rights to hearings and appeals as with long-term suspension, except that no expulsion is effective until approved by the School Board.

Students have the right to apply for re-admittance to school from an expulsion. Students also have the right to appeal a denial of re-admittance from an expulsion to the School Board.

Use of Seclusion and Restraint

The *Code of Virginia* § 22.1-279.1:1 requires that the State Board of Education adopt regulations on the use of seclusion and restraint in Virginia primary and secondary schools. The *Regulations Governing the Use of Seclusion and Restraint* ([8VAC20-750-5 et seq.](#)) (i) define what constitutes seclusion and physical restraint, as well as mechanical restraints, pharmacological restraints, and aversive stimuli; (ii) ban the use of mechanical restraints, pharmacological restraints, and aversive stimuli; (iii) describe the conditions under which it is permissible for a student to be restrained or secluded; (iv) provide for notification and reporting to parents, for debriefing with staff and the student following incidents, and for follow-up when a student has been restrained or secluded more than twice during the course of a school year; (v) provide for reporting to the Virginia Department of Education; (vi) require local school divisions to adopt policies and procedures regarding the use of seclusion and restraint; and (vii) require that all school personnel be trained in techniques for avoiding the use of seclusion and restraint and that school personnel who work with students who are likely to be restrained or secluded must receive additional training on safe methods for restraining or secluding a student.

⁴² §22.1-277.06 through 277.08 of the *Code of Virginia*

Guidance for Developing Policy for School Officials to Conduct Searches of Students

Local school boards in collaboration with local officials, including law enforcement, judges and attorneys, school staff, parents, and community members, should develop policies and protocols for school officials for conducting a search of a student's person or personal property. The policy should serve as a means to ensure school safety while respecting students' rights to privacy. The legal definition of 'reasonable suspicion' provides the conditions under which a student may be subjected to a search.

Reasonable suspicion is satisfied when two conditions exist: (1) the search is justified at its inception, meaning that there are reasonable grounds for suspecting that the search will reveal evidence that the student has violated or is violating the law or school rules, and (2) the search is reasonably related in scope to the circumstances that justified the search, meaning that the measures used to conduct the search are reasonably related to the objectives of the search and that the search is not excessively intrusive in light of the student's age and sex and the nature of the offense.⁴³

⁴³ Ehlenberger, Kate R., The Right to Search Students. *Educational Leadership*. December 2001/January 2002 | Volume 59 | Number 4. Understanding the Law Pages 31-35

School board policy should address details such as:

- When may a student be subjected to a search, e.g., on school premises, at extracurricular activities, on school field trip?
- What is considered school property and therefore available for search at any time, including lockers, desks, and/or computer files on the school's server?
- What types of searches may occur on school property? For example, can a student vehicle parked on school property be searched?
- What methods are allowable for a search? Metal detectors? Pat downs? Inspecting personal property?
- What constitutes student consent for a search? A student's consent to a search is only valid if given willingly and with knowledge of the meaning of consent. A student's refusal to give consent to a search may not be considered as evidence of guilt.
- When and how will parents be notified of the search?
- Under what conditions are random searches allowable? ⁴⁴

In addition to policies regarding searches of students, school boards should develop specific protocols for conducting searches to ensure equitable approaches and protect students' rights. Search protocols should describe the process and the conditions under which a search may occur once the standard of reasonable suspicion has been met and school officials have determined that school board policy allows the search. The protocol should include a written report to document the time, date, persons present, reasons for the search as they relate to school safety, and outcomes of the search.⁴⁵

Guidance for Developing Policy for School Officials to Question Students

School boards should develop policies to guide school officials in questioning students about their conduct when a behavior incident occurs. In all circumstances, the process of questioning a student begins with considering the nature of the offense, whether it rises to the level of criminal activity, and the age/development of the student.

School officials have a direct responsibility for student behavior as well as school safety and security. That responsibility allows school officials the latitude to question students in an effort to maintain safe schools. School boards are encouraged to set policy and guidelines

⁴⁴ Ehlenberger, Kate R.

⁴⁵ Ehlenberger, Kate R.

on when and how a school official may question a student. Those guidelines should include when parents should be contacted and under what circumstances law enforcement should be informed. Law enforcement officers should not be involved in questioning students as a part of routine school operations when no evidence suggests a crime has been committed.

Drug Testing

The VDOE drug-testing guidelines (§ 22.1-279.6) state that school boards may require any student who has been found in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program. Students, parents, and other school community members should discuss any issues of drug testing policy to set clear purpose and guidelines should testing be used.

School Policing

In order to meet the developmental needs of young people, schools shall be safe and supportive places to learn where teachers and students have training and support to prevent and resolve conflicts in positive ways. In order to guarantee students' rights to education and dignity, schools must avoid any disciplinary policies or practices that criminalize young people. The role of law enforcement in schools should be limited to matters that involve serious criminal law matters and/or a "real and immediate" threat of safety to students, teachers, or other member of the school community. School Resource Officers (SROs) and other law enforcement officers in schools should not be responsible for school discipline issues.

Questioning by school officials and law enforcement

Questioning students in the presence of a law enforcement officer greatly enhances the need to ensure that the student has all of the protections afforded them under the law. School administrators should consider the following questions:

- Is the student able to understand his/her rights based on the student's age and development given the situation?
- Has a crime been committed?
- Is the student a suspect in the alleged crime?
- Is the student free to leave the interview?

These are important considerations that should be addressed by local school board policy and training of administrators. A student who is being questioned in the presence of law

enforcement about involvement in a criminal offense should be afforded the same rights as any suspect being interrogated for criminal involvement.

The school is a custodial setting and students are not free to leave without permission. This fact enhances the need for students to be advised and aware of their rights prior to and during questioning by law enforcement. This will include support from school personnel to ensure that the student fully understands the process and that they are aware of the magnitude of the situation. Students, whom school officials determine are not able to understand their rights under the law, should not be questioned by law enforcement without parental involvement.

Searches by Law Enforcement

Board policy should also address the involvement of SROs, police, and all other law enforcement in searches of students. Law enforcement must meet the standard of probable cause to search a student, including the student's outer clothing, possessions, or locker. Probable cause to search exists when "known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband . . . will be found" (*Ornelas v. United States*, 1996, at 696).⁴⁶ When law enforcement conducts the search of a student, school officials should document the date, time, persons present, probable cause for the search and the outcome of the search.

Due Process Rights for Students with Disabilities⁴⁷

Students with disabilities are entitled to all the same due process protections as students who do not have disabilities, plus additional protections under federal (IDEA, ADA) and state law. Appendix C provides detailed requirements for disciplining students with disabilities. In brief,

- Short-term suspensions: A short-term suspension is not considered a "change in placement" for special education purposes, but schools must still provide a free and appropriate education (FAPE) and strive to fulfill the IEP during this suspension.
- Even so, a series of short-term suspensions that form a pattern of behavior can be considered a change in placement.
- In most cases, students with disabilities cannot be suspended for more than ten school days for conduct that is caused by the disability.

⁴⁶ Ehlenberger, Kate R.

⁴⁷ 8VAC20-81-10 through 8VAC20-81-340 Link: [Chapter 81. Regulations Governing Special Education Programs for Children with Disabilities in Virginia](#)

- Students with disabilities who are long-term suspended or expelled are entitled to an expedited decision from a due process hearing challenging the disciplinary action.

Local school board policy should specify, at a minimum, that suspension and/or expulsions of students with disabilities will be in compliance with state regulations and federal law. Reference may be made to Link: [Regulations Governing Special Education Programs for Children with Disabilities](#) (2010). Additional information on students with disabilities is included in Appendix C.

Parents’ Rights

Schools should create welcoming environments for all parents and caregivers. Schools have the duty to provide opportunities for parental and community involvement.⁴⁸ Schools should ensure parents and guardians understand and are able to exercise their rights to participate in decisions affecting their child’s education by:

- Ensuring all students and parents know and understand school norms, expectations, rules, and processes, including dress and grooming standards.⁴⁹
- Ensuring all students and families receive copies of the school code of conduct within one calendar month of the beginning of school (or, for students who transfer in or register late, at the time of registration).
- Collaborating with students and families to host forums to discuss positive school climate and behavioral expectations, including student assemblies and family “Town Hall” discussions.
- Protecting and adhering to due process rights, including those related to attendance, school discipline, school policing, restraint and seclusion, and special education.
- Assuring timely notice to parents—as required and otherwise—of academic or behavioral challenges in order to work with parents, guardians, and others to identify positive solutions and supports.
- Accommodating—as required and otherwise—family schedules and availability to ensure family involvement in decision-making.
- Providing parents with timely information regarding the process for appealing discipline decisions and allowing for situations that may affect their ability to respond to school division timelines.

⁴⁸ §22.1-279.3(B) of the Code of Virginia

⁴⁹ §22.1-279.3(C) of the Code of Virginia

Parents also have an affirmative duty to collaborate with schools in implementing conduct codes and assuring student attendance.⁵⁰ Schools should strive to establish positive, affirmative opportunities to build strong parent-school relationships before any specific academic, behavioral, or attendance-related issues arise.

⁵⁰ §22.1-279.3(A) of the *Code of Virginia*

PREVENTIVE AND POSITIVE APPROACHES TO DISCIPLINE

Tiered Systems of Supports

“Preventive and positive approaches to discipline create safe, supportive, and positive schools where adults respond to misbehavior with interventions and consequences aimed at understanding and addressing the causes of misbehavior, resolving conflicts, meeting students’ needs and keeping students in school and learning.”⁵¹ School divisions adopting evidence-based, school wide preventative and positive discipline policies would reflect the constructs described below.

The Virginia Tiered Systems of Supports (VTSS), grounded in the research of national models for Multi-Tiered System of Supports (MTSS), is a data-driven decision-making framework for establishing the academic, behavioral, and social-emotional supports needed for a school to be an effective learning environment for all students. It is a model for systems reform with the goal of improving student outcomes. The VTSS supports school divisions in their paradigm shift to understand the role of context, environment, and instruction as it applies to the development and improvement of academic, behavior, and social-emotional wellness skills. Division and school-based teams, in collaboration with VTSS Systems Coaches, establish a range of evidence-based instructional interventions that are implemented systematically based on student academic, behavioral, and mental health needs. The interventions are an array of high quality, evidence-based practices that are layered and implemented according to increasing levels of intensity or tiers. The core features of VTSS include:

- Aligned Organizational Culture
- Data Informed Decision Making
- Evidence Based Practices
- Family, School, Community Partnerships
- Monitoring Student Progress
- Evaluation of Process

For more information on VTSS, please visit the [VTSS website](#).

⁵¹ *Dignity in Schools*, p. 21.

Local Education Agencies (LEAs) are encouraged to explore VTSS as a means of meeting the academic, behavioral, and mental health needs of all students. School boards should support division and school-based teams to engage with data to inform decisions regarding division, school, teacher, and/or student needs and to provide the resources necessary to address those needs.

Professional Learning for School Personnel

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

- Multi-Tiered Systems of Supports
- Child development
- Social-emotional learning
- Cultural Competency⁵²
- Brain research
- Trauma
- Purpose and intent of student conduct policy
- Specific staff roles and responsibilities for implementing student conduct policy including the role of central office staff, hearing officers, and student services personnel
- Leveled systems of intervention and disciplinary responses
- Establishing behavioral expectations and supporting students to meet them

⁵² **Senate Bill 1196 passed in 2021 requiring** teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years.

- Disciplinary processes and procedures including classroom managed and office managed behaviors
- Requirements and procedures for reporting offenses to local law enforcement authorities
- Bullying prevention required by the *Code of Virginia* at § 22.1-291.4
- Family engagement
- Restorative practices
- Relationship of student conduct policy to other policies and procedures
- Special considerations for disciplining students with disabilities
- Due process
- Behavior support plans
- Functional Behavior Assessments
- Health plans
- Threat assessments required by the *Code of Virginia* § 22.1-79.4.C

Clear Objective Behavioral Expectations

Using a process for collecting and analyzing academic, behavior, attendance, and other available data, local school boards should develop policy and allocate resources for a defined set of instructional and prevention based practices that define, teach, and reinforce clear, objective behavioral expectations. Such practices ensure equity, as defined in policy, and consistency across schools within the division.

Through this policy, school divisions should support schools' use of data to clearly define a set of three to five positively stated, school wide (and aligned classroom), social-emotional and behavioral expectations. These expectations define how staff and students learn, work, and interact in order to establish the positive school climate outlined in school vision and mission statements and/or strategic planning documents. They are, in essence, the curriculum for developing a positive community. As such, this curriculum should be taught, reinforced, prompted, re-taught, and have a continuum of procedures for instructional behavior correction as would be available for the academic curriculum. Parent, student, and community involvement in the development of expectations is critical and expected.

Social Emotional Learning (SEL)

Social-emotional learning has been attributed to positive attitudes about school and to significant improvement in academic achievement. The Collaborative for Academic, Social, and Emotional Learning ([CASEL](#)) produced a review which found that students who participated in a social-emotional learning program “demonstrated significantly improved social and emotional skills, attitudes, behavior, and academic performance that reflected an 11-percentile-point gain in achievement” over the control group.⁵³

Virginia’s vision for social emotional learning (SEL) is to maximize the potential of all students and staff to become responsible, caring and reflective members of our diverse society by advancing equity, uplifting student voice, and infusing SEL into every part of the school experience. To meet this vision, Virginia established a uniform definition of social emotional learning based on the CASEL definition:

“Social and emotional learning is the process through which all young people and adults acquire and apply the knowledge, skills, and attitudes to develop healthy identities, manage emotions and achieve personal and collective goals, feel and show empathy for others, establish and maintain supportive relationships, and make responsible and caring decisions.”

Learning social-emotional skills is vital to student development and is directly related to Virginia’s Profile of a Graduate, which expects students to demonstrate the “Five C’s:” critical thinking, creative thinking, communication, collaboration, and citizenship. A Virginia high school graduate should be able to:

1. Achieve and apply appropriate academic and technical knowledge;
2. Attain and demonstrate productive workplace skills, qualities and behaviors;
3. Build connections and value for interactions with diverse communities; and
4. Align knowledge, skill, and personal interests with career opportunities.⁵⁴

⁵³ Durlak, Joseph A; Weissberg, Roger P; Dymnicki, Allison B.; Taylor, Rebecca D. and Schellinger, Kriston B. [The Impact of Enhancing Students’ Social Emotional Learning: A Meta-Analysis of School-based Universal Interventions](#). *Child Development Journal*, Jan.-Feb. 2011 vol. 82. #1, pages 405-432.

⁵⁴ [Virginia’s Revised Standards of Accreditation](#)

In order to achieve the goals of Virginia’s Profile of a Graduate, students need to develop the following social emotional competencies:

1. Self-awareness,
2. Self-management,
3. Social awareness,
4. Relationship skills, and
5. Decision-making.⁵⁵

Student Behavior Categories

The following behavior categories were designed to recognize the impact student behavior has on the school environment and form the framework for identifying behaviors that may negatively impact that environment. They encourage awareness of students’ social-emotional development, emphasize the importance of helping everyone understand the effect of behavior, and point the way for developing a plan for improving. When an administrator receives an office discipline referral, the administrator should ask, “What harm was caused by the behavior?” in order to assign the behavior to one of the following categories.

- A. **Behaviors that Impede Academic Progress (BAP):** These behaviors impede academic progress of the student or of students. They are typically indicative of the student’s lack of self-management or self-awareness. Sometimes, the student may need help in understanding how the behavior impacts others so training in social awareness may also be indicated.
- B. **Behaviors Related to School Operations (BSO):** These behaviors interfere with the daily operation of school procedures. Students exhibiting these behaviors may need to develop self-management, self-awareness, or social awareness skills.
- C. **Relationship Behaviors (RB):** These behaviors create a negative relationship between two or more people that does not result in physical harm. Relationship behaviors affect the whole school community in that the school climate is often a reflection of how people treat one another. Students who exhibit difficulty with relationship behaviors may also have difficulty with the other social-emotional competencies.

⁵⁵ [Hanover Research](#): Prioritizing Social Emotional Learning in School Districts. 4401 Wilson Boulevard, Suite 400, Arlington, VA.

- D. **Behaviors that Present a Safety Concern (BSC):** These behaviors create unsafe conditions for students, staff, and visitors to the school. The underlying reasons for this type of behavior may lie in any of the social-emotional competencies so the administrator should investigate the underlying motivation for the student's behavior. Training in social awareness and decision-making are usually indicated in any behavior that creates a safety concern.
- E. **Behaviors that Endanger Self or Others (BESO):** These behaviors endanger the health, safety, or welfare of either the student or others in the school community. Behaviors that rise to this level of severity are often complex. While they are indicative of poor decision-making skills, students who exhibit these behaviors may also have developmental needs in the other social-emotional competencies.
- F. **Persistently Dangerous Behaviors (PDB):** These behaviors are used in calculations to identify a school as persistently dangerous as required for each state receiving funds under the federal *No Child Left Behind Act of 2001* to establish and implement a statewide policy requiring that a student attending a persistently dangerous school be allowed to attend a safe school. The Virginia Board of Education's "Unsafe School Choice Option" policy was adopted in May 2002. While they are used as measures for determining persistently dangerous public schools, these behaviors are also indicators that the student is in need of interventions and supports. School divisions are encouraged to work with other child-serving agencies to coordinate services for these students.

The categories are a means to sorting behaviors in order to apply leveled administrative responses to student behaviors. The *Standards of Student Conduct* section provides examples of how the behavior categories work with leveled administrative responses.

