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HOUSE BILL NO. 2512

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Education and Health
 on February 15, 2001)

(Patron Prior to Substitute—Delegate Reid)

A BILL to amend and reenact §§ 8.01-47, 9-6.14:4.1, 16.1-293, 22.1-202, 22.1-254, 22.1-266, 22.1-276.2, 22.1-277, 22.1-277.2, and 22.1-279.3 of the Code of Virginia, to amend the Code of Virginia by adding a sections numbered 22.1-4.3, 22.1-79.3, 22.1-203.2, 22.1-276.01, 22.1-277.04 through 22.1-277.08, 22.1-277.2:1, 22.1-279.3:1, 22.1-279.6 through 22.1-279.9, and 22.1-280.4, and to repeal §§ 22.1-276, 22.1-277.01, 22.1-277.01:1, 22.1-277.01:2, 22.1-277.02, 22.1-277.02:1, 22.1-277.03, 22.1-277.1, 22.1-278, 22.1-278.1, 22.1-278.2, 22.1-278.3, 22.1-279.5, 22.1-280.1, and 22.1-280.3 of the Code of Virginia, relating to student discipline.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-47, 9-6.14:4.1, 16.1-293, 22.1-202, 22.1-254, 22.1-266, 22.1-276.2, 22.1-277, 22.1-277.2, and 22.1-279.3 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 22.1-4.3, 22.1-79.3, 22.1-203.2, 22.1-276.01, 22.1-277.04 through 22.1-277.08, 22.1-277.2:1, 22.1-279.3:1, 22.1-279.6 through 22.1-279.9, and 22.1-280.4 as follows:

§ 8.01-47. Immunity of school personnel investigating or reporting certain incidents.

In addition to any other immunity he may have, any teacher, instructor, principal, school administrator, school coordinator, guidance counselor or any other professional, administrative or clerical staff member or other personnel of any elementary or secondary school, or institution of higher learning who, in good faith with reasonable cause and without malice, acts to report, investigate or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving bomb threats, firebombs, explosive materials or other similar devices as described in clauses (v) and (vi) of § ~~22.1-280.4~~22.1-279.3:1 A, or alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity, shall be immune from all civil liability that might otherwise be incurred or imposed as the result of the making of such a report, investigation or disclosure.

§ 9-6.14:4.1. Exemptions and exclusions.

A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.

6. Educational institutions operated by the Commonwealth, provided that, with respect to § 9-6.14:22, such educational institutions shall be exempt from the publication requirements only with respect to regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

8. The Virginia Resources Authority.

9. Agencies expressly exempted by any other provision of this Code.

10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments to the Formulary pursuant to § 32.1-81.

11. [Repealed.]

12. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.1-526.14.

13., 14. [Repealed.]

15. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23-9.6:2.
16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.1-726.
17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4, subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and subsection A of § 3.1-884.21:1.
18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating amendments to the Physician Assistant Formulary established pursuant to § 54.1-2952.1.
20. The Virginia War Memorial Foundation.
21. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
22. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-280.322.1-203.2.
23. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in matters related to any specific race meeting.
24. The Virginia Small Business Financing Authority.
25. The Virginia Economic Development Partnership Authority.
26. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.
27. The Insurance Continuing Education Board pursuant to § 38.2-1867.
28. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35.
29. The Virginia Racing Commission in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.
- B. Agency action relating to the following subjects is exempted from the provisions of this chapter:
1. Money or damage claims against the Commonwealth or agencies thereof.
 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
 3. The location, design, specifications or construction of public buildings or other facilities.
 4. Grants of state or federal funds or property.
 5. The chartering of corporations.
 6. Customary military, naval or police functions.
 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
 8. The conduct of elections or eligibility to vote.
 9. Inmates of prisons or other such facilities or parolees therefrom.
 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
 11. Traffic signs, markers or control devices.
 12. Instructions for application or renewal of a license, certificate, or registration required by law.
 13. Content of, or rules for the conduct of, any examination required by law.
 14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter 14 of Title 2.1.
 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are published and posted.
 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1.
 18. The regulations for the implementation of the Health Practitioners' Intervention Program and the activities of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.
 19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1.
 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4

(§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed

183 general permit.

