

STUDENT SUSPENSION/EXPULSION

I. DEFINITIONS

As used in this Policy,

“Alternative education program” includes 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” 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 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 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 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days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.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 (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 11 to 45 school days. A long-term suspension may extend beyond a 45-school-day period but shall not exceed 364 calendar days if:

1. The offense involves possession of a firearm, destructive device, firearm muffler, firearm silencer, or pneumatic gun on school property or at or at a school-sponsored activity;
2. The offense involves possession of a controlled substance or imitation controlled substance as those terms are defined in Va. Code § 18.2-247 on school property or at or at a school-sponsored activity;
3. The offense involves serious bodily injury; or
4. The Superintendent or the Superintendent's Designee finds that aggravating circumstances exist, as defined by the Virginia Department of Education.

"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.

"Superintendent's designee" means a 1) trained hearing officer or 2) professional employee in the administrative offices of the school division who reports directly to the superintendent and who is not a school-based instructional or administrative employee.

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.

No student in preschool through grade 3, may be expelled or suspended for more than three school days unless:

1. The student has been adjudicated delinquent or convicted of one of the offenses listed in subsection G of § 16.1-260 of the Code of Virginia;

2. The offense involves possession of a firearm, destructive device, firearm muffler, firearm silencer, or pneumatic gun on school property or at or at a school-sponsored activity;

3. The offense involves possession of a controlled substance or imitation controlled substance as those terms are defined in Va. Code § 18.2-247 on school property or at or at a school-sponsored activity;

4. The offense involves physical harm or credible threat of physical harm to others; or

5. The Superintendent or the Superintendent's Designee finds that aggravating circumstances exist, as defined by the Virginia Department of Education.

Any student for whom the 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

The principal or assistant principal may suspend a student out of school for ten days or less using the following procedures.

1. Informal Hearing

Except in an emergency situation requiring the student's immediate removal, no student shall be suspended from school prior to having an informal hearing before the principal or assistant principal. At such an informal hearing, the student shall be informed as to the charges and given an opportunity to respond. If the student denies the charges, the principal or assistant principal shall give the student an explanation of the evidence supporting the charges and an opportunity to explain his/her version of the facts. If appropriate, the principal or assistant principal may conduct a further investigation into the matter before taking action.

In emergency situations where a student's presence may pose a continuing danger to persons or property, or an ongoing threat of disrupting the academic process, a student may be suspended from school immediately without the informal hearing set forth above. In such cases, the student shall be accorded the informal hearing as soon as practicable.

2. Notice of Suspension

Once a decision to suspend is made, the principal or assistant principal shall observe the procedures listed below:

- (a) The principal or assistant principal shall notify the parent/guardian and student in writing of the suspension and the reasons therefor. The written notice shall also state any conditions of the suspension, e.g., required parental conference, prohibition on coming onto school property, and the date that the student may return to school. A copy of the written notice of the suspension shall also be transmitted by the principal or assistant principal to the Superintendent/designee.
- (b) The written notice shall also inform the parent/guardian that the suspension decision may be subject to review on the record by the Superintendent/designee if requested in writing within three school days of receipt of the notice of suspension.

3. Review of Suspensions of Ten School Days or Less

Upon written request of the parent/guardian within three school days of notice of the suspension, the Superintendent/designee shall conduct a review of the suspension on the record. The failure to request a review of the suspension in writing within the prescribed time will constitute a waiver of the right to a review of the short-term suspension. The Superintendent/designee shall conduct a review of the suspension and give written notice of his decision to the parent. The Suspension shall remain in place during the review process. The decision of the Superintendent/designee upon such review shall be final and is not subject to appeal.

4. Suspension of Ten School Days or Less Coupled with Recommendation for Long-Term Suspension or Expulsion

If, in addition to suspending a student for ten school days or less, the principal or assistant principal recommends long-term suspension and/or expulsion, the below procedures for long-term suspension and/or expulsion shall be observed in addition to the above procedure for short-term suspensions.