Leveled Systems of Disciplinary Responses and Instructional Interventions

In an effective approach to intervention and discipline, when students do not meet behavioral expectations, they receive supports to address the root causes of the behavior and learn appropriate alternatives. When a specific student behavior does not change following an intervention-or the behavior increases in frequency, intensity, or duration-a problem solving approach identifies alternative interventions and responses. All stages of a system of intervention should include opportunities for learning acceptable replacement behaviors within the school and community and access to interventions to address the underlying causes of behavior.

Delivering disciplinary sanctions to unwanted behaviors is sometimes needed but never a sufficient strategy for reducing inappropriate behavior. Therefore, leveled systems of

disciplinary responses should always be only one part of more comprehensive policy around behavior that includes instructional, preventive, and proactive strategies as described earlier in this document. The delivery of disciplinary sanctions should only serve four key functions:

- preventing a negative behavior from being rewarded;
- preventing a problem behavior from escalating;
- preventing a problem behavior from significantly interrupting instruction; and
- preventing physical and/or social-emotional harm to others.

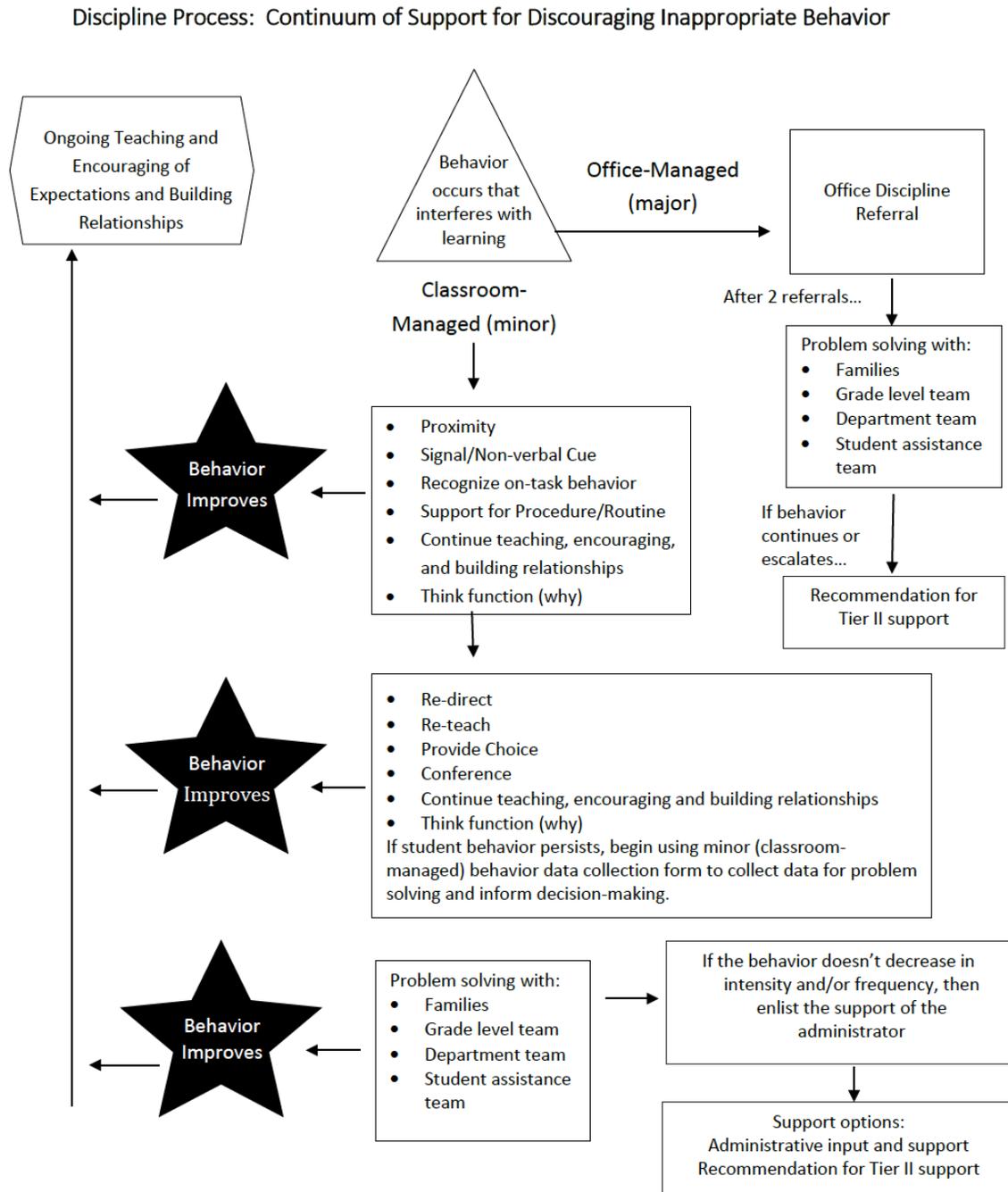
Equitable Processes for Managing Student Behavior

Division policies should include an explanation of and guidance for the use of positive, proactive, preventive, evidenced-based approaches to respond to student behavioral incidents that include appropriate teacher responses. As with academic error correction and feedback, responses to student behavior are anchored in an instructional approach that emphasizes teaching and the modeling of desired behaviors in a supportive classroom environment. A combination of teacher and administrative responses should be used with the goal of preventing misbehavior from occurring, encouraging positive student behavior, developing social-emotional skills, and maximizing academic instructional time.

Principals and leadership teams are responsible for engaging staff in data informed decision-making that identifies student behaviors that are teacher managed versus those that are administrator managed. Such decisions must then be documented in writing and include an explanation of the processes and procedures for addressing student behavior. Effective evidence-based responses within the classroom-managed and administrator-managed categories should be delineated within a table or flowchart. They should be disseminated, taught, and reinforced to the entire school community. Uniform definitions and decision rules applied consistently are essential to ensuring equitable application of disciplinary actions across teachers, grades, and school buildings within a division. Examples of both a flowchart and table of teacher responses follow.

Discipline Process Flow Chart

The flow chart below is an example of the process for managing student behaviors through a positive, proactive, preventive, evidenced-based approach.



Teacher Responses to Manage Student Behaviors

Prior to administrative involvement in student behavior issues, teachers are responsible for supporting students in acquiring the behaviors expected in the school environment. Below are examples of proactive and instructional teacher actions to assist students in meeting behavioral expectations. Teachers have the authority to remove a student from a class for disruptive behavior in accordance with [§ 22.1-276.2](#) of the *Code of Virginia*. Local school boards should establish the process as outlined in the *Code*.

Examples of Proactive Teacher Supports for Classroom Managed Behaviors:

- Develop, teach, and maintain clearly defined classroom expectations that are consistent with school wide behavioral expectations, culturally relevant, and applicable across all classroom settings at all times.
- Build positive relationships with students and families.
- Model and practice expectations in the appropriate settings.
- Reteach/review expectations throughout the school year (i.e., quarterly, after breaks).
- Use pre-correction strategies to remind students of expectations before transitioning between tasks/assignments.
- Use more positive than corrective statements (4:1 ratio).
- Create a classroom acknowledgement system to increase responsible student behavior.
- Implement effective, evidence based instructional practices match to student learning needs.
- Actively engage students in the teaching and learning process.
- Teach prevention lessons that address students' social-emotional competencies. Teach lessons that apply the competencies to situations (i.e., bullying, suicide awareness and prevention, workplace skills, citizenship, character education).
- Flexible classroom arrangements/seating.

Examples of Instructional Teacher Responses for Classroom Managed Behaviors:

- Restructure/revise classroom practices based upon student needs.
- Adjust pacing of instruction to increase on-task behavior.
- Actively observe and plan for ignoring low-level misbehavior.
- Change student seating.
- Provide immediate positive feedback when students engage in expected behavior.
- Respond calmly, restating the desired behavior.
- Use progress-monitoring tools (i.e., behavior chart that includes the replacement behavior, on-task monitoring form, reflection sheets).
- Communicate and collaborate with parents/guardians and the student's counselor and/or case manager regarding student behavior, teacher-based actions, and to problem solve.
- Reteach desired behavior.
- Problem-solve the behavior during a teacher-student conference using active listening.
- Establish and consistently implement corrective responses to student misbehavior [i.e., positive practice, community service, restitution, loss of time for a valued activity, in-class time out (not to exceed ten minutes), time-out in another class under adult supervision, loss of privileges].
- Facilitate restorative practices with the student and person(s) affected by the student's behavior.
- Assign a working lunch to facilitate re-teaching or making up missed work (ex: lunch with teacher to catch up on work, review a social story, and reteach behavior).

STANDARDS OF STUDENT CONDUCT

Application of Policy

Local school board policies and/or regulations should address 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) Disciplinary responses to student behavior will be aligned with the levels established by the school board.
- (4) Students may be required to attend an alternative placement when the student meets one of the conditions outlined in [§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances; alternative education program.](#)
- (5) Students are subject to short-term suspension, long-term suspension, expulsion, and/or alternative placement 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
 - (i) an adjudication of delinquency or a conviction for an offense listed in subsection G of [§ 16.1-260](#) of the *Code of Virginia* per [§ 22.1.277:C](#) *“Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to [§ 16.1-305.1](#) of an adjudication of delinquency or a conviction for an offense listed in subsection G of [§ 16.1-260](#) may be suspended or expelled from school attendance pursuant to this article.”*
 - (ii) a charge listed in § 22.1-277.2:1.C. Such charges can result in short-term suspensions.

Standards for the Reduction of Bias and Harassment in the Enforcement of Student Code of Conduct Policy

A school board has a vested interest in the consistent and the equitable implementation of policy across school sites and varying demographics. In 2020, in an effort to further the work of ensuring equity in the enforcement of student conduct policy, the Virginia General Assembly revised § 22.1-279.6. and directed the Board of Education to include in its

guidelines and model policies for codes of student conduct “(v) standards for reducing bias and harassment in the enforcement of any code of student conduct.”

To establish such standards it is important to consider the definition of equity as it applies to student codes of conduct. The VDOE has defined equity as our commitment to eliminating the predictability of student outcomes based on race, gender, zip code, ability, socio-economic status, and/or languages spoken at home. The National Academies of Sciences, concludes in its 2019 guidebook *Monitoring Educational Equity* that;

*“Educational equity requires that educational opportunity be calibrated to need, which may include additional and tailored resources and supports to create conditions of true educational opportunity.”*⁵⁶

An effective equity system for student discipline monitors more than outcomes (discipline sanctions) for groups of students; it measures the opportunities (supports and interventions) afforded students in the adult responses to behavior. In a companion guidebook, *Building Educational Equity Indicator Systems: A Guidebook for States and School Districts*, the National Academy of Sciences suggests that the following indicators of disparities and measurements of those indicators, in terms of both educational opportunities and educational outcomes, be used to determine equity among subgroups of students.⁵⁷ Here are the Indicators of Disparities related to student conduct and some options for how to measure both outcomes and opportunities in the enforcement of codes of student conduct.

Indicators of Disparities in Responses to Student Behavior

- School climate (opportunity): Measure the group differences in access to strong climates, as measured by perceptions of safety, academic support, academically focused culture, and teacher-student trust. A tool for measuring school climate in Virginia is the School Survey of Climate and Working Conditions. Other resources for measuring school climate can be found on the [VDOE School Climate and Working Conditions](#) website. Purchased surveys and locally developed surveys are also useful tools for measuring school climate.
- Non-exclusionary discipline practices (opportunity): Measure the group differences in out-of-school suspensions and expulsions. The Student Behavior and Administrative Response (SBAR) Data Collection will allow schools to analyze data

⁵⁶ National Academies of Sciences, Engineering, and Medicine. (2019). *Monitoring Educational Equity*. Washington, DC: The National Academies Press. pg. 2.

⁵⁷ National Academies of Sciences, Engineering, and Medicine. (2020). *Building Educational Equity Indicator Systems: A Guidebook for States and School Districts*. Washington, DC: The National Academies Press. pg. 3.

bi-annually. Divisions are encouraged to invest in a local data collection system that will allow for more frequent data analysis. Data should be analyzed using a risk ratio, which is described in *“Addressing the root causes of disparities in school discipline: An educator’s action planning guide.”*

- Nonacademic supports for student success (opportunity): Measure group differences in access to supports for emotional, behavioral, mental, and physical health. The Student Behavior and Administrative Response (SBAR) Data Collection will allow schools to analyze data bi-annually. Using the build-a-table function, schools will be able to see which groups of students have access to supports and interventions to address behavior concerns and which do not. The risk ratio between groups of students given access to supports and those not afforded access in response to a behavior may shed light on issues of equity. Schools can also analyze records that include the demographics of students involved in programs to address emotional, behavioral, mental, and physical health.
- Engagement in schooling (outcome): Measure group differences in school attendance, absenteeism, and academic engagement. The VDOE provides guidance for measuring school engagement on its [Attendance and Truancy website](#).

Each of these measurements can be used to monitor school and school division efforts to reduce bias and harassment in the school environment. Though school administrators are largely responsible for the enforcement of student codes of conduct, all members of the school community play a role in the enforcement of school rules and the implementation of supports and interventions provided to students and families. The following Standards for Reducing Bias and Harassment are intended to provide guidance to local school boards in creating a systematic approach to ensuring equity in the enforcement of student code of conduct policy. Adherence to these standards can be measured using the Indicators of Disparities recommended by the National Academy of Science.

Standards for Reducing Bias and Harassment – Ensuring Equity

Standard 1: Social emotional learning is embedded in instruction and the operation of the school.

Standard 2: Language-accessible, clear definitions of behavior expectations are communicated to students and families, including expectations that align with the Virginia Board of Education’s [Model Policy to Address Bullying in Virginia Schools](#).

Standard 3: A continuum of interventions and supports including community resources is available to all schools in the division using a tiered system of supports framework that includes universal, targeted, and intensive supports for students whose behavior does not

meet the expectations established by the school community and for those harmed by another's behavior.

Standard 4: School personnel establish supportive relationships with students and respond to student needs using the continuum of interventions and supports established by the school community. Responses to student behaviors are restorative and do not remove students from quality instruction. Victims of bias and harassment have access to supports for healing.

Standard 5: Exclusionary responses to behavior are limited to instances when the seriousness of the behavior creates a safety concern or endangers the safety of the student or others in the school.

Standard 6: Processes exist for school personnel to follow when assessing and responding to student behavior, including possible sanctions, behavioral interventions, and instructional supports for students whose behavior does not meet the expectations established by the school, community, and for those harmed by another's behavior. Those processes ensure that each student is treated fairly and respectfully with an understanding of the student's culture and context.⁵⁸ (The discipline process flowchart for teachers, leveled administrative responses to student behavior, and administrative equity in decision-making process, which are included in the Model Guidance for Positive and Preventative Code of Student Conduct Policy, are examples.)

Standard 7: Data regarding attendance, academic progress, discipline sanctions (outcomes), and behavioral interventions and academic supports (opportunities) is monitored monthly.⁵⁹ Data is analyzed to examine disparity for particular demographic groups of students, including groups based on ethnicity, race, gender identity, ability, and economic status.

Standard 8: Ongoing professional learning for school communities in implicit bias, cultural competence, restorative practices, mental health, and trauma informed care is required of all employees.

Standard 9: Academic programs, including alternative programs, are accessible and provide opportunities for students to excel.

⁵⁸ National Policy Board for Educational Administration (2015). Professional Standards for Educational Leaders 2015. Reston, VA: Author.

⁵⁹ National Policy Board for Educational Administration (2015). Professional Standards for Educational Leaders 2015. Reston, VA: Author.

Standard 10: A transparent, easily accessible, and unbiased appeals process for discipline decisions is in place and widely communicated to students and families.

Standard 11: A support system is in place for students specifically affected by a bias-related incident or hate crime at school and in the targeted community. That support system addresses the emotional safety, “provide[s] for physical safety, denounce[s] the act in unequivocal terms, and follow[s] through on appropriate consequences for perpetrators.”⁶⁰

Equity through Leveled Responses to Student Behavior

A school board has a vested interest in the consistent and the equitable implementation of policy across school sites and varying demographics. To ensure greater consistency, some school boards have developed descriptors of student behaviors and prescribed certain minimum and maximum disciplinary actions. Others have identified levels of action appropriate for only specified offenses, and many have limited discretion in cases of very serious offenses. When school boards create leveled systems for administrators to apply equitable disciplinary responses to student behaviors, they increase the fidelity of implementation of a school division's discipline policy and therefore improve equity. The following leveled administrative responses are examples of how school boards can create equitable responses to student behavior.

While the Board of Education does not require school divisions to adopt this model in its entirety, the Board does encourage school divisions to create their own leveled system using this and other models. Links to other models are available in Appendix E of this document.

Leveled Administrative Responses to Student Behavior

When school boards create leveled systems for administrators to apply equitable disciplinary responses to student behaviors, they increase the fidelity of implementation of a school division's discipline policy and therefore improve equity. The following leveled administrative responses are examples of how school boards can create equitable responses to student behavior. While the Board of Education does not require school divisions to adopt this model in its entirety, the Board does encourage school divisions to create their own leveled system using this and other models.

Administrators and leadership teams should engage in a data driven decision-making process to determine appropriate responses for behaviors at all levels. Consequent actions

⁶⁰ A guide for administrators, counselors and teachers - Responding to Hate and Bias at School. A project of the Southern Poverty Law Center, 400 Washington Avenue, Montgomery, Alabama 36104. Retrieved from tolerance.org. Dec. 29, 2020.

or punishment should always be addressed with instruction and intervention. Instruction should focus on helping students develop social-emotional competencies needed to change the behavior.