184 12. General permits issued by the State Water Control Board pursuant to the State Water Control
185 Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et
186 seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance
187 with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the
188 publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed
189 of relevant stakeholders, including potentially affected citizens groups, to assist in the development of
190 the general permit, (iii) provides notice and receives oral and written comment as provided in subsection
191 F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

192 13. The development and issuance by the Board of Education of guidelines on constitutional rights
193 and restrictions relating to the recitation of the pledge of allegiance to the American flag in public
194 schools pursuant to § 22.1-202.

195 14. Regulations of the Board of the Virginia College Savings Plan promulgated pursuant to
196 § 23-38.77.

197 15. The development and issuance of general wetlands permits by the Marine Resources Commission
198 pursuant to subsection B of § 28.2-1307 if the Commission: (i) provides a Notice of Intended Regulatory
199 Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of
200 thirty days from publication of the Notice of Intended Regulatory Action forms a technical advisory
201 committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in
202 the development of the general permit, (iii) provides notice and receives oral and written comment as
203 provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed
204 general permit.

205 Whenever regulations are adopted under this subsection, the agency shall state as part thereof that it
206 will receive, consider and respond to petitions by any interested person at any time with respect to
207 reconsideration or revision. The effective date of regulations adopted under this subsection shall be in
208 accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall
209 become effective as provided in subsection B of § 9-6.14:9.

210 D. The following agency actions otherwise subject to this chapter are excluded from the operation of
211 Article 3 (§ 9-6.14:11 et seq.) of this chapter:

212 1. The assessment of taxes or penalties and other rulings in individual cases in connection with the
213 administration of the tax laws.

214 2. The award or denial of claims for workers' compensation.

215 3. The grant or denial of public assistance.

216 4. Temporary injunctive or summary orders authorized by law.

217 5. The determination of claims for unemployment compensation or special unemployment.

218 6. The suspension of any license, certificate, registration or authority granted any person by the
219 Department of Health Professions or the Department of Professional and Occupational Regulation for the
220 dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used
221 in payment of a fee required by statute or regulation.

222 E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject
223 to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

224 F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia
225 Register Act, is excluded from the operation of subdivision C 5 of this section and of Article 2
226 (§ 9-6.14:7.1 et seq.) of this chapter.

227 G. A regulation for which an exemption is claimed under this section and which is placed before a
228 board or commission for consideration shall be provided at least two days in advance of the board or
229 commission meeting to members of the public that request a copy of that regulation. A copy of that
230 regulation shall be made available to the public attending such meeting.

231 H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of
232 exemptions and exclusions authorized by this section. The purpose of this review shall be to assess
233 whether there are any exemptions or exclusions which should be discontinued or modified.

234 I. Minor changes to regulations being published in the Virginia Administrative Code under the
235 Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code
236 Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

237 § 16.1-293. Supervision of juvenile during commitment and on parole; placing juvenile in halfway
238 house.

239 At such time as the court commits a juvenile to the Department, it shall determine whether the
240 juvenile and domestic relations district court service unit or the local department of public welfare or
241 social services shall maintain contact with the juvenile during the juvenile's commitment. Except in
242 exceptional cases, the court shall designate the local department to maintain contact with the juvenile
243 during commitment only when the juvenile was in the custody of the local department immediately prior
244 to his commitment to the Department. The Department shall return a juvenile to the previously

designated local supervising agency and shall consult with the local supervising agency two weeks prior to such release on parole supervision concerning return of the juvenile to the local agency, unless there is an agreement for an earlier release. However, when any juvenile is committed to the Department by a circuit court, the juvenile may, upon request of the judge, be returned to the committing court by the Department.

