

STUDENT SUSPENSION/EXPULSION

I. DEFINITIONS

As used in this Policy,

“Alternative education program” shall include, but shall not be limited to, night school, adult education, or another education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

“Destructive device” means (1) 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; (2) 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 Va. Code § 18.2-299 or any firearm prohibited from civilian ownership by federal law; and (3) any combination of parts either designed or intended for use in converting any device into any destructive device described herein and from which a destructive device may be readily assembled. “Destructive device” shall 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 Va. Code § 18.2-308.2.2.

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

“Exclusion” means a 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 thirty calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.

“Expulsion” means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.

“Firearm” means any weapon prohibited on school property or at a school-sponsored activity pursuant to Va. Code § 18.2-308.1, or (1) 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; (2) the frame or receiver of any such weapon; or (3) any unloaded firearm in a closed container.

“Firearm” does not include any pneumatic gun as defined in this Policy.

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

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

“Pneumatic gun” means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. “Pneumatic gun” includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

“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.

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

II. SUSPENSIONS AND EXPULSIONS OF STUDENTS GENERALLY

Pupils may be suspended or expelled from attendance at school for sufficient cause; however, in no case may sufficient cause for suspension include only instances of truancy.

Any student for whom the division superintendent of the school division in which the student is enrolled has received a report pursuant to Va. Code § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of Va. Code § 16.1-260 may be suspended or expelled from school attendance.

The authority of teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of this Policy.

III. SHORT-TERM SUSPENSIONS

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 is practical 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 unless the school board has provided by regulation that the decision of the division superintendent or his designee shall be final.

Any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days shall 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.

IV. LONG-TERM SUSPENSION

A pupil may be suspended from attendance at school for more than ten days after written notice is provided 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 the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within thirty days.

The written notice of a suspension for more than ten days shall include notification of the length of the suspension and 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 herein 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.

V. EXPULSION

A. Generally

Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefore and of the right to a hearing before the school board in accordance with the regulations of the school board. The regulations shall provide for subsequent confirmation or disapproval of the proposed expulsion by the school board regardless of whether the pupil has exercised the right to a hearing.

The written notice given to the pupil and his parent shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. The notice shall also state 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, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.

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

If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

The school board shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that any initial petition for readmission will be reviewed by the school board or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent denies such petition, the student may petition the school board for review of such denial.

B. Conduct Giving Rise to Expulsion

Recommendations for expulsions for actions other than those specified below shall be based on consideration of the following factors:

- the nature and seriousness of the conduct;
- the degree of danger to the school community;
- the student's disciplinary history, including the seriousness and number of previous infractions;
- the appropriateness and availability of an alternative education placement or program;
- the student's age and grade level;
- the results of any mental health, substance abuse, or special education assessments;
- the student's attendance and academic records; and
- other appropriate matters.

No decision to expel a student shall be reversed on the grounds that such factors were not considered. Nothing in this subsection shall be deemed to preclude a school board from considering any of the factors listed above as "special circumstances" for purposes of expulsions discussed in the following subsections.

Firearms

The school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined to have possessed a firearm on school property or at a school-sponsored activity as prohibited by Va. Code § 18.2-308.1, or to have possessed a firearm or destructive device as defined in this policy, a firearm muffler or firearm silencer, or a pneumatic gun as defined in this policy 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.

The exemptions set out in Va. Code § 18.2-308 regarding concealed weapons shall apply, *mutatis mutandis*, to the provisions of this Policy. The provisions of this policy 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.

Drug Offenses

The school board shall expel from school attendance any student whom the school board has determined to have brought a controlled substance, imitation controlled substance, or marijuana as defined in Va. Code § 18.2-247, or synthetic cannabinoids as defined in § 18.2-248.1:1 onto school property or to a school-sponsored activity. The

school board may, however, determine, based on the facts of the particular case that special circumstances exist and another disciplinary action is appropriate.

C. Procedure for School Board Hearing

The procedure for the School Board hearing shall be as follows:

- The School Board shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. The hearing shall be private unless otherwise specified by the School Board.
- The School Board may ask for opening statements from the principal or his representative and the student or his parent(s) (or their representative) and, at the discretion of the School Board, may allow closing statements.
- The parties shall then present their evidence. Because the principal has the ultimate burden of proof, he shall present his evidence first. Witnesses may be questioned by the School Board members and by the parties (or their representative). The School Board may, at its discretion, vary this procedure, but it shall afford full opportunity to both parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination provided, however, that the School Board may take the testimony of student witnesses outside the presence of the student, his parent(s) and their representative if the School Board determines, in its discretion, that such action is necessary to protect the student witness.
- The parties shall produce such additional evidence as the School Board may deem necessary. The School Board shall be the judge of the relevancy and materiality of the evidence.
- Exhibits offered by the parties may be received in evidence by the School Board and, when so received, shall be marked and made part of the record.
- The School Board may, by majority vote, uphold, reject or alter the recommendations.
- The School Board shall transmit its decision, including the reasons therefore, to the student, his parent(s), the principal and superintendent.