Administrative responses and interventions should be designed to address student behavior, reinforce school and classroom expectations for appropriate behavior, and prevent further behavioral issues. The following levels of administrator responses go hand-in-hand with tiered supports, which are more fully described in the *Guidelines for the Reduction of Exclusionary Practices*. Neither is intended to be the sole response to student discipline incidents. The following lists of leveled administrative responses to student behavior are provided as an example of a leveled system of discipline responses. School boards are encouraged to develop their own levels of response based on local data and resources. School boards also have the authority to consider aggravating circumstances when a student's behavior meets the criteria established in the Department of Education's definition of "aggravating circumstances." Instructional supports provided to students should be based upon the individual needs of the student.

Level 1 Responses: Level 1 responses are intended to prevent further behavioral issues while keeping the student in school.

Behavioral Interventions:

- Re-teaching or modeling of desired behavior
- Recognize/Reward appropriate behavior
- Administrator/Student conference and/or Administrator/Student/Teacher conference
- Written reflection or letter of apology
- Peer mediation or conflict resolution
- Behavior progress chart
- Community service (appropriate to correct the behavior)
- Administrator/Teacher/Parent/Guardian conference

Disciplinary Sanctions:

- Restitution
- Seat change
- Loss of school privileges
- Confiscation by the administration
- Detention (before school, at lunch, after school)
- In-school suspension (one-two days) with behavioral instruction and academic support

Level 2 Responses: Administrative responses and interventions at this level are designed to prevent further behavior issues and keep the student in school. Depending upon the

severity of the behavior, short-term removal of the student from the classroom may be appropriate.

Behavioral Interventions:

- Student conference
- Administrator/Teacher/Counselor/Student conference (includes re-teaching of expected behavior)
- Administrator/Teacher/Parent/Guardian conference
- Check-In/Check-Out
- Mediation or conflict resolution
- Referral to support services (e.g., School Counselor, Behavior Interventionist, Mentor Program, and Problem Solving Team (ex. VTSS), Substance Use and Intervention Program)
- Referral to Individualized Education Plan (IEP) Team
- Community service (appropriate to correct the behavior)
- Referral for community-based services

Disciplinary Sanctions:

- Schedule change
- Detention (before school, at lunch, or after school)
- Saturday school
- Restitution
- Confiscation
- Temporary loss of privileges
- In-school suspension with behavioral interventions and/or restorative practices (one-three days)

Level 3 Responses: Dependent upon the severity, chronic nature of the behavior and/or safety concerns, Level 3 behaviors may result in the student's short-term removal from school.

Behavioral Interventions:

- Administrator/Teacher/Parent/Guardian Conference
- Referral to support services (e.g., School Counselor, Behavior Interventionist, Mentor Program, Problem Solving Team, Therapeutic Day Treatment (TDT), Substance Use and Intervention Program)
- Referral for community-based services
- Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) Development (Special Education Students)
- Functional Behavioral Assessment (FBA) and Behavior Support Plan (BSP) Development (General Education Students)

- Behavior contract (developed with and signed by the student, parent/guardian, and school officials)
- Community service as a part of a restorative practice

Disciplinary Sanctions:

- In-school suspension with restorative practices (three plus days not to exceed five days)
- Detention
- Revocation of privileges
- Restitution
- Referral to alternative education programs
- Short-term out-of-school suspension⁶¹ (one-three days for elementary students⁶²/ one-five days for secondary students) with restorative circle or conference upon return
- Referral to law enforcement if required by local policy

Level 4 Responses: Some Level 4 behaviors require a report to the superintendent or superintendent’s designee as outlined in the *Code of Virginia* § [22.1-279.3:1](#). Local school board policy may require additional reporting. A referral to the superintendent or superintendent’s designee does not automatically result in a long-term suspension, change of placement or expulsion. After a review of the incident in context, the superintendent or designee may return students to the comprehensive setting with additional supports and/or responses to be implemented.

Behavioral Interventions (in addition to those listed in Levels 1 -3)

- Parent-Administrator-Teacher-Student behavior contract
- Referral for community-based services
- Threat Assessment as indicated by the behavior

Disciplinary Sanctions:

⁶¹ [§ 22.1-276.01. Definitions.](#) "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. For the purpose of data collection, removal from the student’s home school for disciplinary reasons constitutes suspension.

⁶² [§ 22.1-277](#) Prohibits, except for drug offenses, firearm offenses, and certain criminal acts, students in preschool through grade three from being suspended for more than three school days or expelled from attendance at school unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department of Education.

- Referral to law enforcement for behaviors that may constitute a felony or that are required by local policy
- Schedule change
- Long-term revocation of privileges
- Restitution via written contract
- Short-term out-of-school suspension (for preschool to grade three students one to three days⁶³, four to ten days for fourth- to sixth-grade students, or five to ten days for seventh- to twelfth-grade students)
- Recommendation for a long-term suspension as determined by local policy or by *Code*. Link: [\(11 to 45 days as defined in § 22.1-276.01\)](#)

Level 5 responses: Level 5 responses are reserved for those behaviors that require a referral to the superintendent or designee. For preschool to grade three students, any suspension beyond three days must be referred to the superintendent. A referral to the superintendent or designee may not automatically result in an expulsion, alternative placement, school reassignment, or long-term suspension. Appropriate behavioral interventions and instructional supports should accompany any removals from the student’s regular school setting by the superintendent or designee.

Required School-based Administrative Responses to Level 5 Behaviors

- Threat Assessment as indicated by the behavior
- Referral to law enforcement for behaviors that may constitute a felony or that are required by local policy
- Referral to Superintendent or designee

⁶³ [§ 22.1-277](#) Prohibits, except for drug offenses, firearm offenses, and certain criminal acts, students in preschool through grade three from being suspended for more than three school days or expelled from attendance at school unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department of Education.

Examples of superintendent or designee responses to Level 5 behavior

- Long term suspension⁶⁴ Link: ([11 to 45 days as defined in § 22.1-276.01](#))
- Alternative placement
- Expulsion⁶⁵
- School reassignment: Students may be assigned to another school within the division. Board policy should establish the procedures for assigning any student to another school. Those policies and procedures should ensure equity.
- Return the student to the school setting with appropriate supports and interventions.

Equity in the Administrative Decision-Making Process

As a part of the administrative decision-making process, school boards are encouraged to develop a decision-making process and to train school administration in the process. Such processes help ensure the students' rights are respected and that all student behavior is addressed in an equitable manner. All referrals to an administrator should include communication with the family. Family involvement is critical to addressing student behavior.

The administrator will:

1. Determine if the behavior is an office-managed behavior (Refer to the Discipline Process Flow Chart in the previous section). If it is a teacher-managed behavior, consider the impact of unconscious bias, classroom management style, the teacher's and student's cultural or religious backgrounds, previously implemented interventions or supports, and trauma-related information. Consult with the teacher, team, school counselor, or other personnel on appropriate next steps to support the teacher in addressing the behavior.
2. If it is an office managed behavior, gather information to determine the complete picture of the situation, including accounts of the event from the student(s) and any background information the student(s) is willing to share.

⁶⁴[§ 22.1-276.01](#). as amended by House Bill 1600 Approved March 23, 2018 Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for *11 to 45 school days*. For the purpose of data collection, removal from the student's home school for disciplinary reasons constitutes suspension.

⁶⁵ [§ 22.1-276.01](#). "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.

3. Identify contributing factors and review existing academic and behavioral data and/or previous interventions.
4. Refer to the regulations for students with disabilities if the student is identified as having a disability.
5. Communicate with the family to inform them of the event and gather relevant background information.
6. Consider whether contributing factors, data, or previous interventions indicate that a support or intervention is appropriate for the student.
7. Ask, "What harm was caused?" Label the behavior using the behavior descriptors; assign the appropriate level of administrative response based on the division's leveled responses, which may include both a disciplinary sanction and/or a behavioral intervention.
8. Refer the student to the appropriate intervention services, if interventions are indicated.
9. Determine and arrange for instructional supports needed to allow the student to continue making academic progress if a disciplinary sanction excludes the student from the regular instructional setting.
10. Inform families of results of the investigation, any disciplinary sanction, instructional supports and/or behavioral interventions that will be provided.
11. Document all disciplinary sanctions, academic supports, and behavioral interventions.
12. Notify the Superintendent Designee and Law Enforcement as required by policy.
13. Initiate a Threat Assessment, as indicated or required.
14. Follow through on the recommendations from the Threat Assessment Team.
15. Develop an action plan to provide for the student's academic and behavioral needs during the suspension or expulsion if the student is suspended or expelled.
16. Set a date for a re-entry meeting if the student is suspended or expelled.

Categories of Behavior Descriptors and Responses

The following lists bring together the Categories of Student Behavior Descriptors and the Levels of Administrative Responses to facilitate the equitable, responsive application of standards of student conduct. School boards are encouraged to differentiate responses to behavior for elementary students and secondary students.

In 2020, [House Bill 257 and SB729](#) eliminated the requirement that school principals report to law enforcement certain enumerated acts that may constitute a misdemeanor offense as outlined in subsection A of [§ 22.1-279.3:1](#). Subsection D now requires those acts to be reported if they may constitute a felony.

In addition, Senate Bill 1020 added a section numbered 22.1-279.3:3, which permits school boards “to establish an alternative school discipline process to provide the parties involved in an incident described in clause (i) of subsection A of § 22.1-279.3:1, [assault or assault and battery, without bodily injury] the option to enter into a mutually agreed-upon process between the involved parties. If it is part of the discipline, process established by the school board, no principal shall report the assault and battery, without bodily injury, if the party completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of § 22.1-279.3:1.

Guidance for making reports to law enforcement is not included in this document, but is provided for the year 2020-2021 in [Superintendent’s Memo #283-20](#). Hereafter, information regarding reports to law enforcement will be included in the VDOE data collection user guides and in Superintendent’s Memos on a yearly basis as needed.

Category A: Behaviors that Impede the Academic Progress (BAP)

Behaviors in this category impede the academic progress of the student or of other students. For elementary students, level one responses are recommended for these behaviors. For secondary students, level one or level two responses are recommended. These behaviors should not involve or be reported to law enforcement.

- Interfering with learning in the classroom (talking, excessive noise, off-task, out of seat, possessing items that distract)
- Interfering with learning outside of the classroom (excessive noise, interrupting a class, etc.)
- Scholastic dishonesty (cheating, plagiarism)
- Unexcused tardiness to class (Level one at elementary; up to level 2 at secondary)

- Unexcused tardiness to school (Level one at elementary; up to level 2 at secondary)

Category B: Behaviors related to School Operations (BSO)

These behaviors interfere with the daily operation of school procedures. Recommended responses to these behaviors for elementary and secondary students range from level one to level three. These behaviors do not require a report to law enforcement.

- Altering an official document or record
- Giving false information to staff, misrepresentation
- Refusal to comply with requests of staff in a way that interferes with the operation of school
- Failure to be in one’s assigned place on school grounds (Level 1 or 2 only)
- Failure to attend assigned disciplinary setting (detention, in-school suspension, Saturday school)
- Bringing unauthorized persons to school or allowing unauthorized persons to enter the school building
- Dress Code Violation (Level 1 or 2 only)
- Gambling (games of chance for money or profit)
- Possessing items that are inappropriate for school (examples include toys, literature, electronics)
- Possession of stolen items
- Unauthorized use of school electronic or other equipment
- Violation of the Acceptable Use of Technology/internet policy
- Violation of school board policy regarding the possession or use of portable communication devices
- Vandalism, graffiti, or other damage to school or personal property

Category C: Relationship Behaviors (RB)

Behaviors in this category create a negative relationship between two or more members of the school community (No physical harm is done.) For elementary and secondary students, recommended responses to these behaviors range from level one to level three. These behaviors do not require a report to law enforcement.

- Bullying with no physical injury ([Model Policy to Addressing Bullying in Virginia's Public Schools](#))
- Cyberbullying ([Model Policy to Addressing Bullying in Virginia's Public Schools](#))
- Posting, distributing, displaying, or sharing material or literature that is libelous, including using electronic means to post such material
- Saying or writing either directly or through electronic communication sexually suggestive comments, innuendos, propositions, or other remarks of a sexual nature
- Stealing money or property without physical force
- Speaking to another in an uncivil, discourteous manner
- Teasing, taunting, engaging in a verbal confrontation, verbally inciting a fight
- Using profane or vulgar language or gestures (swearing, cursing, hate speech, gang signs or gestures)
- Using slurs based upon the actual or perceived race, ethnicity, color, national origin, citizenship/immigration status, weight, gender, gender identity, gender expression, sexual orientation, or disability
- Failure to respond to questions or requests by staff
- Unwanted or inappropriate physical contact

Category D: Behaviors of a Safety Concern (BSC)

Behaviors in this category create unsafe conditions for students, staff, and/or visitors to the school. The range of recommended responses for elementary and secondary students is noted in parenthesis and should be based on the age and development of the student and the harm caused by the behavior. Behaviors that are felony offenses require a report to law enforcement.

- Alcohol: Possessing or using alcohol (Level 1 to 3)
- Alcohol: Distributing alcohol to other students (Level 1 to 4)
- Drugs: Possessing drug paraphernalia (Level 1 to 3)
- Drugs: Violating school board non-prescription (Over the counter) medication policy (Level 1 to 3)
- Tobacco: Possessing/Using tobacco products, electronic cigarettes, vaping equipment (Level 2 to 3)

- Bullying Behavior without physical injury that continues after intervention ([Model Policy to Addressing Bullying in Virginia's Public Schools](#)); bullying that leads to physical injury should be classified as Assault and Battery (Level 2-4)
- Cyberbullying that continues after intervention (Model Policy to Addressing Bullying in Virginia's Public Schools) Cyberbullying that relates a threat to the safety of students and staff should be treated with a higher level of intervention and consequences. (Level 3-5)
- Bus: Distracting the bus driver (Level 1- 3)
- Bus: Endangering the safety of others on the bus (Level 1- 3)
- Harassment: Repeatedly annoying or attacking a student or group of students or personnel creating an intimidating or hostile educational or work environment
- Fire alarm: Falsely activating a or other disaster alarm (Level 1 to 3)
- Fire Related: Possessing items that could be used to set or cause a fire or produce large amounts of smoke (Level 1 to 3)
- Engaging in reckless behavior that creates a risk of injury to self or others (Level 1 to 3)
- Fighting that results in no injury as determined by the school administration
- Inciting or causing a substantial disturbance to the operation of school or the safety of staff and/or students (Level 1 to 3 for elementary; Level 2 to 5 for secondary)
- Throwing an object that has the potential to cause a disturbance, injury, or property damage (Level 1 to 2 for elementary; up to Level 3 for secondary)
- Shoving, pushing, striking a student with no visible injury (Level 1 to 3)
- Exposing body parts, lewd or indecent public behavior (Level 1 to 3 for elementary; up to 4 for secondary)
- Physical contact of a sexual nature – patting body parts, pinching, tugging clothing (Level 1 to 3 for elementary; up to level 4 for secondary)
- Stalking as described in the *Code of Virginia* section 18.2-60.3
- Stealing money or property using physical force (no weapon involved) (Level 1 to 2; up to Level 3 for secondary)

- Leaving school grounds without permission (Level 1 for elementary; up to Level 2 for secondary)
- Trespassing (Level 2 to 3)
- Weapons: Possessing any weapon (other than a firearm) as defined by § 18.2-308.1 (Level 4 to 5)

Category E: Behaviors that Endanger Self or Others (BESO)

Behaviors in this category endanger the health, safety, and/or welfare of either the student or others in the school community. Recommended responses for all students range from level one to level five depending upon the age and development of the student and the danger caused by the behavior. The range of recommended responses is noted in parenthesis. Behaviors that are felony offenses require a report to law enforcement.

- Assault: Intending to cause physical injury to another person (Level 1 to 3)
- Assault and Battery: Causing physical injury to another person (Level 3 to 5)
- Bomb threat: Making a bomb threat (Level 1 to 4)
- Drugs: Possessing controlled substances, illegal drugs or synthetic hallucinogens or unauthorized prescription medications (Level 3 to 5)
- Drugs: Being under the influence of controlled substances, illegal drugs, or synthetic hallucinogens or unauthorized prescription medications (Level 3 to 5)
- Drugs: Using controlled substances or using illegal drugs or synthetic hallucinogens or unauthorized prescription medications (Level 3 to 5)
- Fighting: The use of physical violence between students or on another person where there is no injury as determined by the school administration (Level 1 to 3)
- Fire: Attempting to set, aiding in setting, or setting a fire (Level 2 to 4)
- Gang-Related Behavior: Engaging in threatening or dangerous behavior that is gang-related as defined in [§18.2-46.1](#). (Level 1 to 4)
- Hazing: as defined in [§18.2-56](#). and noted in [§ 22.1-279.6](#). (Level 5)
- Striking Staff: The use of force against a staff member when no injury is caused (Level 1 to 4)
- Threatening or instigating violence, injury, or harm to a staff member (Level 1 to 4)
- Threatening or instigating violence, injury, or harm to another student (Level 1 to 3)

- Using an object not generally considered to be a weapon to threaten or attempt to injure school personnel (Level 1 to Level 4)
- Using an object not generally considered to be a weapon to threaten or attempt to injure a student(s) or others (Level 1 to Level 4)

Category F: Persistently Dangerous Behaviors (PDB)

These behaviors are used in calculations to identify a school as persistently dangerous.

“The incidents to be used as measures for determining persistently dangerous public schools are those violent crimes and offenses against a person and the possession of drugs with intent to distribute or sell, all designated as felonies in the criminal section of the *Code of Virginia (Title 18.2)*.”⁶⁶ These behaviors merit a report to the superintendent’s office and to law enforcement and should be addressed in the manner consistent with a level 5 response:

- Homicide with a firearm or other weapon includes any death resulting from causes other than natural, accidental, or suicide
- Sexual assault offenses are defined as sexual penetration without consent and includes statutory rape and carnal knowledge of a minor
- Use of bomb includes any explosive device
- Assault with a firearm or other weapon includes the intentional causing of bodily harm to an individual
- Malicious wounding without a weapon includes intentionally causing another person bodily injury, with the intent to maim, disfigure, disable, or kill
- Aggravated sexual battery includes sexual battery and abuse against a person less than fifteen years of age
- Actual and attempted robbery
- Kidnapping/abduction
- Illegal possession of a handgun, rifle/shotgun, projectile weapon, bomb, or other firearms
- Illegal possession of controlled drugs and substances with the intent to distribute or sell.