The local supervising agency shall furnish the juvenile a written statement of the conditions of his parole and shall instruct him regarding the same. The conditions of the reenrollment plan may be included in the conditions of parole. Violations of parole shall be heard by the court pursuant to § 16.1-291. The director of the supervising agency may approve termination of parole supervision.

The Department shall notify the school division superintendent in the locality where the juvenile was enrolled of his commitment to a facility. The court services unit or local department of public welfare or social services shall, in consultation with the Department of Correctional Education, the local school division, and the juvenile correctional counselor, develop a reenrollment plan if the juvenile is of compulsory school attendance age or is eligible for special education services pursuant to § 22.1-213. The reenrollment plan shall be in accordance with regulations adopted by the Board of Education pursuant to § 22.1-17.1. The superintendent shall provide the juvenile's scholastic records, as defined in § 22.1-289, and the terms and conditions of any expulsion which was in effect at the time of commitment or which will be in effect upon release. A court may not order a local school board to reenroll a juvenile who has been expelled in accordance with § ~~22.1-277~~ *the procedures set forth in § 22.1-277.06*. At least fourteen days prior to the juvenile's scheduled release, the Department shall notify the school division superintendent in the locality where the juvenile will reside.

In the event it is determined by the juvenile and domestic relations district court that a juvenile may benefit from placement in the halfway house program operated by the Department, the juvenile may be referred for care and treatment to a halfway house. Juveniles so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those juveniles who have violated their parole status.

§ 22.1-4.3. Participation in certain school activities by noncustodial parent.

Unless a court order has been issued to the contrary, the noncustodial parent of a student enrolled in a public school or day care center shall not be denied the opportunity to participate in any of the student's school or day care activities in which such participation is supported or encouraged by the policies of the school or day care center solely on the basis of such noncustodial status. For the purposes of this section, "school or day care activities" shall include, but shall not be limited to, lunch breaks, special in-school programs, parent-teacher conferences and meetings, and extracurricular activities. It is the responsibility of the custodial parent to provide the court order to the school or day care center.

§ 22.1-79.3. Policies regarding certain activities.

No later than January 1, 2001, local school boards shall develop and implement policies to ensure that public school students are not required to convey or deliver any materials that (i) advocate the election or defeat of any candidate for elective office, (ii) advocate the passage or defeat of any referendum question, or (iii) advocate the passage or defeat of any matter pending before a local school board, local governing body or the General Assembly of Virginia or the Congress of the United States.

This section shall not be construed to prohibit the discussion or use of political or issue-oriented materials as part of classroom discussions or projects or to prohibit the delivery of informational materials.

§ 22.1-202. Instruction in history and principles of flags of United States and Virginia; pledge of allegiance to American flag; guidelines developed by the Board.

A. Instruction in the history and principles of the flag of the United States and the flag of the Commonwealth shall be given in one or more grades in every school division. The instruction shall include the pledge of allegiance and the appropriate etiquette and conventions for respecting the dignity and appropriate display of such flags.

In recognition of the civic heritage of the United States of America, all students shall be required to learn the Pledge of Allegiance and to demonstrate such knowledge.

B. To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools.

The Board's guidelines shall include, but shall not be limited to, provisions which address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the propriety and constitutionality of any recitation or participation requirements; appropriate etiquette and conventions for respecting the dignity and appropriate display of the flag of the

306 United States and the flag of the Commonwealth; and relevant state and federal constitutional concerns,
307 such as freedom of speech and religion.

308 These guidelines shall not be subject to the requirements of the Administrative Process Act
309 (§ 9-6.14:1 et seq.). However, to provide appropriate opportunity for involvement by the general public,
310 teachers, and local school boards, the Board of Education shall conduct public hearings prior to
311 establishing such guidelines. Thirty days prior to conducting such hearings, the Board shall give written
312 notice by mail of the date, time, and place of the hearings to all local school boards and any other
313 persons requesting to be notified of the hearings and publish notice of its intention to hold such hearings
314 in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be
315 heard and present information prior to the adoption of such guidelines.