IV. LONG-TERM SUSPENSION

1. Procedures Governing Long-Term Suspensions

If a student is recommended for long-term suspension, the following procedures shall be observed:

- (a) The principal or assistant principal shall notify the student's parent/guardian and the student in writing of the recommendation for long-term suspension and the reasons therefor.
- (b) A copy of the written notice of the recommendation for long-term suspension shall also be transmitted to the Superintendent/designee.
- (c) The Superintendent/designee will conduct a hearing, in accordance with the hearing procedure set forth in subparagraph (1)(e) below, within ten school days of the recommendation, unless the student and his/her parent/guardian agree to an extension of time for conducting the hearing.
- (d) The Superintendent/designee may uphold the recommendation or recommend various forms of other disciplinary action, including, but not limited to, disciplinary probation, community service work assignments, placement in alternative education programs, or referral to other public agencies.
- (e) The procedure for the hearing before the Superintendent/designee shall be as follows:
 - (i) The Superintendent/designee 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 Superintendent/designee.
 - (ii) The Superintendent/designee may ask for opening statements from the principal or his representative and the student or his parent or their representatives. The Superintendent/designee, in his discretion, may also allow closing arguments at the conclusion of the hearing.
 - (iii) The parties shall then present their evidence. Because the principal has the ultimate burden of proof, he shall present his evidence first. After the principal concludes his evidence, the student shall present his evidence. Witnesses may be questioned by the Superintendent/designee and by the

parties or their representatives. The Superintendent/designee may, in his discretion, vary this procedure, but it shall afford full opportunity to both parties the right of cross examination; provided, that the Superintendent/designee may take testimony of student witnesses outside the presence of the student, his parent and their representative if the Superintendent/designee determines, in his discretion, that such action is necessary to protect the student witness.

- (iv) The parties shall produce such other evidence as the Superintendent/designee may deem necessary. The Superintendent/designee shall be the judge of the relevancy and materiality of the evidence.
- (v) Exhibits offered by the parties may be received in evidence by the Superintendent and, when so received, shall be marked and made a part of the record.
- (vi) The Superintendent/designee may uphold, reject or alter the recommendation.
- (vii) The Superintendent/designee shall transmit his decision to the student, the student's parent/guardian, and the principal.

2. Appeal of Long-Term Suspension

If the Superintendent/designee decides to long-term suspend the student, the principal, the student, and the student's parent/guardian shall be advised in writing of the decision and of the student's right to appeal the decision to the School Board. The appeal must be made in writing to the Superintendent or designee within 5 school days from the date of the Superintendent or designee's decision or the right to appeal to the School Board will be waived. Upon a timely appeal, the School Board will decide the appeal on the record within 30 days of the appeal.

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

1. Procedures Governing Expulsion

If a student is recommended for expulsion, the following procedures shall be observed:

- (a) The principal or assistant principal shall notify the student's parent/guardian and the student in writing of the recommendation for expulsion and the reasons therefor.
- (b) A copy of the written notice of the recommendation for expulsion shall also be transmitted to the Superintendent/designee.
- (c) Once the Superintendent/designee receives notification of a recommendation for expulsion, he/she shall conduct a hearing to determine whether to recommend expulsion to the School Board. The Superintendent/designee may impose a lesser sanction. If the Superintendent/designee upholds the recommendation of expulsion, the student shall be suspended until the matter is decided by the School Board.

If the Superintendent decides to recommend a lesser disciplinary action for an offense which carries a mandatory recommendation to the School Board of expulsion and the student and parent/guardian agree to such action, the student and parent/guardian shall indicate, in writing, their agreement to the imposition of such action without further hearing or appeal. The Superintendent shall present such recommendation to the School Board for its consideration. In the event the School Board refuses to accept the Superintendent's recommendation of lesser action, the Superintendent shall notify the student and parent/guardian of such refusal and of the right of the student and parent/guardian to a hearing before the School Board upon the original recommendation of expulsion.

- (d) Recommendations of expulsion shall be heard by the School Board. A student will only be expelled upon the vote of the majority vote of the School Board.
- (e) The procedure for the hearing before the School Board shall be as follows:
 - (i) 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.
 - (ii) The School Board may ask for opening statements from the principal or his representative and the student or his parent or their representatives. The School Board, in its discretion, may also allow closing arguments at the conclusion of the hearing.