⁶⁶ [Virginia Board of Education’s Persistently Dangerous Schools Identification Process and Criteria](#)

Use of Exclusionary Practices including Suspension and Expulsion

Research has shown that the use of exclusionary practices, like suspension and expulsion, as a response to code of conduct violations are ineffective for changing student behavior. “There is no evidence that suspension produces positive outcomes in students, schools, districts, or communities, though there is evidence that suspension produces negative outcomes among all four populations.”⁶⁷

Substantial research indicates that exclusionary practices have considerable negative consequences for students and for schools including:

- Negative school environments of distrust and alienation
- Higher risk of retention in grade
- Higher rates of misbehavior
- Lower academic achievement
- Chronic Absenteeism
- Higher dropout rates
- Restricted access to school services that might improve behavior
- Harm to healthy adult relationships
- Unsupervised time and increased opportunity for delinquency for suspended students
- Higher risk of involvement with the juvenile justice system⁶⁸

The detrimental effect of suspensions and expulsions on students and on school climates led the General Assembly to enact Senate Bill 829, amending *the Code of Virginia* § 22.1-16-1 and directing the Board of Education to “establish guidelines for alternatives to short-term and long-term suspension for consideration by local school boards.” In response, the Board has developed *Guidelines for the Reduction of Exclusionary Practices in Virginia Schools*, which is the next section of this document. The purpose of the guidelines is

⁶⁷ Losen, Daniel J. and Jonathan Gillespie. “Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School.” August 2012. The Civil Rights Project, pg.20 cited in Hanover Research: Alternatives to Suspension @2012 Hanover Research, District Administration Practice, pg. 10.

⁶⁸ Hanover Research: Alternatives to Suspension @2012 Hanover Research, District Administration Practice, pg. 10.

to provide a framework for school divisions to develop and implement evidence-based methods that reduce exclusionary practices in Virginia schools and provide all Virginia students with a quality education that enables them to attain the standards outlined in *Virginia's Profile of a Graduate*.

The recommended policies and practices are intended to provide a guide to alternatives to suspension and to assist school divisions in creating safe, supportive learning environments for all students. Recommended practices include implementing tiered systems of supports to meet the academic, social, and emotional needs of every student, engaging families and community agencies, and improving alternative education settings. The document outlines several approaches that school divisions may implement to reduce exclusionary practices.

Local school boards should develop policies that outline when the use of suspension and expulsion is appropriate in a leveled system of discipline responses. Local school boards should always consider providing appropriate instructional supports when suspending or expelling a student. Local board policy should:

1. Establish the parameters of exclusionary discipline,
2. Ensure equitable application of exclusionary practices, and
3. Ensure students have access to the supports and interventions needed to change their behavior and re-enter their home school.

The requirements of the *Code of Virginia* regarding suspension and expulsion are included in the Appendices. Requirements for the suspension or expulsion of students with disabilities are also outlined in Appendices and are available in the Link: [Regulations Governing Special Education Programs for Children with Disabilities](#). Policies should establish a restorative process that outlines re-entry after a student has been excluded.

The following recommendations and requirements should be considered when a student is suspended or expelled.

1. In 2020, House Bill 415 amended § 22.1-277.04 ii and 22.1-277.05 ii of the *Code of Virginia* to read "School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension." A student who has been suspended must have access to graded work during and after the term of the suspension.⁶⁹ A student who has been expelled may also have access to graded work.

⁶⁹ 2020 [House Bill 415](#)

2. Provide appropriate alternative placements to allow the student to make academic progress.
3. Promote access to social-emotional and/or behavioral supports to assist the student in learning appropriate behaviors before returning to school.
4. Outline re-entry processes for students who are returning to school after a suspension or expulsion.
5. Require a readmission conference with the student, parent, principal, counselor, and other relevant support personnel to review the student's schedule, expectations for behavior, continuing or new student supports or interventions.
6. Require a monitoring process for the student's academic, behavioral, and social-emotional progress upon return to school, which may include drug testing.
7. Specify any limitations that may be included in a student's re-enrollment.
8. Address the use of community service or restitution.
9. Address student and staff participation in a restorative practice.
10. Outline any preparation of the teacher(s) and or student(s) for the re-enrollment of the suspended or expelled student.

Addressing Bullying and Biased Based Behaviors

Section 22.1-291.4. of the *Code of Virginia* requires that school boards implement policies and procedures to address bullying. [Virginia's Model Policy to Address Bullying in Virginia Schools](#) provides information for developing local policies regarding bullying.⁷⁰ A school division's policy needs to affirm that bullying or harassment of any student is prohibited, regardless of where it originated, if it disrupts the educational environment. It is important to note that the *Code of Virginia* specifies that local policy "direct the principal to notify the parent of any student involved in an alleged incident of bullying of the status of any investigation within five school days of the allegation of bullying."⁷¹

Within a tiered model, the same principles and practices established for teaching prosocial, community behaviors can and should be applied to bullying and biased based behaviors. Bullying is defined as "unwanted, aggressive behavior among school aged children that involves a real or perceived power imbalance. The behavior is repeated, or has the potential

⁷⁰ Link: [Model Policy to Address Bullying](#)

⁷¹ § 22.1-279.6. of the *Code of Virginia* Board of Education guidelines and model policies for codes of student conduct; school board regulations.

to be repeated, over time.” Bullying is a behavior based on a lack of respect for a certain person or group of people and is maintained by attention from recipients, bystanders, and peers. If a school or schools’ data indicates a prevalence of bullying, divisions should support the school to include “respect” as an expectation within the behavior curriculum. In addition, the school(s) should be directed to include specific lessons to teach strategies for students to stop attending to and acknowledging bullying, walking away from bullies, telling/talking to trusted adults, seeking/accessing help if exposed to bullying, and supporting peers who are being or have been bullied. These strategies are most effective and are more likely to be implemented as a comprehensive, school wide approach to teaching behavior.

DEFINITIONS

Behaviors referenced in the *Code of Virginia* and terms related to those references are listed alphabetically in this section. The *Code of Virginia* requires that certain behaviors be included in codes of student conduct and reported to law enforcement. Those behaviors that require a report to law enforcement are noted in [Superintendent's Memo 283-20, Attachment A: Guidance of Reports of Certain Acts to School Authorities](#) and will be updated in the Student Behavior and Administrative Response User Guide on a yearly basis. A school board may require reporting of other offenses to the division superintendent and/or law enforcement. Local school boards and law enforcement officials should consult to determine those offenses. The *Code* also states that 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 (Link: [§ 22.1-279.3:1.C](#)).

Alcohol, Tobacco and Related Products, and Other 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, in school vehicles, or during school-sponsored activities on or off school property. This includes, but may not be limited to, alcohol, tobacco, electronic cigarettes, and inhalant (vaping) 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, 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.

School boards may consider the use of leveled sanctions in which a substance abuse prevention/intervention program is available to students in cases of possession, use, or distribution 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, or distributing 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.

Arson

The *Code of Virginia* § 18.2-79 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*. Incidents that rise to the level of arson of a school should be turned over to law enforcement for investigation.

Assault: Assault and Battery

The legal definition of assault is a threat of bodily injury. A battery according to Black's online law dictionary is any "wrongful physical violence or constraint, inflicted on a human being without his consent." Courts use these terms to describe behavior. They do not take into account the developmental age of children and therefore should not be used to describe student behavior that does not rise to the level of delinquency. Within the leveled system of student behaviors, age and development should be considered in any instance of physical contact between students. Behavior that is developmentally expected should not be labeled as assault or battery. However, student conduct policy should specifically prohibit assault and battery of students and staff.

In 2020, Senate Bill 1020 added a section numbered [22.1-279.3:3](#), which permits school boards "to establish an alternative school discipline process to provide the parties involved in an incident described in clause (i) of subsection A of [§ 22.1-279.3:1](#), [assault or assault and battery, without bodily injury] the option to enter into a mutually agreed-upon process between the involved parties. If it is part of the discipline, process established by the school board, no principal shall report the assault and battery, without bodily injury, if the party completes the alternative school discipline process. If the parties fail to agree to participate in the process or fail to successfully complete the alternative school discipline process, then the principal may report the incident to the local law-enforcement agency pursuant to subsection D of [§ 22.1-279.3:1](#).

Attendance: Truancy

Attendance requirements may be included in 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. 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. Section [22.1-254](#) of the *Code of Virginia* addresses compulsory attendance, excuses and waivers, alternative education program attendance, and exemptions. The *Code of Virginia* specifically prohibits the use of suspension in cases of truancy:

[§ 22.1-277. Suspensions and expulsions of pupils generally.](#)

- A. *Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.*

"Truancy" means unexcused absence from school. However, there is an important distinction between a student who is truant and one who is chronically truant. A student displays truant behavior with a single unexcused absence from school, but a student needs to reach or surpass a certain number of unexcused absences to be considered chronically truant. Virginia law does not define a truant specifically but does define a child who is habitually and without justification absent from school as a "child in need of supervision" when certain other conditions are met.

According to [§ 16.1-228.A](#) of the *Code of Virginia*, the following criteria defines a "child in need of supervision" who is truant:

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

Absenteeism labeled as chronic incorporates all absences: excused, unexcused, and suspensions. Students who are suspended or expelled for any period of time may be counted present if they are physically present in an alternative program approved by the school board. Addressing chronic absenteeism focuses on the academic consequences of this lost instructional time and on preventing absences before students miss so much school that they fall behind. It recognizes that students miss school for many understandable issues such as asthma or homelessness or unreliable transportation, for which a punitive response is not appropriate. Chronic absenteeism should be seen as a symptom of an underlying issue and should be addressed via a tiered system of supports framework. That framework may include working with juvenile and domestic court services personnel to address the underlying issues before a Child in Need of Services (CHINS) petition is filed. Developing a Memorandum of Understanding with the Juvenile Court Services is an important part of addressing chronic absenteeism and truancy.

Aggravating Circumstances

For the purposes of [§ 22.1-277](#) and [§ 22.1-277.05](#) of the *Code of Virginia*, “aggravating circumstances” shall mean:

- i. That a student engaged in misconduct which caused serious harm (including but not limited to physical, emotional, and psychological harm) to another person(s) or posed a credible threat of serious harm to another person(s), as determined by a threat assessment; or
- ii. That a student’s presence in the school poses an ongoing and unreasonable risk to the safety of the school, its students, staff, or others in the school; or
- iii. That a student engaged in a serious offense that is:
 - a) persistent (repeated similar behaviors are documented on the student’s disciplinary record), and
 - b) unresponsive to targeted interventions as documented through an established intervention process.

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*. Bomb threats must be reported to law enforcement.

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 codes of conduct. Non-criminal behavior associated with bullying includes intimidation, taunting, name-calling, and insults.

Another form of bullying occurs using electronic means and is referred to as cyberbullying. Typically, cyberbullying is defined as using information and communication technologies, such as cell phone text messages and pictures, email, social media, blogs, networking

websites, defamatory personal websites, and defamatory online personal polling websites 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.

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. [§ 22.1-279.3:1.](#)

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.

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 term “disruptive” describes a range of behaviors that is subjective and can reflect individual bias. Schools should define specific actions that obstruct the learning environment (yelling, making noise to distract others, wandering around the classroom, etc.) in their behavioral expectations to help ensure equity in the application of discipline responses. Policies should also outline behaviors that are classroom managed and office managed.

Drug-Related Offenses

A school board policy, in accordance with [§ 22.1-277.08.](#) of the *Code of Virginia*, shall permit, but not require, the expulsion of any student determined to have brought a controlled substance, imitation controlled substance, or marijuana as defined in [§ 18.2-247.](#) onto school property or to a school sponsored activity.

A school administrator, pursuant to school board policy, or a school board may determine, based on the facts of a particular situation, that special circumstances exist, and that no disciplinary action or other disciplinary action is appropriate. By regulation, a school board may authorize the superintendent or his designee to conduct a preliminary review of such cases.

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

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.

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.”

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.

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.”

Internet Safety

Student conduct policy related to computer use should be developed in accordance with information provided on the [Department of Education website](#).

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.

With the advent of the Coronavirus pandemic in 2020, it became important for school divisions to clarify that the virtual classroom is considered a school activity and that the expectations for behavior in student codes of conduct apply in the virtual classroom setting.

Some divisions developed specific guidance for students and families. Resources are available at [Virginia Department of Education's Guidelines and Resources for Internet Safety in Schools](#).

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...”

Other Conduct

A school board may consider including an “other conduct” category that addresses behavior not specifically listed elsewhere. School boards are encouraged to refrain from labeling student behavior with criminal code language and to consider the harm that was caused by the behavior when choosing a behavior category. Locally created behaviors not included in the Student Behavior and Administrative Response (SBAR) data collection must be assigned a code by the Department of Education if the administrative response excludes the student from his or her regular school schedule (e.g., in-school suspension, out of school suspension, expulsion, alternative placement, school reassignment). All exclusions must be reported in SBAR. Since locally assigned codes are not available in SBAR, any behavior created locally that results in an exclusion must use a code assigned by the Department.

Portable Communication Devices

[Section 22.1-279.6.B](#) of the *Code* authorizes school boards to regulate the use or possession of portable communication devices and establish disciplinary procedures for students violating such regulations.

Profane or Obscene Language or Conduct

School board student conduct policy, in accordance with [§ 22.1-279.6.C](#) of the *Code*, is required to prohibit profane or obscene language or conduct. The *Code of Virginia* does not specifically define these terms. Conduct typically prohibited under this provision includes swearing and obscene/offensive gestures, materials, and communications.

Property Violations

- Property violations include, but are not limited to, damages caused by fire, destruction of property, vandalism, and theft.
- Destruction of property [§ 22.1-280.4](#). School boards are authorized 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: The wrongful taking of the property of another without the owner’s consent and with the intention of permanently depriving the owner of possession of the property.

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 that require a report to law enforcement. However, the 2020 General Assembly modified that section to require the report only in cases where a felony has been committed. In order for stalking to be a felony offense, the *Code of Virginia* § [18.2-60.3.B](#) states that “Any person who is convicted of a second offense of subsection A occurring within five years of a prior conviction of such an offense under this section or for a substantially similar offense under the law of any other jurisdiction is guilty of a Class 6 felony.”

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....”

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.

Self-Defense

A code of student conduct shall include standards for school board policies on [self-defense](#).⁷² The policy may address the consideration of self-defense as a factor in determining appropriate administrative responses to the event. 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, previous interactions between the students may take the investigation beyond looking at the single incident to examining patterns of interaction, past threats, and bullying. Information obtained from a variety of persons, including bus drivers, custodians, teachers, other students, and parents may be relevant to determining the administrative response.

School boards developing disciplinary policies including self-defense should provide criteria that define 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.

Trespassing

Trespassing upon church or school property, including school buses, is specifically prohibited by § [18.2-128](#) of the *Code of Virginia*: Any person who, without the consent of some person authorized to give such consent, goes or enters upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property, shall be guilty of a Class 3 misdemeanor.

⁷² § 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

Trespassing must be included in student codes of conduct per [§ 22.1-279.6](#) of the *Code of Virginia*. “Trespassing” should be used to report instances of unauthorized student presence that occur outside of school hours or are deemed to have an unlawful purpose.

Vandalism

The *Code of Virginia* 22.1-279.6 requires that “vandalism” be included in codes of student conduct. Vandalism in Virginia under *Virginia Code* [§18.2-137](#) is the unlawful or intentional destruction, defacing, damaging or removing of another person’s personal or real property without the intent to steal. Vandalism that results in damages of less than \$1,000 is a misdemeanor. Damages in excess of \$1,000 may result in felony charges: [Code of Virginia §18.2-138. Damaging public buildings, etc.; penalty.](#)

Weapons or Other Dangerous Articles

Student conduct policy on weapons should prohibit 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 enumerated in the *Code of Virginia* [§§ 18.2-308.1, 18.2-308.](#), and in the federal [Gun-Free Schools Act](#). A school board additionally may prohibit the possession of unloaded weapons by students on their persons or in their lockers, backpacks, or vehicles. An exception to this policy may be made for students participating in an authorized extracurricular activity or team involving the use of the weapon.

An event that includes a student 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 requires investigation and response by the administration. Asking the question “What harm was caused?” and understanding why the student(s) brought the dangerous item to school is important to determining a response to the student behavior. While dangerous instruments may include letter openers, screwdrivers, hammers, hatchets, even pencils, chairs and other common everyday devices that could be used to inflict harm upon another person, the student’s intention, use, and reasoning for having the item should be explored. For example, 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 is not a “weapon” and should not be treated as such. However, a phone call to the family and an explanation as to why the student should not bring such items to school is appropriate.

Weapons-Related Offenses

School board policy, in accordance with [§ 22.1-277.07.](#), of the *Code of Virginia*, should permit, but not require, expulsion of any student determined to possess a firearm, destructive device, a firearm muffler or firearm silencer, or a pneumatic gun on school property or at a school-sponsored activity. Definitions of "firearm," "destructive devices," and "pneumatic gun" are set forth in [§ 22.1-277.07.E.](#) of the *Code*, and are consistent with the federal *Gun-Free Schools Act*. A copy of this Act is included in the Appendices.