316 *C. Each school board shall require the daily recitation of the Pledge of Allegiance in each*
317 *classroom of the school division and shall ensure that an American flag is in place in each such*
318 *classroom. Each school board shall determine the appropriate time during the school day for the*
319 *recitation of the Pledge. During such Pledge of Allegiance, students shall stand and recite the Pledge*
320 *while facing the flag with their right hands over their hearts or in an appropriate salute if in uniform;*
321 *however, no student shall be compelled to recite the Pledge if he, his parent or legal guardian objects*
322 *on religious or philosophical grounds to his participating in this exercise. Students who are thus exempt*
323 *from reciting the Pledge shall remain quietly standing or sitting at their desks while others recite the*
324 *Pledge and shall make no display that disrupts or distracts others who are reciting the Pledge. School*
325 *boards shall provide appropriate accommodations for students who are unable to comply with the*
326 *procedures described herein due to disability. School boards shall establish rules of conduct that*
327 *prohibit disruptive behavior during the recitation of the Pledge and shall provide, after observing the*
328 *due process requirements of § 22.1-277, a penalty in the form of suspension from regular school*
329 *attendance until such time as the student has provided satisfactory assurances that he will conform to*
330 *the Pledge procedure or exemption procedure provided herein.*

331 *D. The Office of the Attorney General shall intervene and shall provide legal defense of the*
332 *provisions of this section.*

333 *§ 22.1-203.2. Guidelines for constitutional compliance for student prayer.*

334 *To promote compliance with constitutional restrictions as well as observance of constitutional rights,*
335 *the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines*
336 *on constitutional rights and restrictions relating to prayer and other religious expression in the public*
337 *schools. The Board's guidelines shall include, but shall not be limited to, provisions that address the*
338 *following: the initiative and involvement of local school boards, individual schools, administrators,*
339 *teachers, and students; the use of school facilities and equipment, including audio systems, and class*
340 *time for prayer or other religious expression; and relevant state and federal constitutional concerns,*
341 *such as freedom of religion and speech and separation of church and state. These guidelines shall not*
342 *be subject to the requirements of the Administrative Process Act (§ 9-6.14:1 et seq.). However, in order*
343 *to provide appropriate opportunity for input from the general public, teachers, and local school boards,*
344 *the Board of Education shall conduct public hearings prior to establishing such guidelines. Thirty days*
345 *prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and*
346 *place of the hearings to all local school boards and any other persons requesting to be notified of the*
347 *hearings and publish notice of its intention to hold such hearings in the Virginia Register of*
348 *Regulations. Interested parties shall be given reasonable opportunity to be heard and present*
349 *information prior to the adoption of such guidelines.*

350 *§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program*
351 *attendance; exemptions from article.*

352 *A. Except as otherwise provided in this article, every parent, guardian, or other person in the*
353 *Commonwealth having control or charge of any child who will have reached the fifth birthday on or*
354 *before September 30 of any school year and who has not passed the eighteenth birthday shall, during*
355 *the period of each year the public schools are in session and for the same number of days and hours per*
356 *day as the public schools, send such child to a public school or to a private, denominational or parochial*
357 *school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of*
358 *Education and approved by the division superintendent or provide for home instruction of such child as*
359 *described in § 22.1-254.1.*

360 *As prescribed in the regulations of the Board of Education, the requirements of this section may also*
361 *be satisfied by sending a child to an alternative program of study or work/study offered by a public,*
362 *private, denominational or parochial school or by a public or private degree-granting institution of higher*
363 *education. Further, in the case of any five-year-old child who is subject to the provisions of this*
364 *subsection, the requirements of this section may be alternatively satisfied by sending the child to any*
365 *public educational prekindergarten program, including a Head Start program, or in a private,*
366 *denominational or parochial educational prekindergarten program.*