- (iii) The parties shall then present their evidence. Because the principal has the ultimate burden of proof, he shall present his evidence first. After the principal concludes his evidence, the student shall present his evidence. Witnesses may be questioned by the School Board members and by the parties or their representatives. The School Board may, in its discretion, vary this procedure, but it shall afford full opportunity to both parties the right of cross examination; provided, that the School Board may take testimony of student witnesses outside the presence of the student, his parent and their representative if the School Board determines, in its discretion, that such action is necessary to protect the student witness.
- (iv) The parties shall produce such other evidence as the School Board may deem necessary. The School Board shall be the judge of the relevancy and materiality of the evidence.
- (v) Exhibits offered by the parties may be received in evidence by the School Board and, when so received, shall be marked and made a part of the record.
- (vi) The School Board may, by majority vote, uphold, reject, or alter the recommendation.
- (vii) The School Board shall transmit its decision to the student, the student's parent/guardian, the principal, and the Superintendent.
- (viii) A student who has been expelled from school by the School Board may file a written petition for readmission with the Superintendent no less than 300 and no more than 320 days after the effective date of the expulsion. The School Board will consider and act upon such petition prior to the expiration of 365 days from the effective date of the expulsion. If the petition is denied, subsequent petitions for readmission may be filed a year later unless a different time period is set by the School Board when ruling on the initial petition for readmission.

VI. ALTERNATIVE EDUCATION PROGRAM

The School Board may, in accordance with the procedures set forth in this policy for long-term suspensions or expulsions require any student who has been (a) charged with an offense relating to the Commonwealth's laws, or with a violation of School Board policies, on weapons, alcohol or drugs, or intentional injury to another person; (b) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to Va. Code § 16.1-260(G); (c) found to have committed a serious offense or repeated offenses in violation of School Board policies; or (d) suspended or expelled pursuant to School Board policies, to attend an alternative education program. The School Board may require such student to attend an alternative education program regardless of where the crime occurred. The School Board may also 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.

As used in this section, the terms "charged" means that a petition or warrant has been filed or is pending against a pupil, and "alternative education program" shall include, but shall not be limited to, 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.

The Superintendent/designee is authorized to require the student to attend an alternative education program consistent with the above provisions after providing (i) a written notice to the student and the student's parent/guardian that the student will be required to attend an alternative education program and (ii) a notice of the opportunity for the student or the student's parent/guardian to participate in a hearing to be conducted by the Superintendent/designee regarding such placement. The decision of the Superintendent/designee regarding such alternative education placement shall be final unless altered by the School Board, upon timely written petition, established for appeals of long-term suspensions, by the student or the student's parent/guardian, for a review of the record by the School Board.

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

VII. REPORTING

- A. Except as may otherwise be required by federal law, regulation or jurisprudence, reports are made to the superintendent and to the principal or principal's 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, abduction of any person as described in Va. Code § 18.2-47 or Va. Code § 18.2-48, 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, 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 superintendent and the principal or principal's designee 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 reports such information to the principal of the school in which the juvenile is enrolled.

- C. The principal or principal's designee submits a report of all incidents required to be reported pursuant to subsection VII.A.(1-8) of this policy to the superintendent. The superintendent annually reports all such incidents to the Department of Education.

In submitting reports of such incidents, principals and superintendents 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 principal's designee also notifies 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 relates to only the relevant student's involvement and does not include information concerning other students.
- E. Whenever any student commits any reportable incident as set forth in this subsection, such student is required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or superintendent's designee.
- F. Except as may otherwise be required by federal law, regulation or jurisprudence, a principal immediately reports 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 also immediately reports 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 reports 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 Westmoreland County Schools, in accordance with Policy JEC School Admission. 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 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 School Board shall not impose additional conditions for readmission to school.

No suspended student is 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 principal's 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 School Admission, 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 superintendent's 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 are disciplined in accordance with Policy JGDA Disciplining Students with Disabilities.

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Legal Refs.: 20 U.S.C. § 7961.

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.:	IGBH	Alternative School Programs
	JEC	School Admission
	JFC	Student Conduct
	JFCD	Weapons in School
	JGDA	Disciplining Students with Disabilities
	JGDB	Discipline of Students with Disabilities for Infliction of Serious Bodily Injury
	KG	Community Use of School Facilities