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 administrator, pursuant to school board policy, or a school board may determine, based on the facts of a particular situation, that special circumstances exist, and that no disciplinary action or another disciplinary action is appropriate. 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 suspended or expelled for weapons-related offenses to attend an alternative education program provided by the school board for the term of the suspension or expulsion. [House Bill 415](#) amended and reenacted [§ 22.1-277.04](#) and [§ 22.1-277.05](#) of the *Code of Virginia* to require that school boards adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

ALTERNATIVES TO SUSPENSION: GUIDELINES FOR THE REDUCTION OF EXCLUSIONARY PRACTICES IN VIRGINIA SCHOOLS

Overview

Short and long-term suspensions and expulsions are exclusionary discipline practices that remove students from their regularly scheduled instructional day for any time between one to 365 days. “Suspensions, expulsions and other exclusionary discipline policies and practices can be detrimental for school climate and can negatively impact student learning and social and emotional development.”⁷³ The detrimental effect of suspensions and expulsions on students and on school climates led the 2017 General Assembly to enact several changes. Senate Bill 829, amended the *Code of Virginia* [§ 22.1-16.6](#) directing the Board of Education to “establish guidelines for alternatives to short-term and long-term suspension for consideration by local school boards.”⁷⁴

In 2018, General Assembly further amended the *Code of Virginia* to limit the suspension of pre-kindergarten to grade three students. [Senate Bill 170](#) approved March 30, 2018, amended [§ 22.1-277](#) and *prohibits, except for drug offenses, firearm offenses, and certain criminal acts, students in preschool through grade three from being suspended for more than three school days or expelled from attendance at school unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances⁷⁵ exist, as defined by the Department of Education.* The General Assembly also changed the definition of long-term suspension with [House Bill 1600](#) by amending [§§ 22.1-276.01](#) and [22.1-277.05](#) of the *Code of Virginia* to define long-term suspensions as “any disciplinary action whereby a student is not permitted to attend school for 11 to 45 school days,” except in instances where the provisions of [§ 22.1-277.05 C](#) are met:

⁷³ The Continuing Need to Re-think Discipline. Link: [U.S. Department of Education](#)

⁷⁴ *Code of Virginia* § 22.1-16.6.

⁷⁵ See Behaviors Referenced in the *Code of Virginia* for the definition of “aggravating circumstances,” page 58 of this document.

C. Notwithstanding the provisions of subsections A and B, a long-term suspension may extend beyond a 45-school-day period but shall not exceed 364 calendar days if (i) the offense is one described in § [22.1-277.07](#) or [22.1-277.08](#) or involves serious bodily injury or (ii) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department. Such definition shall include a consideration of a student's disciplinary history.

For the purposes of [§ 22.1-277](#) and [§22.1-277.05](#) of the *Code of Virginia*, “aggravating circumstances” shall mean:

- i. That a student engaged in misconduct which caused serious harm (including but not limited to physical, emotional, and psychological harm) to another person(s) or posed a credible threat of serious harm to another person(s), as determined by a threat assessment; or
- ii. That a student’s presence in the school poses an ongoing and unreasonable risk to the safety of the school, its students, staff, or others in the school; or
- iii. That a student engaged in a serious offense that is:
 - a) persistent (repeated similar behaviors are documented on the student’s disciplinary record), and
 - b) unresponsive to targeted interventions as documented through an established intervention process.

As noted by the American Academy of Pediatrics, there are typically two general reasons for suspending or expelling students from schools. First, students who present a threat to other students and/or staff are removed to ensure safety. The second reason for excluding students supposes that the behavior of a student will change through punishment.⁷⁶ Traditionally, student suspension meant parents would implement additional consequences at home by grounding the student, removing privileges, and assigning chores to make the suspension a negative experience. Peers, parents, and community members viewed suspended students negatively. While suspension may have at one time encouraged students to change their behaviors, it is no longer an effective strategy. Many suspended students are unsupervised while suspended, consequences once enforced by parents are no longer effective, and the embarrassment once associated with suspension is no longer adequate motivation for students to change. While school safety continues to be a viable reason for excluding students from a particular school setting, there is no evidence that

⁷⁶ DeSalvo, Catherine, MS and Matthew Buckman, PhD: *Positive Alternatives to Suspension*, Boys Town Press, Boys Town, Nebraska, 2016, pgs. 5.

traditional exclusionary practices change student behavior. For school discipline practices to change student behavior, educators must implement prevention and intervention services to help students develop social-emotional skills, to engage families, and to provide viable alternatives to exclusionary practices. Simply removing students who misbehave from the school is no longer enough to ensure safety or change behavior.⁷⁷

The *Guidelines for the Reduction of Exclusionary Practices in Virginia Schools* is intended to provide a framework for school divisions to develop and implement evidence-based methods that reduce exclusionary practices in Virginia schools, while ensuring safety and providing all Virginia students with a quality education that enables them to attain the standards outlined in Virginia's Profile of a Graduate. The recommended policies and practices outlined here provide a guide for alternatives to suspension. Recommended practices include implementing tiered systems of support to meet the academic and social-emotional needs of every student, engaging families and community agencies, and developing cultural competency.

Rationale for Implementing Alternatives to Suspension

Effective school discipline teaches appropriate behavior and ensures student safety in a supportive learning environment. Students who feel safe are better equipped to learn, and learning is the fundamental goal for all students in all schools. Learning appropriate behavior is a part of that goal. In recent years, punitive discipline practices, like suspension and expulsion, have become the means to “teach” appropriate behaviors. Current research reveals that exclusionary discipline practices have been highly correlated to having the strongest relationship to academic disengagement⁷⁸ and are creating a cycle of educational disengagement for many students. In addition, punitive discipline practices are also being disproportionately applied to certain student groups. Unfortunately, for many students, being suspended or expelled is just the first step in a journey that may end with involvement in the juvenile justice system.

“Suspension and expulsion... are key contributors to pushing students out of classrooms and on a path to courtrooms. Suspended and expelled students lose the protective factors and positive socialization of schooling, and instead, are at an increased risk of psychological and emotional problems, academic failure, school dropout, substance

⁷⁷ DeSalvo, Catherine, MS and Matthew Buckman, PhD, pgs. 5-7.

⁷⁸ [Climate Change: Implementing School Discipline Practices That Create a Positive School Climate](#); page 3.

abuse, and gang involvement. Consequently, they are more likely to engage in delinquent and criminal activity, and become court-involved.”⁷⁹

Since exclusionary practices do not always include adequate academic support or behavior intervention, loss of instructional time is having a negative impact on student achievement. Suspended students are not in class and fall behind their peers academically. Suspended students typically do not receive counseling or behavior management instruction so they return to the school academically behind, sometimes angry and resentful, with no understanding of how to change the behavior that led to suspension. This cycle of academic failure and behavioral issues leads to further exclusion.

School divisions should review school discipline data for evidence of Racial and Ethnic Disparity (RED) and for the over-representation of students receiving special education services. Data that reveals disproportional representation of any group of students in the use of exclusionary practices indicates a need to re-visit policy and to investigate how policy is applied. Remaining cognizant of disproportionality is important to ensuring that each student in Virginia has the opportunity to achieve success.

Historically, students with disabilities and African American students have been suspended more often and for more subjective and less serious types of behaviors than their non-disabled and white peers have.

“According to four individual studies, white students were referred much more frequently for offenses that are more easily identified objectively, such as smoking, vandalizing property, and leaving school grounds without permission, while African American students were more often referred for subjective behaviors such as disrespect, excessive noise, and loitering.”⁸⁰

The disproportionate referral of students with disabilities can also be partially attributed to the type of offense for which they are suspended. “In general, whereas only 5 percent of out-of-school suspensions are given for serious or dangerous disciplinary incidents, such as possession of a weapon or drugs on campus, 95 percent are given for disruptive behavior or willful defiance or simply classified as other.”⁸¹

⁷⁹ Langberg, Jason and Ciolfi, Angela Ciolfi, *Protecting Childhood: A Blueprint for Developmentally Appropriate School Policing in Virginia*. Just Children Program of the Legal Aid Justice Center, Jan. 2016. P. 4.

⁸⁰ *Climate Change: Implementing School Discipline Practices That Create a Positive School Climate*, p.2. Refer to D. Losen and R. J. Skiba, *Suspended Education: Urban Middle Schools in Crisis* (Montgomery, AL: Southern Poverty Law Center, September 2010).

⁸¹ *Climate Change: Implementing School Discipline Practices That Create a Positive School Climate*, p.2

In a data study funded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, Dr. Gerard Lawson and a team of researchers at Virginia Tech reported that significant racial disparities exist for black students in reports to law enforcement by Virginia schools. According to the study, “African Americans account for 23 percent of the student population in Virginia, yet 49.4 percent of referrals to the juvenile courts from schools. These disparities begin at the school level, and are maintain[ed], though not increased, through actual referrals to juvenile justice and involvement with the courts.” Suspended students are also being referred to the juvenile justice system for behaviors that could be handled by school officials. This practice, sometimes termed the school-to-prison pipeline, further intensifies the negative consequences of suspension. Instead of addressing the behavior and providing interventions to correct the behavior, schools have come to rely on increasing suspensions and criminalizing student behavior. In effect, schools have pushed students out of school and into a criminal justice system ill equipped to help them. In its 2016 *Report of the NEA Committee on Discipline and the School*, the National Education Association (NEA) called for an end to disparate discipline practices that feed the school-to-prison pipeline.

“The school-to-prison-pipeline refers to the practices, policies and actions in our nation’s schools that have led to the disproportionate removal from school of students of color, including those who identify as LGBTQ,⁸² have disabilities, and/or are English Language Learners. These removals are invariably precipitated by formal school disciplinary action, such as a suspension or expulsion, which either directly or indirectly pushes these students permanently out of school and/or into the juvenile or criminal justice systems. NEA recognizes that schools must enforce rules and provide teachers with the tools to create and maintain a classroom environment that promotes student success. But the tools and policies that school districts use should never disproportionately impact one or another group of students, nor shut the door of educational opportunity to students based on the color of their skin, the language they speak, their physical ability, or their sexual or gender orientation.”⁸³

Substantial research indicates that “frequent out-of-school suspension does not produce better learning environments, deter future misbehavior, or stimulate effective parental

⁸² lesbian, gay, bisexual, transgendered, and queer (or questioning)

⁸³ *Report of the NEA Committee on Discipline and the School*, National Education Association. April 24, 2016, pg. 1.

involvement.”⁸⁴ Instead, research indicates that exclusionary discipline practices have negative effects. Suspension and expulsion:

- place students at risk for dropping out;
- are being applied disproportionately to students with disabilities and African American students;
- fail to address the underlying reasons for the behavior;
- do not consider the social-emotional development or environmental influences;
- decrease academic engagement;
- decrease academic achievement; and
- for some, create a pathway to prison rather than to college and a career.⁸⁵

Guiding Principles

Re-thinking discipline and reducing exclusionary practices requires adopting a philosophy that focuses on prevention and restoration. The U.S. Department of Education recommends these guiding principles in an approach to improve school climate and discipline:

1. Create positive school climates that focus on prevention;
2. Develop clear appropriate and consistent expectations and consequences to address disruptive student behaviors; and
3. Ensure fairness, equity, and continuous improvement.⁸⁶

Adoption of the Virginia Board of Education *Guidance for Student Code of Conduct Policy and Alternatives to Suspension* encourages school divisions to develop local board policies that:

⁸⁴ Alternatives to Suspension. (2012) Hanover Research. District Administration Practice; 4401 Wilson Boulevard, Suite 400, Arlington, VA., pg.10 cited from Losen, Daniel J. and Jonathan Gillespie. “Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School.” August 2012. The Civil Rights Project. Pg. 16.

<http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prisonfolder/federal-reports/upcoming-crrr-research/losen-gillespie-opportunity-suspended-crrr-2012.pdf>

⁸⁵ Climate Change, pg. 8.

⁸⁶ U.S. Department of Education, *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, Washington, DC. 2014.

1. Promote an equity-centered vision for improving conditions for learning so that all students experience a safe, supportive school environment that allows them to acquire the attributes outlined in the Virginia Board of Education’s Profile of a Graduate.⁸⁷
2. Advocate for training school staff and providing resources to implement the local division’s code of conduct using data to analyze and address challenges and successes.
3. Promote the development of local division code of conduct that clearly articulates expectations for student and adult behavior to enhance school safety and create equitable, supportive school environments.
4. Focus on prevention and provide a graduated system of responses to discipline incidents that uses instructional, restorative, and age-appropriate responses before resorting to exclusionary practices while respecting the social-emotional development of children at elementary, middle, and high school.
5. Provide that all students who are removed from the classroom for disciplinary reasons are able to access services for a quality education and needed supports enabling them to return to the setting from which they were removed.
6. Encourage partnerships with students and their families; behavioral health, child welfare, and juvenile justice professionals; law enforcement agencies; and other community members to assess and improve the school climate and conditions for learning.⁸⁸

In addition, the Standards of Quality [§ 22.1-253.13:1](#). Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives addresses prevention and intervention programs to reduce dropouts and increase high school graduation rates. It requires:

“Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.”

The guidance provided by the U. S. Department of Education, the Virginia Board of Education, and the Virginia legislature encourages all school boards to examine local policy

⁸⁷[Virginia Department of Education Profile of a Virginia Graduate](#),

⁸⁸ Morgan, E., Salomon, xii.

and procedures to reduce the use of suspension and expulsion, to remove the disparity in the use of exclusionary practices, and to incorporate the use of prevention and intervention strategies that produce the qualities of a Virginia graduate.

“Interventions, school wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts.”⁸⁹

Meeting the Needs of the Whole Child

Meeting the needs of the whole child is important to establishing a safe learning environment where students can achieve the goals of the Profile of a Graduate. The Association for Supervision and Curriculum Development (ASCD) identifies five tenets of whole child education shown in Figure 1.1, with ten indicators for each tenet. The full list of [Whole Child Indicators](#) is available from ASCD.⁹⁰

ASCD Whole Child Tenets Source: Association for Supervision and Curriculum Development
Healthy: Each student enters school healthy and learns about and practices a healthy lifestyle.
Safe: Each student learns in an environment that is physically and emotionally safe for students and adults.
Engaged: Each student is actively engaged in learning and is connected to the school and broader community.
Supported: Each student has access to personalized learning and is supported by qualified, caring adults.
Challenged: Each student is challenged academically and prepared for success in college or further study and for employment and participation in a global environment.

⁸⁹ American Psychological Association, 2008; Christle, Jolivet, & Nelson, 2005; Crone & Hawken, 2010; Liaupsin, Umbreit, Ferro, Urso, & Upreti, 2006; Luiselli, Putnam, Handler, & Feinberg, 2005; Putnam, Horner, & Algozzine, 2006; Skiba & Sprague, 2008; Theriot, Craun, & Dupper, 2010. Retrieved January 2018 from U.S. Department of Education Rethinking Discipline website. <https://www2.ed.gov/policy/gen/guid/school-discipline/index.html>.

⁹⁰ [“Whole Child Indicators.” Association for Supervision and Curriculum Development.](#)

With these tenets in mind, creating a tiered framework to ensure each child is educated in a safe, supportive learning environment is the first step for reducing exclusionary discipline practices. The *Virginia Guidelines for the Reduction of Exclusionary Discipline Practices* focuses on establishing a positive and preventive learning environment using tiered systems of support. The strategies within a tiered system will vary by locality depending upon the needs and resources of each school community. The commitment of culturally competent school staff, the collection and use of real-time data, and the engagement of family/community form the foundation of a tiered system focused on prevention. A tiered system creates universal, targeted, and intensive supports to meet the academic, social-emotional, and behavioral needs of students. It includes alternatives to exclusionary practices that provide academic, behavioral, and social-emotional supports for students who are not meeting behavioral goals.

Data Driven Decision Making

School wide and individual student achievement, attendance, and discipline data should be collected and analyzed on a regular basis to identify resources and needs and to ensure the equitable impact of policy. School climate surveys of students, staff, and families are important to understanding the strengths and challenges of a school. Analysis of this data leads to a process of designing and implementing a tiered approach for developing core expectations and the methods that will be used to teach, redirect, intervene, and implement supports for students when they meet or do not meet the behavioral expectations established by the school community.

At least annually, the school board and school administrators should review school-level discipline data by race, gender, disability status, socio-economic status, and the intersections of those categories. The review should identify and analyze gaps between these categories and subcategories and should be used to inform plans to address disparities revealed in the analysis. The review should also include input from students, parents, and teachers. Resources for analyzing discipline data are available in Appendix.

Cultural Competency

To construct an equitable school climate that represents the diverse demographics of American students, training teachers and administrators to be culturally competent is critical to creating safe learning environments where every student can succeed.