VI. ALTERNATIVE EDUCATION PROGRAM

The school board may require any student who has been (1) charged with an offense relating to the laws of Virginia, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person, or with an offense that is required to be disclosed to the superintendent of the school division pursuant to Va.

Code § 16.1-260.G; (2) found guilty or not innocent of an offense relating to Virginia's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to Va. Code § 16.1-260.G; (3) found to have committed a serious offense or repeated offenses in violation of school board policies; (4) suspended pursuant to Va. Code § 22.1-277.05; or (5) expelled pursuant to Va. Code § 22.1-277.06, 22.1-277.07, or 22.1-277.08 or subsection B of Va. Code § 22.1-277, to attend an alternative education program. The School Board may require such student to attend such programs regardless of where the crime occurred. The School Board may require any student who has been found to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, 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.

A principal (or his designee) may impose a short-term suspension, pursuant to Va. Code § 22.1-277.04, upon a student who has been charged with an offense involving intentional injury enumerated in Va. Code § 16.1-260.G, to another student in the same school pending a decision as to whether to require that such student attend an alternative education program.

As used herein, "charged" means that a petition or warrant has been filed or is pending against a pupil.

VII. REPORTING

- A. Except as may otherwise be required by federal law, regulation, or jurisprudence, reports shall be made to the division superintendent and to the principal or his designee on all incidents involving
- (1) 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;
 - (2) the assault and battery which results in a bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in Va. Code § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity;
 - (3) any conduct involving alcohol, marijuana, synthetic cannabinoids as defined in § 18.2-248.1:1, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;
 - (4) any threats against school personnel while on a school bus, on school property, or at a school-sponsored activity;
 - (5) the illegal carrying of a firearm as defined in Va. Code § 22.1-277.07 onto school property;

- (6) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in Va. Code § 18.2-85 or explosive or incendiary devices, as defined in Va. Code § 18.2-433.1, or chemical bombs, as described in Va. Code § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity;
 - (7) any threats or false threats to bomb, as described in Va. Code § 18.2-83, made against school personnel or involving school property or school buses;
 - (8) 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; and
 - (9) any illegal possession of weapons, alcohol, drugs, or tobacco products.
- B. The division superintendent and the principal or his designee shall receive reports made by local law enforcement authorities 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, Va. Code § 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 the clauses (1) through (8) of subsection VII.A. of this policy, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. A 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 Va. Code § 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 subsection VII.A.(1-8) of this policy to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education.
- 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 VII.B. of this policy.
- D. The principal or his designee shall also notify the parent of any student involved in an incident required by this subsection 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.
- E. Whenever any student commits any reportable incident as set forth in this subsection, 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 drug and alcohol 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).

- F. Except as may otherwise be required by federal law, regulation, or jurisprudence, a principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (2) through (7) of subsection VII.A. of this policy that may constitute a criminal offense and may report to the local law enforcement agency any incident described in clause (1) of subsection VII.A. of this policy.

In addition, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (2) through (5) of subsection VII.A of this policy that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

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

VIII. RE-ADMISSION OF SUSPENDED AND/OR EXPELLED STUDENTS

Any student who has been suspended from a school of this division is not eligible to attend any other school within the division until eligible to return to his or her regular school.

Any student who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance in the Essex Schools, in accordance with Policy JEC (G). In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to Va. Code § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

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 re-admission, without parent conference, is appropriate for the student.

If the parent fails to comply with this policy or Policy JEC, the School Board may ask the Juvenile and Domestic Relations Court to proceed against the parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior.

Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board or superintendent or his designee, as the case may be at the relevant hearing, the student may re-petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

The school board may permit students excluded pursuant to this subsection to attend an alternative education program provided by the school board for the term of such exclusion.

IX. DISCIPLINING STUDENTS WITH DISABILITIES

Students with disabilities shall be disciplined in accordance with Policy JGDA.

Adopted: April 9, 2012

Legal Ref.: 20 U.S.C. § 7151

Code of Virginia, 1950, as amended, §§ 15.2-915.4, 16.1-260, 18.2-119, 18.2-308.1, 18.2-308.7, 18.2-308.2:2, 22.1-200.1, 22.1-254, 22.1-276.01, 22.1-276.2, 22.1-277, 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, 22.1-277.07:1, 22.1-277.08, 22.1-277.2, 22.1-277.2:1, 22.1-279.3:1.

8 VAC 20-560-10.

Cross Refs.:	BCEA	Disciplinary Committee
	IGBH	Alternative School Programs
	JEC	School Admission
	JFC-R	Standards of Student Conduct
	JFCD	Weapons in School
	JGDA	Disciplining Students with Disabilities
	JGDB	Discipline of Students with Disabilities for Infliction of Serious Bodily Injury