“In an equitable classroom environment, students of all backgrounds (e.g., race, nationality, gender) have the same opportunities to learn and develop their knowledge. To create an equitable learning environment, educators must be culturally

competent and possess the ability to communicate and work effectively across cultural lines.”⁹¹

The Virginia Department of Education outlines the characteristics of a culturally responsive school on its [Virginia is for Learners website for Cultural Competence](#). A culturally competent school promotes equity at the institutional, personal, and instructional level. The policies and procedures of the institution are intentionally designed to reflect the beliefs and practices of not just the dominant culture, but of the whole community. Each person in the school has a clear understanding of his or her own cultural norms and bias and is able to work outside of those norms to build positive relationships with others. For instructional purposes, cultural competency means that teachers include varying perspectives in their daily lesson plans. Diversity is celebrated as strength. Teachers have access to resources, materials, activities, and strategies to enrich the curriculum and make it accessible to students from varying backgrounds. Teachers are trained in equitable classroom management strategies that allow them to adapt instructional approaches, be sensitive to how others deal with conflict, be able to state their expectations in a variety of ways, and focus on the positive aspect of a diverse world. Hanover Research provides an overview of a culturally competent environment, some guidelines for creating that environment, and a tool for measuring culturally competent classrooms in [Closing the Gap: Creating Equity in Education](#). In 2021, the Virginia Senate Bill 1196 added a section numbered [§ 22.1-298.7](#). Teachers and other licensed school board employees; cultural competency training:

- 1. Each school board shall adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years.*
- 2. That no later than December 31, 2021, the Board of Education shall issue guidance that establishes minimum standards for the cultural competency training required pursuant to [§ 22.1-298.7](#) of the Code of Virginia, as created by this act.*
- 3. That each school board employee who is required to complete a cultural competency training pursuant to [§ 22.1-298.7](#) of the Code of Virginia, as created by this act, shall complete at least one such training no later than the beginning of the 2022–2023 school year.*

⁹¹ *Closing the Gap: Creating Equity in Education*. (2017) Hanover Research, 4401 Wilson Boulevard, Suite 400, Arlington, VA, 22203, 2017. Pg. 3

Family Engagement

Involving families in the overall mission and goals of the school is an important component of creating a school climate that is safe and supportive. “Effective partnerships draw on the talents, strengths, and capacity of the school community to enhance the learning environment for all students and address the barriers to family engagement.”⁹² Link: [The School Discipline Consensus Report](#) provides a broad range of research on family engagement strategies that focus on the following goals:

- Embracing a philosophy of shared power and responsibility;
- Recognizing and celebrating diversity;
- Building trusting collaborative relationships; and
- Respecting and addressing families’ needs.

Tiered Systems of Support

Tier 1 or Universal Supports

A multi-tiered system of support includes prevention strategies at Tier 1 to establish positive expectations and the systems to teach and reinforce those expectations. The universal components needed to create a learning environment that reduces the use of punitive, exclusionary practices are listed below. Appendix G provides more details of these components.

Components of School wide Prevention at Tier 1

- Establishing and teaching core behavioral expectations,
- Aligned school counseling program,
- Family engagement practices,
- Challenging, engaging academic curriculum,
- Social-emotional Curriculum,
- Health curriculum,
- Bullying prevention,
- Restorative approaches to relationship building and problem solving, and

⁹² Morgan, E., Salomon, pg. 61.

- Professional Learning Opportunities (PLO).

Management of Tier 1 or Universal Supports

Everyone in the school is responsible for teaching and modeling core expectations, though specific groups of adults may hold more responsibility for some components. For example, classroom teachers might be responsible for explicitly teaching behavioral expectations, but the school administrative and support staff must model and reinforce appropriate behaviors. Lunchroom monitors may teach the application of the core expectations in the lunchroom, gym teachers in the gym, art teachers in the art room, etc. School programming is designed to support students' academic and social-emotional development.

A Student Assistance Programming Team (SAPT) or other school-based team analyzes data regularly. School climate surveys are conducted and used with other data sources to determine needs and set priorities.

Tier 2 or Targeted Interventions and Supports

Tier 2 or Targeted Supports are developed based on data analysis to determine what types of supports some students need to meet behavioral expectations. For example, the data may indicate a need for bullying prevention intervention, substance abuse counseling, anger management, or self-management. Each school will determine the appropriate targeted supports. Resources for providing Tier 2 supports may come from community service providers and other government agencies. School divisions are encouraged to develop memoranda of understanding with other agencies to improve Tier 2 and 3 supports. Targeted Supports include the components listed below. Appendix D provides specific approaches that schools may wish to implement.

Components of Tier 2 or Targeted Interventions and Supports

- Meet the core behavioral expectations,
- Develop social-emotional skills, mindsets, and behaviors,
- Improve academic achievement,
- Improve physical and/or mental health,
- Address substance abuse issues,
- Restore balance to situations caused by misconduct,
- Address bias,
- Address Adverse Childhood Experiences (ACEs), and
- Engage families.

Management of Targeted Supports or Tier 2

A school-developed team manages Tier 2 by assessing needs for targeted group instruction and needed supports. Teams include staff best situated to gather data, identify students who need targeted interventions, and provide access to the interventions. Student Assistance Team, Student Intervention Team, Student Support Team are all names given to this type of team. Students who participate in these programs are monitored to ensure the effectiveness of the intervention.

Staff trained in special education services and behavioral intervention services may provide supports at this level, but not all students who need Tier 2 supports are students with disabilities. Students who have experienced trauma or adverse childhood experiences may need targeted supports as well. Those students for whom the Tier 2 intervention is not effective may be referred for an intensive intervention, the next tier of support service.

When a student is referred to a school administrator for a disciplinary incident, the administrator may determine that a targeted support is needed in addition to or in lieu of a disciplinary consequence. The administrator should follow a process of investigation and decision-making that keeps the ASCD Whole Child Tenets in mind. Local school divisions are encouraged to design an investigative and decision-making process to assist school administrators in the investigation and to ensure that students are treated equitably within a system that values safety and support.

Tier 3 or Intensive Interventions and Supports

Tier 3 supports are individualized and based on the needs of a single student.

Approximately five percent of students in any school population may need Tier 3 supports. A school that exceeds this percentage of students receiving intensive supports should revisit school data regarding Tier 1 and 2 supports to determine their effectiveness. Placing students in an alternative setting is a Tier 3 intervention and should include a specific plan to allow the student to return to his or her home school. Criteria for quality alternative programs are included in Appendix D.

Components of Tier 3 or Intensive Interventions and Supports

Wraparound strategies to assist student/family in:

- Meeting core behavioral expectations,
- Developing social-emotional skills, mindsets, and behaviors,
- Improving academic achievement,
- Improving physical and/or mental health,
- Restoring balance to situations caused by misconduct,

- Addressing Adverse Childhood Experiences (ACEs), and
- Addressing bias.

Management of Tier 3 or Intensive Interventions and Supports

Mental health, counseling, and community resource providers may be involved in providing supports. Students who display chronic behavioral or academic problems are assessed and an individualized plan is developed to meet their needs and promote achievement. Staff trained in special education services and behavioral intervention services may provide supports at this level, but not all students who need Tier 3 supports are students with disabilities. Students who have experienced trauma or adverse childhood experiences may need intensive supports as well.

APPENDICES

APPENDIX A: Related Policy Issues

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, transfer students, discipline of students with disabilities, and threat assessments. Relevant sources such as federal and state regulations and guidance may be cross-referenced.

Reporting of Certain Offenses to Superintendents or Designee and to Law Enforcement Authorities

§ 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, abduction of any person as described in § [18.2-47](#) or [18.2-48](#), 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, 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 therefor.

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 felony offense and may report to the local law-enforcement agency any incident described in 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 whether the incident has been reported to local law enforcement pursuant to this subsection and, if the incident is so reported, 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](#); 2014, cc. [674](#), [719](#); 2018, c. [281](#); 2020, cc. [173](#), [335](#).

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.

Admission of Students Suspended or Expelled from another School Division or a Private School

Section § [22.1-277.2](#) of the *Code of Virginia* 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:

- 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
- 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 of Virginia*. 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.

Access to Certain Juvenile Records the *Code of Virginia*

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.

Related Sections, Regulations, and Guidelines of the *Code of Virginia*

Standards of Quality

[§ 22.1-253.13:7.](#) of the *Code of Virginia*

Standards of Accreditation

[8 VAC 20-131-210](#) Role of the Principal

[8 VAC 20-131-260](#) Facilities and Safety

APPENDIX B: APPLICABLE PROVISIONS OF THE *CODE OF VIRGINIA*

School Board Guidelines

[§ 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 (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; (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; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

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 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, non-disruptive 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 policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) 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 and (ii) direct the principal to notify the parent of any student involved in an alleged incident of bullying of the status of any investigation within five school days of the allegation of bullying.

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. 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.

H. Each school board shall include in its code of student conduct a prohibition on possessing any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, head-wraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

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; 2014, c. 326; 2017, c. 684; 2019, cc. 172, 246; 2020, c. 678.

[§ 22.1-279.6](#). Board of Education guidelines and model policies for codes of student conduct; school board regulations. 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. 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. 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. 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. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject. Nothing 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](#). 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.)

[§ 22.1-78](#). Bylaws and regulations.

A school board may adopt bylaws and regulations, not inconsistent with state statutes and regulations of the Board of Education, for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.

[§ 22.1-253.13:7](#). Standard 7: School board policies.

- A. Each local school board shall develop policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee.
- B. Each local school board shall maintain and follow up-to-date policies. All school board policies shall be reviewed at least every five years and revised as needed.
- C. Each local school board shall ensure that policies are developed giving consideration to the views of teachers, parents, and other concerned citizens and addressing the following:
 - 1. A system of two-way communication between employees and the local school board and its administrative staff whereby matters of concern can be discussed in an orderly and constructive manner;
 - 2. The selection and evaluation of all instructional materials purchased by the school division, with clear procedures for handling challenged controversial materials;
 - 3. The standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights;
 - 4. School-community communications and community involvement;
 - 5. Guidelines to encourage parents to provide instructional assistance to their children in the home, which may include voluntary training for the parents of children in grades K through three;

6. Information about procedures for addressing concerns with the school division and recourse available to parents pursuant to [§ 22.1-253.13:7](#);
 7. A cooperatively developed procedure for personnel evaluation appropriate to tasks performed by those being evaluated; and
 8. Grievances, dismissals, etc., of teachers, and the implementation procedure prescribed by the General Assembly and the Board of Education, as provided in Article 3 ([§ 22.1-306](#) et seq.) of Chapter 15, and the maintenance of copies of such procedures.
- D. A current copy of all school division policies and regulations approved by the local school board, including the Student Conduct Policy, shall be posted on the division's website and shall be available to employees and to the public. School boards shall ensure that printed copies of such policies and regulations are available as needed to citizens who do not have online access.
 - E. An annual announcement shall be made in each division at the beginning of the school year and, for parents of students enrolling later in the academic year, at the time of enrollment, advising the public that the policies are available in such places.

[§ 22.1-279.1](#). Corporal punishment prohibited.

- A. No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his control.
- B. In determining whether a person was acting within the exceptions provided in this section, due deference shall be given to reasonable judgments at the time of the event which were made by a teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth.
- C. For the purposes of this section, "corporal punishment" means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

This definition shall not include physical pain, injury or discomfort caused by the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control as permitted in subdivision (i) of subsection A of this section or the use of reasonable and necessary force as permitted by subdivisions (ii), (iii), (iv), and (v) of subsection A of this section, or by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

Parental Responsibilities

[§ 22.1-279.3](#). Parental responsibility and involvement requirements.

- A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.
- B. A school board shall provide opportunities for parental and community involvement in every school in the school division.
- C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials shall 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 and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct, the notice of the requirements of this section, and the compulsory school attendance law. Each school shall maintain records of such signed statements.

- D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, to ensure the student's compliance with compulsory school attendance law, and to discuss improvement of the child's behavior, school attendance, and educational progress.

- E. In accordance with the due process procedures set forth in this article and the guidelines required by [§ 22.1-279.6](#), the school principal may notify the parents of any student who violates a school board policy or the compulsory school attendance requirements when such violation could result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed a petition. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compulsory school attendance compliance; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that a petition with the juvenile and domestic relations court may be filed under certain circumstances to declare the student a child in need of supervision.
- F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.
- G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance, as follows:
1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of this section, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress, it may order the parent to so meet; or
 2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F, or upon the student's receiving a second suspension or being expelled, it may order the student or his parent, or both, to participate in such programs or such treatment, including, but not limited to, extended day programs, summer school, other educational programs and counseling, as the court deems appropriate to improve the student's behavior or school attendance. The order may also require participation in a parenting, counseling or a mentoring program, as appropriate or that the student or his parent, or both, shall be subject to such conditions and limitations, as the court deems appropriate for the supervision, care, and rehabilitation of the

student or his parent. In addition, the court may order the parent to pay a civil penalty not to exceed \$500.

- H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision G2. Upon the failure to pay the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.
- I. All references in this section to the juvenile and domestic relations court shall be also deemed to mean any successor in interest of such court.

Internet Policies

§ 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.)

Definitions

"Alternative education program"

[§ 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"

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.

[§ 22.1-291.4. Bullying prohibited.](#)

1. 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.

"Disruptive behavior"

A violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

"Exclusion"

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"

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"

Any disciplinary action whereby a student is not permitted to attend school for 11 to 45 school days.

"Short-term suspension"

Any disciplinary action whereby a student is not permitted to attend school for a period not to exceed ten school days.

"Superintendent's designee"

- A. 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.

Suspensions and Expulsions**[§ 22.1-277. Suspensions and expulsions of pupils generally.](#)**

- A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.
- B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

- C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.
- D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

Short-term suspension

[§ 22.1-277.04. Short-term suspension; procedures; readmission.](#)

A pupil may be suspended for not more than ten school days by, either, the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.

Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.

The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. 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, shall be borne by the parent of the student.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

Long-term suspensions

[§ 22.1-277.05. Long-term suspensions: procedures; readmission](#)

A pupil may be suspended from attendance at school for *11 to 45 school days* after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within *30 days*.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within *30 days*.

- A. A school board shall include in the written notice of a suspension for *11 to 45 school days* required by this section, notification of the length of the suspension. In the case of a suspension for *11 to 45 school days*, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible 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. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program provided by the school board for the term of such suspension.

School boards shall adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension.

B. Notwithstanding the provisions of subsections A and B, a long-term suspension may extend beyond a 45-school-day period but shall not exceed 364 calendar days if (i) the offense is one described in [§ 22.1-277.07](#) or [22.1-277.08](#) or involves serious bodily injury or (ii) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department. Such definition shall include a consideration of a student's disciplinary history.

Alternative placement

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

In its 2006 Session, the General Assembly added to the list of persons who may participate in the GED testing program to include (i) persons 16 years of age or older who have been expelled from school and (ii) persons required by court order to participate in the testing program (Section § 22.1-254.2.A.6. and 7). (Section § 22.1-254.2 of the *Code of Virginia*, amended in 2014, requires that any program preparing students to pass a high school equivalency examination must be approved by the Board of Education.)

Expulsion

Section § [22.1-277.06.](#) of the *Code of Virginia* defines expulsion 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 of Virginia* 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 of Virginia*, that the written notice of expulsion includes 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 of Virginia*. 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.

[§ 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](#) or 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. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.
- 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; 2014, cc. 109, 312, 765.)

[§ 22.1-277.08. Expulsion of students for certain drug offenses.](#)

- A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana as defined in [§ 18.2-247](#) onto school property or to a school-sponsored activity. 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, 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. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

(1998, c. 655; 1999, cc. 706, 732, § 22.1-277.01:1; 2001, cc. 688, 820; 2011, cc. 384, 410; 2014, cc. 109, 312, 577, 674, 719, 765.)

Student's Status for Admission

[§ 22.1-3.2. Notice of student's school status required as condition of admission; penalty.](#)

Prior to admission to any public school of the Commonwealth, a school board shall require the parent, guardian, or other person having control or charge of a child of school age to provide, upon registration:

1. A sworn statement or affirmation indicating whether the student has been expelled from school attendance at a private school or in a public school division of the Commonwealth or in another state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person. This document shall be maintained as a part of the student's scholastic record.
 2. A sworn statement or affirmation indicating whether the student has been found guilty of or adjudicated delinquent for any offense listed in subsection G of § 16.1-260 or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories. This document shall be maintained as provided in § 22.1-288.2.
- B. When the child is registered as a result of a foster care placement as defined in § 63.2-100, the information required under this section shall be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.
- C. Any person making a materially false statement or affirmation shall be guilty upon conviction of a Class 3 misdemeanor.

Student Searches

[§ 22.1-279.7. Guidelines for student searches.](#)

The Board of Education shall develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches, voluntary and mandatory drug testing, and strip searches, consistent with relevant state and federal laws and constitutional principles.

School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student searches that are consistent with the guidelines of the Board.

1998, c. 655; 1999, c. 650; 2000, c. 648, § 22.1-277.01:2; 2001, cc. 688, 820; 2003, c. 899.

Self-Administered Medications

[§ 22.1-274.2](#). Possession and self-administration of inhaled asthma medications and epinephrine by certain students or school board employees.

- A. Local school boards shall develop and implement policies permitting a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:
1. Written consent of the parent, as defined in [§ 22.1-1](#), of a student with a diagnosis of asthma or anaphylaxis, or both, that the student may self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.
 2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner that (i) identifies the student; (ii) states that the student has a diagnosis of asthma or anaphylaxis, or both, and has approval to self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications or auto-injectable epinephrine, such as before exercising or engaging in physical activity to prevent the onset of asthma symptoms or to alleviate asthma symptoms after the onset of an asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.
 3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.
 4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications and auto-injectable epinephrine, and before the permission to possess and self-administer inhaled asthma medications and auto-injectable epinephrine at any point during the school year is revoked.
 5. Self-administration of inhaled asthma medications and auto-injectable epinephrine to be consistent with the purposes of the Virginia School Health

Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with [§§ 22.1-287](#) and [22.1-289](#) and the federal *Family Education Rights and Privacy Act of 1974*, as amended, 20 U.S.C. § 1232g, which govern the disclosure and dissemination of information contained in student scholastic records.
 - B. The permission granted a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, shall be effective for one school year. Permission to possess and self-administer such medications shall be renewed annually. For the purposes of this section, "one school year" means 365 calendar days.
 - C. By the beginning of the 2013-2014 school year, local school boards shall adopt and implement policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction.

2000, c. 871; 2005, c. 785; 2012, cc. 787, 833; 2013, cc. 336, 617.

Virginia Administrative Code

Title 8. Education

Agency 20. State Board of Education

Chapter 131. Regulations Establishing Standards for Accrediting Public Schools in Virginia

[8VAC20-131-210](#). Role of the principal

Part V. School and Instructional Leadership

- A. The principal is recognized as the instructional leader and manager of the school and is responsible for:
 1. Fostering the success of all students by facilitating the development, communication, implementation, and evaluation of a shared vision of teaching and learning that leads to student academic progress and school improvement;
 2. Fostering the success of all students by developing, advocating, and sustaining an academically rigorous, positive, and safe school climate for all stakeholders;

3. Fostering effective human resources management by appropriately assigning, selecting, inducting, supporting, evaluating, and retaining quality instructional and support personnel;

Fostering the success of all students by communicating and collaborating effectively with stakeholders;

4. Fostering the success of all students by demonstrating professional standards and ethics, engaging in continuous professional development, and contributing to the profession; and
5. Providing leadership that results in acceptable, measurable student academic progress based on established standards.

As a matter of policy, the board, through these standards, recognizes the critically important role of principals to the success of public schools and the students who attend those schools and recommends that local school boards provide principals with the maximum authority available under law in all matters affecting the school, including instructional leadership, school climate, human resources management, organizational management, communication and community relations, and student academic progress, in a manner that allows the principal to be held accountable in a fair and consistent manner for matters under the principal's direct control.

B. As the instructional leader, the principal is responsible for ensuring that students are provided an opportunity to learn and shall:

1. Lead the collaborative development and sustainment of a student-centered shared vision for educational improvement and work collaboratively with staff, students, parents, and other stakeholders to develop a mission and programs for effective teaching and learning, consistent with the division's strategic plan and school's goals;
2. Collaboratively plan, implement, support, monitor, and evaluate instructional programs that enhance teaching and student academic progress, and lead to school improvement;
3. Analyze current academic achievement data and instructional strategies and monitor and evaluate the use of diagnostic, formative, and summative assessment, by grade and by discipline, to:
 - a. Make appropriate educational decisions to improve classroom instruction, increase student achievement, and improve overall school

effectiveness; provide timely and accurate feedback to students and parents and to inform instructional practices; and direct and require appropriate prevention, intervention, or remediation to those students performing below grade level or not meeting expectations, including passing the SOL tests;

- b. Involve the staff of the school in identifying and evaluating professional development needed to improve student achievement and provide professional development opportunities and ensure that the staff participate in those activities;
 - c. Evaluate and improve classroom practices and instruction; and
 - d. Seek to ensure students' successful attainment of knowledge and skills set forth in the Standards of Learning.
4. Ensure that students' records are maintained and that criteria used in making placement and promotion decisions, as well as any instructional interventions used to improve the student's performance, are included in the record;
 5. Protect the academic instructional time from unnecessary interruptions and disruptions and provide collaborative leadership for the design and implementation of effective and efficient schedules that protect and maximize instructional time;
 6. Involve students, staff, parents, and the community to create and sustain a positive, safe, and healthy learning environment that enforces state, division, and local rules, policies, and procedures and consistently model and collaboratively promote high expectations, mutual respect, care, and concern for students, staff, parents, and the community;
 7. Create a culture of shared accountability and continuous school improvement;
 8. Involve students, families, staff, and other stakeholders to promote community engagement;
 9. Maintain records of students who drop out of school, including their reasons for dropping out and actions taken to prevent these students from dropping out;
 10. Notify the parents of rising eleventh-grade and twelfth-grade students of:

- a. The number of standard and verified units of credit required for graduation; and
 - b. The remaining number of such units of credit the individual student requires for graduation.
 11. Notify the parent or guardian of students removed from class for disciplinary reasons for two or more consecutive days in whole or in part. The school shall have met its obligation if it makes a good faith effort to notify the parent or guardian.
- C. As the school manager, the principal shall:
1. Support, manage, and oversee the school's organization, operation, and use of resources;
 2. Demonstrate and communicate a knowledge and understanding of Virginia public education rules, regulations, laws, and school division policies and procedures;
 3. Work with staff to create an atmosphere of mutual respect and courtesy and to facilitate constructive communication by establishing and maintaining a current handbook of personnel policies and procedures;
 4. Ensure the use of data systems and technology to support goals;
 5. Disseminate information to staff, parents, and other stakeholders in a timely manner through multiple channels and sources;
 6. Work with the community to involve parents and citizens in the educational program;
 7. Facilitate communication with parents by maintaining and disseminating a current student handbook of policies and procedures that includes the school division's standards of student conduct and procedures for enforcement, along with other matters of interest to parents and students;
 8. Manage the supervision and research-based evaluation of staff in accordance with local and state requirements;
 9. Maintain a current record of staff's licenses and endorsements to ensure compliance and professional development completed by staff;
 10. Follow local and state laws and policies with regard to finances, school accountability, and reporting;

11. Maintain records of receipts and disbursements of all funds handled, which shall be audited annually by a professional accountant approved by the local school board; and
12. Ensure the security of all tests administered to students, including those required by the board and the local school division. This includes:
 - a. The requirement that all schools adhere to a policy that prohibits students' access to cell phones and other electronic devices with texting or camera capabilities during the administration of the SOL tests;
 - b. The requirement that, to the extent possible, the teacher should not administer the SOL test associated with the grade level content or class taught;
 - c. Notification to teachers of the penalties for breaching security on SOL tests, including actions against the teacher's license and civil penalties; and
 - d. Establishment of penalties for students who breach security on SOL tests.

Statutory Authority §§[22.1-16](#) and [22.1-253.13:3](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 14, Issue 01](#), eff. October 29, 1997; amended, Virginia Register [Volume 16, Issue 25](#), eff. September 28, 2000; [Volume 22, Issue 24](#), eff. September 7, 2006; [Volume 25, Issue 21](#), eff. July 31, 2009; [Volume 34, Issue 08](#), eff. January 11, 2018.

[8VAC20-131-220](#). Role of professional teaching staff.

The professional teaching staff shall be responsible for providing instruction that is educationally sound in an atmosphere of mutual respect and courtesy, which is conducive to learning, and in which all students are expected to achieve the objectives of the Standards of Learning for the appropriate grade level or course. The staff shall:

1. Serve as role models for effective oral and written communication with special attention to the use of standard English;
2. Strive to strengthen the basic skills of students in all subjects and to close any achievement gaps among groups of students in the school;
3. Establish teaching objectives to achieve the following:

- a. Identify what students are expected to learn; and
 - b. Inform students of the achievement expected and keep them engaged in learning tasks.
4. Provide for individual differences of students through the use of differentiated instruction, varied materials, and activities suitable to their interests and abilities; and
5. Assess the progress of students and report promptly and constructively to them and their parents.

Statutory Authority

§§ [22.1-16](#) and [22.1-253.13:3](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 14, Issue 01](#), eff. October 29, 1997; amended, Virginia Register [Volume 16, Issue 25](#), eff. September 28, 2000; [Volume 34, Issue 08](#), eff. January 11, 2018.

APPENDIX C: DISCIPLINE OF STUDENTS WITH DISABILITIES

Excerpt from *The Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, effective 2010, (the Virginia Regulations).

[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 ten consecutive school days or ten 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 ten 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 ten consecutive school days (34 CFR 300.530; 34 CFR 300.536); or
- 2. The child has received a series of short-term removals that constitutes a pattern:
 - a. Because the removals cumulate to more than ten 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
 - a. 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. (34CFR 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 division wide assessment programs in accordance with the provisions of sub-division 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. (34CFR 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 ten 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 ten 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 seven 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 D: RESOURCES FOR ALTERNATIVES TO SUSPENSION

Positive Behavioral Interventions and Supports (PBIS)

Positive Behavioral Interventions and Supports (PBIS) is a nationally recognized approach to support positive academic and behavioral outcomes for all students. In Virginia schools, PBIS is the behavioral component of the Virginia Tiered Systems of Supports (VTSS).

PBIS helps teachers and administrators learn about and implement new techniques that reduce disruptive student behavior, which typically leads to office referrals, in-school suspensions, and out-of-school suspensions that decrease instructional time for students. Based on extensive research, PBIS utilizes a positive approach to discipline. PBIS ultimately affects the very culture of the school to shift attention to positive behavior and successful learning systems for children, teachers, and administrators.

PBIS is not a specific intervention or curriculum. Through focused attention on data collection and analyses, PBIS provides a framework of proactive, evidence-based prevention and intervention behavioral strategies that aid schools in defining, teaching, and supporting appropriate student behaviors in a positive school culture.

Schools that have effectively implemented PBIS implement the following processes outlined in the *Fix School Discipline: Educator's Toolkit*:

- Define and teach a common set of three to five positive behavioral/social expectations throughout the school.
- Acknowledge and reinforce the behavioral/social expectations.
- Establish and use consistent, equitable consequences for problem behaviors.
- Collect and record when, where, why, and to whom disciplinary interventions are given to make informed decisions about resources and assistance.
- Develop and utilize multi-tiered support: Tier 1 interventions for all students, Tier 2 prevention for students who are at risk, and Tier 3 interventions focused on students and families who are the most chronically and intensely at risk of negative behavior, and in need of greater supports.⁹³

For more resources, tools, training opportunities and similar guides for educators and school administrators, visit the Link: [Positive Behavioral Interventions and Supports of Virginia](#).

⁹³ [Fix School Discipline: Educator's Toolkit](#). (2017) Public Counsel Publications. Retrieved February 2018 from [FixSchoolDiscipline.org](#). pg.12.

School Counseling Programs

The school counseling program is a foundational component of helping students develop the attitudes, skills and behaviors needed to meet the Profile of a Virginia Graduate. The American School Counseling Association (ASCA) recommends the use of [Mindsets and Behaviors for Student Success](#), which describes the “knowledge, skills and behaviors that students should develop to achieve academic success, college and career readiness and social-emotional development.”⁹⁴ School counselors can use these research-based, grade-level competency standards to assess student growth and development, to construct classroom lessons, to design small groups and activities, and to provide individual guidance as a part of a tiered system of support. The ASCA Mindsets and Behaviors are divided into two categories:

1. Mindset Standards, which focus on “standards related to the psycho-social attitudes or beliefs students have about themselves in relation to academic work;”⁹⁵ and
2. Behavior Standards, which include learning strategies, self-management skills, and social skills.

The school counseling program should be aligned with these standards to provide instruction and support for all students, for groups of students with identified needs, and for individual students with specific developmental needs.

The Virginia Standards of Accreditation provide the regulations for school guidance and counseling programs. The regulations allow school counseling programs to address the academic, career, and personal/social needs of students. School counseling groups for students should be created to address the needs of students based on school data collected through climate surveys, academic progress data, discipline data, and attendance data. Link: [The Virginia Department of Education website](#) provides guidance on the implementation of school counseling programs to address student needs in academic, career, and personal/social needs.

⁹⁴ American School Counselors Association. (2018) ASCA Mindsets & Behaviors for Student Success. Retrieved March 2017 from <https://www.schoolcounselor.org/school-counselors/about-asca/mindsets-behaviors>

⁹⁵ Ibid

Social Emotional Learning (SEL)

Social-emotional learning (SEL) curricula should become a part of the school prevention framework. “SEL generally refers to the skills and knowledge that students need to communicate effectively, interact with peers, resolve conflicts, and manage their emotional responses to stressful situations.”⁹⁶

Developing social-emotional and academic skills is the responsibility of the whole school community and is not solely delegated to school counselors. Therefore, schools are encouraged to incorporate social-emotional skill development into the school community through a variety of means. Professional learning activities, direct instruction, student experiences, family engagement, administrative leadership, and day-to-day operations should provide students with the opportunity and support to develop these competencies. The Collaborative for Academic, Social, and Emotional Learning (Link: [CASEL](#)) provides multiple resources for integrating social-emotional learning into the school curriculum and day-to-day operations.

Bullying Prevention

To help address and prevent bullying in public schools, a model policy was developed and adopted by the Board of Education. The Link: [Model Policy to Address Bullying in Virginia's Public Schools \(PDF\)](#) provides information to assist local school boards in formulating policies to help prevent bullying and procedures to report, investigate, and intervene when bullying behavior occurs.

This model policy was developed as a result of the 2013 Virginia General Assembly amended *Code § 22.1-276.01* to define bullying. School divisions must, at a minimum, use the following definition in their local anti-bullying policies and procedures:

Bullying means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power of 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.

The board-approved document expands on this bullying definition by addressing different types of bullying and describing the potential ramifications for all those involved in bullying incidents. Bullying prevention and intervention practices and strategies are described. In addition, information on reporting, investigating, and recording incidents and the necessary notifications for parents and law enforcement are detailed. The appendix provides a sample school board policy, reporting samples and

⁹⁶ [Prioritizing Social Emotional Learning in School Districts](#), Hanover Research, 4401 Wilson Boulevard, Suite 400, Arlington, VA 22203.

follow-up forms, as well as guidance from the US Department of Education's Office of Civil Rights and its Office of Special Education and Rehabilitative Services.

Restorative Approaches to Problem Solving

While restorative justice is a component of all tiers in a tiered system of supports, the underlying philosophy of restorative practices should be part of the Tier 1 foundation and be woven into the fabric of the school's day-to-day operations.

"Restorative Justice is a philosophy and a theory of justice that emphasizes bringing together everyone affected by wrongdoing to address needs and responsibilities, and to heal the harm to relationships as much as possible. This philosophy is being applied in multiple contexts, including schools, families, workplaces, and the justice system. Restorative Practices are used to build a sense of school community and prevent conflict by creating positive relationships through the use of regular "restorative circles," where students and educators work together to set academic goals and develop core values for the classroom community."⁹⁷

[Fairfax County Public Schools](#) (FCPS) has successfully implemented restorative justice using a tiered approach. "FCPS's restorative justice approach encompasses a continuum of restorative justice practices keyed to the nature of the situation. In addition to interventions, preventive techniques are also used. Methods include restorative conversations, classroom circles, conflict circles, attendance circles, restorative justice conferences, re-entry conferences, and restorative behavior intervention seminars."⁹⁸

Restorative practices can be a part of a whole school approach to wrongdoing. At Tier 2, restorative practice involves the intentional intervention on the part of school administration or student assistance teams to remediate harm done. That intervention may involve one of several possible approaches including community conferencing, community service, peer juries, circle process, preventative and post-conflict resolution programs, and/or peer mediation. [Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools: A Guide for Educators](#) provides a useful resource for understanding these interventions.

⁹⁷ [Fix School Discipline: Educator's Toolkit](#). (2017) Public Counsel Publications. Retrieved February 2018 from [FixSchoolDiscipline.org](#). Pg. 13.

⁹⁸ Wachtel, Joshua, *Fairfax, Virginia, developing restorative practices in schools, juvenile justice & policing*. Retrieved March 2018 from International Institute for Restorative Practices, (Oct. 3, 2013) <https://www.iirp.edu/news-from-iirp/fairfax-virginia-developing-restorative-practices-in-schools-juvenile-justice-policing>.

The list below is replicated from [Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools: A Guide for Educators](#). It defines the multiple approaches that are commonly considered restorative practices. The [Guide for Educators](#) is available online and is a recommended resource for understanding and implementing restorative practices.⁹⁹ Some of the following practices used alone are considered Tier 2 or Tier 3 interventions, but creating a restorative framework for prevention and intervention within the school is a Tier 1 approach.

Restorative Justice: *Restorative justice is an evidence-based practice effectively used to reduce suspensions, expulsions, and disciplinary referrals. Restorative justice focuses on righting a wrong committed and repairing harm done. The goal is to place value on relationships and focus on repairing relationships that have been injured. The victim and the wrongdoer have the opportunity to share with one another how they were harmed, as victims, or how they will work to resolve the harm caused, as wrongdoers.*

Community conferencing: *Community conferencing is a practice that provides students and educators with effective ways to prevent and respond to school conflict. Community conferencing involves the participation of each person affected by the behavior and allows all stakeholders to contribute to the conflict resolution process.*

Community service: *Community service allows individuals to restore a harm they may have committed to the school community by providing a meaningful service that contributes to their individual improvement.*

Peer juries: *Peer juries allow students, who have broken a school rule, and trained student jurors to discuss collectively why the rule was broken, who was affected, and how the referred student can repair the harm caused.*

Circle process: *A circle is a versatile restorative practice that can be used proactively, to develop relationships and build community, or reactively, to respond to wrongdoing, conflicts, and problems. Circles can be used as a tool to teach social skills such as listening, respect, and problem solving. Circles provide people an opportunity to speak and listen to one another in a safe atmosphere and allow educators and students to be heard and offer their own perspectives. Circles can also be used to celebrate students, begin and end the day, and discuss difficult issues.*

⁹⁹ [Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools](#). The Atlantic Philanthropies, March 2014. Retrieved March 2018 from The Schott Foundation for Public Education, 675 Massachusetts Ave., Cambridge, MA 02139. <http://schottfoundation.org/restorative-practices>. Pg.3.

Preventative and post-conflict resolution programs: Conflict resolution programs provide students with problem-solving and self-control skills. These programs teach young people how to manage potential conflict, defuse situations, assuage hurt feelings, and reduce any inclination to retaliate after a conflict. Conflict resolution programs walk students through their emotions in the presence of one another and guide them through a team process of addressing the issues that gave rise to the conflict in the first instance. Because conflict resolution addresses and works to resolve the root causes of conflict, it helps prevent future incidents from occurring.

Peer mediation: One method of resolving conflict with student voice is through peer mediation. “Peer mediation is a demonstrably effective youth leadership model that trains students to help other students resolve differences. Peer mediation recognizes that students can utilize conflict resolution practices and social skills to play a leadership role in increasing peace and reducing violence in their school.”¹⁰⁰ Peer mediation has been shown to reduce discipline referrals, violence rates, and suspension rates.

Informal restorative practices: Informal restorative practices are small ways educators and other school personnel can influence a positive environment. Examples include the use of affective statements, which communicate people’s feelings, and affective questions, which cause people to reflect on how; proactive engagement with students and families; mentor relationships; community service; and lunchtime table talks.

Student Assistance Programming

As with many prevention and intervention strategies, Student Assistance Programming is a multi-tiered approach. Its goals are to prevent problems through education (Tier 1), to address existing problems by directing students to school-based or community services providers (Tier 2 and 3), as may be appropriate, and to monitor progress of students once they are referred for Tier 2 and 3 services.

Effective Student Assistance Programming:

- Provides a framework and process for managing the continuum of social, emotional, and mental health supports for all students and intervention for those in need.

¹⁰⁰ Education Systems Reform. (n.d.). *Middle School Peer Mediation*. Retrieved March 26, 2013, from <http://esrnational.org/professional-services/middle-school/prevention/peer-mediation/> as cited in [Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools](#). The Atlantic Philanthropies, March 2014.

- Engages students and parents at each level of prevention, intervention, and support services.
- Offers a systematic and flexible approach for integrating and sustaining evidence-based practices, programs, and strategies to enhance a positive school climate and safe school environment.
- Builds and maintains collaborative partnerships with multiple community stakeholders – e.g., law enforcement agencies, community service boards, other behavioral health service providers, social services, the faith community, youth and family service organizations, and prevention councils.
- Uses a data-driven decision making process conducted by a planning team in each school to assess needs and monitor interventions.
- Changes priorities as determined by relevant data and review of existing plans, curriculum, practices, programs, and strategies.

Additional Resources from the Virginia Department of Education:

The two Power Point series listed below provide an overview of the Student Assistance Programming framework at the division and school levels. It includes creating a tiered system of supports for students and parents through collaborative efforts within the school and with community entities.

[Student Assistance Programming: Creating Conditions for Teaching and Learning Part 1 – March 2012 \(PPT\)](#)

[Student Assistance Programming: Creating Conditions for Teaching and Learning Part 2 – April 2012 \(PPT\)](#)

School climate surveys provide significant data in determining need, selecting curriculum, programs, practices, and strategies and evaluating outcomes. The links below offer information on climate surveys.

- [National Center on Safe Supportive Learning Environments – School Climate Survey Compendium](#)
- [Teaching and Learning Survey – March 2012 \(PPT\)](#)

Student Assistance Teams are called by many names. Regardless of the name of the team, one of their responsibilities is to address the needs of students who are referred for supports to meet academic, social-emotional, or behavior concerns that are not being met by the Tier 1 structures within the school. When students who are experiencing difficulty in

the school are referred to the Student Assistance Programming Team (SAPT), the team problem-solves and creates an intervention plan with a monitoring process to address the students' needs. Depending on the resources, personnel, and community partnerships available, SAPT may recommend any number of evidence-based interventions and supports.

[The Student Assistance Programming: Creating Positive Conditions for Learning Manual](#) provides further detail for creating and sustaining Student Assistance Programming Teams.

Use of Exclusionary Settings within the School Setting

Most schools have exclusionary settings, like in-school suspension, that have traditionally been used as punitive consequences for student behavior. They are usually a setting within the school building that is used for temporary removal of a student from his or her regularly scheduled classes. Exclusionary settings may also include lunch or after-school detention. These forms of exclusion can be reframed and used as a time for students to reflect and adjust their behavior if they are provided with the appropriate setting and supports.

Exclusionary time within the school setting should be a time for learning, catching up on missed work, problem-solving, getting academic support/tutoring, meeting with counselors or social-emotional coaches. The school and school division should hire and train supervisory personnel who have the skills and knowledge to work with a variety of students. Traditionally a paraprofessional fills the role of supervisor in exclusionary settings at school. Paraprofessionals assigned to students in these settings should have excellent interpersonal skills, organizational skills, and appropriate training for implementing a program that supports students to return to their regularly scheduled classrooms with improved self-management skills. Teachers, school counselors, and mental health professionals should also be a part of a well-designed in-school exclusionary setting.

See the Administrative *Code of Virginia* [8VAC20-671-640](#) and 8VAC20-750. Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia. .

Homebound Services

The regulations and guidelines for homebound services are available in the [Virginia Department of Education Homebound Instructional Services Guidelines](#).

Recommended Criteria for Alternative Educational Programs

Alternative educational settings are typically developed locally and designed to meet the needs of a specific population of students. Regardless of the alternative educational setting, all divisions are encouraged to use the *Code of Virginia* [§ 22.1-209.1:2](#) criteria for evaluating regional alternative education programs. These criteria provide a standard, which can be

applied to determine the essential components of a quality alternative educational program developed by school divisions. The *Code of Virginia* and best practice research cite the following as essential components of an alternative educational setting:

- Specific criteria for student placement;
- Expectations for parent or guardian involvement in placement decisions and educational plans;
- Frequent review of placement decisions (at least yearly);
- Development of an alternative educational plan for each student;
- Interagency involvement to provide support services for students, including local departments of health and social services or welfare; the Juvenile and Domestic Relations District Court; law-enforcement agencies; institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards;
- Intensive, accelerated instructional program designed to meet the needs of the student so the student can meet the standards in Profile of a Graduate, including academic, social-emotional, and behavior standards;
- A low pupil teacher ratio;
- A plan for transitioning the students to their home schools, other division programs, community college programs, GED programs, or other appropriate educational settings; and
- Measureable goals and objectives of the program to assess its effectiveness at meeting students' academic, social-emotional, and behavioral needs and progress.

Link: [Alternative Education Models and Strategies, Hanover Research](#)

APPENDIX E: SAMPLE DOCUMENTS

Sample of a Statement on Diversity, Inclusion and Equity from the Urban School of San Francisco

From its founding, diversity, and access have been integral to the mission of the Urban School as reflected in one of our Core Values:

We honor the uniqueness of each individual and embrace diverse backgrounds, values, and points of view to build a strong, inclusive community and to prepare students for lives in a multicultural society.

The best education occurs in a school comprised of students, teachers, and families drawn from diverse socio-economic backgrounds, cultures, races, religions, and sexual orientations.

The Urban School has a larger public purpose to matriculate, educate, and graduate students who have been historically under-represented in independent schools.

A diverse school community alone is not enough. While the work of diversity and community always has been a part of the Urban School's mission, we seek to build on this commitment by striving to create a truly inclusive school; one where students and adults are welcomed and supported, and where their faces, voices, and experiences are reflected and valued. We believe that the work of inclusion is a responsibility held by all and done for all, person to person.

The Urban School is committed to providing every student an equal opportunity to participate and thrive in the academic and co-curricular programs.

The Urban School gives definition to this vision of a diverse, inclusive, and equitable community by encouraging and valuing:

1. **Equitable Access to School's Programs and Practices:** We implement programs and practices that provide equal access and enable all students to thrive academically, athletically, socially, and emotionally.
2. **Inclusive Teaching and Learning:** We examine and revise our curriculum and teaching practices as necessary to ensure that we are effective in reaching every student. We train our teachers to recognize and to understand the range of needs and learning styles among our students, and to hone their skills in building and sustaining an inclusive classroom.
3. **Personal Expression and Experience:** We affirm the uniqueness of each individual and value individual ways of existing in the world. We are committed to understanding how personal, cultural, and historic aspects of identity contribute to

and enrich our school community.

4. **Self-Reflection and Exploration:** We teach individuals to question their cultural viewpoints and assumptions and to modify them when appropriate. We are committed to exploring the shape of Urban's unique school culture to better understand the experiences of students and adults from diverse backgrounds as well as to challenge our own practices.
5. **Meaningful Interaction and Dialogue:** We challenge every individual to interact meaningfully with the entire school community and to learn from one another, honoring our differences while embracing shared values. We provide a safe environment that encourages expression of our differences in ways that invite dialogue and education rather than cause alienation. We encourage curiosity and inquiry so that we can learn from a diverse range of experiences and points of view.
6. **Community Involvement and Service:** We use the above practices to instill a consciousness of social justice, an ethic of citizenship, and a commitment to service. We teach and practice responsibility towards and engagement in our school, our larger community and the world.¹⁰¹

¹⁰¹ The Urban School of San Francisco. Statement on Diversity, Inclusion, and Equity. (2012) Retrieved October 2017 from [Urbanschool.org](https://www.urbanschool.org/uploaded/documents/StatementDiversityInclusionEquity.pdf) at <https://www.urbanschool.org/uploaded/documents/StatementDiversityInclusionEquity.pdf>

**Memorandum of Agreement between Community Services Board and School Division
Example**

This contract entered into the DATE, by and between School Division and Community Services, hereinafter referred to as Community Services Board (CSB) and School Division, hereinafter referred to as "XXPS."

In consideration of mutual covenants and stipulations set out herein, and whereas CSB represents that it is duly qualified and willing to perform the services set forth herein; now therefore, it is agreed:

- A. SCOPE OF SERVICES: Therapeutic day treatment, school based therapeutic counseling, including in home services will be provided for students through CSB. It will fill gaps to help students address non-school related needs and examine concerns that keep students from learning or being successful in a general classroom environment.
- B. Implementation of School-Based Clinicians, day treatment counselors, and other positions as agreed upon in XXPS schools. In order to implement the School-Based Clinician services, the following agreements are necessary for a successful collaboration:

CSB agrees to:

- A. Employ staff with qualifications for therapists, day treatment counselors, and case management positions cleared by annual background check.
- B. Be supervised by CSB School-Based Clinical Supervisor.
- C. Utilize Coordinator of Child and Family Services, NAME, as administrative contact for duration of the agreement.
- D. School Based Clinicians to serve a minimum of 25 students per year to include a caseload of 20-25 students who meet the established criteria.
- E. Work with and educate school staff around prevention and behavioral issues. Be available for outreach and crisis situations.
- F. Provide a computer compatible with XXPS system for all employees based in schools.
- G. Work with all appropriate school personnel in developing treatment plans for individual XXPS students that outlines agreed upon therapeutic goals designed to improve problem areas. The treatment plan will also define the estimated time-period required to accomplish the therapeutic goals successfully.

- H. Prepare appropriate paperwork for outside review when appropriate.
- I. Obtain written permission and appropriate release forms from the parent or guardian of any student with whom they are working in order to exchange information.
- J. CSB and XXPS will work together to define the roles and responsibilities of all school based mental health providers.
- K. CSB School Based Clinical Supervisors and administrators will be available to review program standards to identify and monitor the effectiveness of all programs and address barriers or issues as needed.
- L. CSB staff will conduct service coordination activities, to include meeting regularly with appropriate school staff to review progress and/or problems with compliance and responsiveness to therapeutic activities.

XXPS agrees to:

- A. Implement the service at School Division Public Schools as needed.
- B. Provide appropriate confidential conference space for the work of the clinicians with the students, parents, and/or school staff as appropriate.
- C. Utilize Coordinator of Child and Family Services, NAME, as the administrative contact for any administrative issues relevant to the program.
- D. Provide referrals through school administrator or school counselor.
- E. Provide administrative, guidance, and teaching personnel time for conferencing with the therapist and CSB personnel regarding daily and program expectations.
- F. Identify any school staff for liaison or reporting requirements (all counselors).
- G. Identify point of contact and liaison for schools (Judy Diggs) to conduct on-going conferences with CSB regarding expansion or reduction of the program.
- H. Provide internet access for clinicians as available.
- I. XXPS will identify students in need of services and provide program information to the parent(s) of these students.
- J. XXPS, in conjunction with CSB, will utilize an entry and exit criteria for the different levels of supports and services provided and identify the data used to assess student progress at each level.

RESPONSIBILITIES OF THE PARTIES: Each party shall be responsible for any and all claims, suits, actions, liabilities, and cost of any kind as a result of its negligence or intentional wrongdoing pursuant to this agreement. Nothing in this agreement shall be construed as a waiver of sovereign immunity.

TIME OF PERFORMANCE: July 1, 2017 to June 30, 2018

GENERAL PROVISIONS: Nothing in this agreement shall be construed as authority or either party to make commitments that will bind the other party beyond the Scope of Services contained herein. Furthermore, CSB shall not assign, sublet, or subcontract any work related to this agreement or any interest it may have herein without the prior written consent of the XXPS.

INTEGRATION AND MODIFICATION: This agreement constitutes the entire agreement between CSB and XXPS regarding the school based clinicians. No alteration, amendment, or modification in the provisions of this agreement shall be effective unless reduced to writing, signed by the parties and attached hereto.

CONFIDENTIALITY: All information concerning a mutual client will be exchanged only in accordance with both State and Federal Law and the respective guidelines of each party regarding confidentiality.

ADMINISTRATIVE DISPUTE RESOLUTION PROCEDURE: Disputes under this agreement shall be submitted and processed in accordance with Sections §§ 2.2-4363 through

2.2-4367 of the *Code of Virginia* as outlined in the *Virginia Public Procurement Act*.

CANCELLATION OF AGREEMENT: Either party may terminate this agreement for cause with sixty days written notice to the other party.

SIGNATURES

DIRECTOR CSB

SUPERINTENDENT XXPS

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.
4. A copy of the Acceptable Use of Internet and Technologies Policy.

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 Commonwealth of 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 DATE:

APPENDIX F: GUN FREE SCHOOL REQUIREMENTS

Link: [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 one 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.

APPENDIX G: RELATED RESOURCE MATERIALS, PUBLICATIONS, AND WEBSITES

Resources to Support Equitable Approaches to Discipline

[A guide for administrators, counselors and teachers - Responding to Hate and Bias at School](#). A project of the Southern Poverty Law Center, 400 Washington Avenue, Montgomery, Alabama 36104.

[A 5-Point Intervention Approach for Enhancing Equity in School Discipline](#): McIntosh, K., Girvan, E. J., Horner, R. H., Smolkowski, K., & Sugai, G. (2018). A 5-point intervention approach for enhancing equity in school discipline. OSEP Technical Assistance Center on Positive Behavioral Interventions and Supports.

[Addressing the root causes of disparities in school discipline: An educator's action planning guide](#). National Center on Safe and Supportive Learning Environments.

[Annie E. Casey Foundation website](#).

[Center for Children's Law and Policy website](#).

[Closing the Gap, Creating Equity in the Classroom](#), Hanover Research, 2017.

National Academies of Sciences, Engineering, and Medicine. (2019). *Monitoring Educational Equity*. Washington, DC: The National Academies Press.

National Academies of Sciences, Engineering, and Medicine. (2020). *Building Educational Equity Indicator Systems: A Guidebook for States and School Districts*. Washington, DC: The National Academies Press.

[Office of Juvenile Justice and Delinquency Prevention: Disproportionate Minority Contact programs website](#).

[Professional Development Tips for Developing Cultural Competence](#), Hanover Research, January 17, 2018.

[Learning for Justice website](#).

[The W. Haywood Burns Institute for Justice Fairness and Equity website](#).

[National Center for Restructuring of Education, Schools, and Teaching \(NCREST\) website](#).

[Virginia is for Learners website](#)

Links to School Safety and Crisis Management Resources

[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 \(May 2004\).](#)

[Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Protocols](#)

Code of Virginia § 22.1-79.4. Threat assessment teams and oversight committees.

[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

[Office of Safe and Healthy Students in the Office of Elementary and Secondary Education at U.S. Department of Education](#)

[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](#)

[The Virginia Educator's Guide for Planning and Conducting School Emergency Drills. Virginia](#)

[Department of Criminal Justice Services](#)

The [Virginia Center for Campus and School Safety](#) website provides information 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

Links to Related Federal Regulations, and Non-regulatory Guidance

[Regulations Governing Special Education Programs for Children with Disabilities in Virginia \(2010\). Virginia Department of Education. Link: Section 8 VAC 20-81-160](#) - Discipline Procedures (p. 80.)

[U.S. Department of Education, School Climate and Laws](#) (Includes information on how schools can meet their obligations under federal law to administer student discipline without discriminating on the basis of race, color, or national origin.)

[Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act \(January 22, 2004\)](#). U.S. Department of Education.

[Unsafe School Choice Option Non-Regulatory Guidance \(May 2004\)](#). U.S. Department of Education.

Links to Resources for Preventing and Managing Student Discipline Problems

U.S. Department of Education, [Guiding Principles: A Resource Guide for Improving School Climate and Discipline](#), Washington, D.C., 2014.

[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

Community Collaboration: [The Intersection of Juvenile Courts and Exclusionary School Discipline](#)

Community Collaboration: [School Pathways to the Juvenile Justice System Project: A Practice Guide](#)

[Character Education](#), 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 School wide Discipline in Virginia \(2008\)](#) (AKA Positive Behavioral Interventions and Supports) Virginia Department of Education web page

[Virginia Tiered Systems of Supports](#) website and publications

[Resources for Prevention and Intervention for Student Attendance](#), Virginia Department of Education web page

[National School Climate Center](#) website

[Virginia Tiered Systems of Supports](#) website and publications

[Safe Supportive Schools](#) U.S. Department of Education website

[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

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[A Guide for Administrators, Counselors and Teachers - Responding to Hate and Bias at School](#). A project of the Southern Poverty Law Center, 400 Washington Avenue, Montgomery, Alabama 36104. Retrieved December 2020 from https://www.learningforjustice.org/sites/default/files/general/Responding%20to%20Hate%20at%20School%20ONLINE_3.pdf

[A Model Code on Education and Dignity: Presenting a Human Rights Framework for Schools](#). Dignity in Schools, (October 2013) Retrieved October 2017 from Dignity in Schools: <http://dignityinschools.org/wp-content/uploads/2017/10/Model Code 2013-1.pdf>.

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