367 *Instruction in the home of a child or children by the parent, guardian or other person having control*

or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. However, the requirements of this section shall not apply to any child who has obtained a high school diploma, its equivalent, or a certificate of completion or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; and

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

D. Local school boards may allow the requirements of subsection A of this section to be met under the following conditions:

For a student who is at least sixteen years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

a. Career guidance counseling;

b. Mandatory enrollment and attendance in a general educational development preparatory program or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such GED preparatory program or approved alternative education program to such principal or his designee;

c. Counseling on the economic impact of failing to complete high school; and

d. Procedures for reenrollment to comply with the requirements of subsection A of this section.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

E. A school board may, in accordance with the procedures set forth in ~~§ 22.1-277 Article 3 of Chapter 14 (§ 22.1-276 et seq.) of this title~~ and upon a finding that a school-age child has ~~(i) committed an offense in violation of school board policies;~~ (ii) been (i) 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; (ii) found guilty or not innocent 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 § 16.1-305.1; ~~or~~ (iii) been suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to §§ 22.1-277.04-22.1-277.06 or 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or § 22.1-277.1-22.1-277.2:1.

F. Whenever a court orders any pupil into an alternative education program offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the

429 public schools it supervises or resides within its school division.

430 The juvenile and domestic relations district court of the county or city in which a pupil resides or in
431 which charges are pending against a pupil, or any court in which charges are pending against a pupil,
432 may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in
433 injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any
434 offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend
435 an alternative education program, including, but not limited to, night school, adult education, or any
436 other education program designed to offer instruction to students for whom the regular program of
437 instruction may be inappropriate.

438 This subsection shall not be construed to limit the authority of school boards to expel, suspend, or
439 exclude students, as provided in §§ ~~22.1-277~~, ~~22.1-277.01~~, ~~22.1-277.04~~, ~~22.1-277.05~~, ~~22.1-277.06~~,
440 ~~22.1-277.07~~, and ~~22.1-277.2~~. As used in this subsection, the term "charged" means that a petition or
441 warrant has been filed or is pending against a pupil.

442 G. Within one calendar month of the opening of school, each school board shall send to the parents
443 or guardian of each student enrolled in the division a copy of the compulsory school attendance law and
444 the enforcement procedures and policies established by the school board.

445 H. The provisions of this article shall not apply to:

446 1. Children suffering from contagious or infectious diseases while suffering from such diseases;

447 2. Children whose immunizations against communicable diseases have not been completed as
448 provided in § 22.1-271.2;

449 3. Children under ten years of age who live more than two miles from a public school unless public
450 transportation is provided within one mile of the place where such children live;

451 4. Children between the ages of ten and seventeen, inclusive, who live more than 2.5 miles from a
452 public school unless public transportation is provided within 1.5 miles of the place where such children
453 live; and

454 5. Children excused pursuant to subsections B and C of this section.

455 Further, any child who will not have reached his sixth birthday on or before September 30 of each
456 school year whose parent or guardian notifies the appropriate school board that he does not wish the
457 child to attend school until the following year because the child, in the opinion of the parent or
458 guardian, is not mentally, physically or emotionally prepared to attend school, may delay the child's
459 attendance for one year.

460 The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined
461 from the child's residence to the entrance to the school grounds or to the school bus stop nearest the
462 entrance to the residence of such children by the nearest practical routes which are usable for walking or
463 riding. Disease shall be established by the certificate of a reputable practicing physician in accordance
464 with regulations adopted by the Board of Education.

465 § 22.1-266. Law-enforcement officers and truant children.

466 A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9-169
467 or any attendance officer may pick up any child who (i) is reported to be truant from a public school by
468 a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer
469 reasonably determines to be a public school student and by reason of the child's age and circumstances
470 is either truant from public school or has been expelled from school and has been required to attend an
471 alternative education program pursuant to § ~~22.1-277.1~~§ 22.1-254 or 22.1-277.2:1, and may deliver such
472 child to the appropriate public school, alternative education program, or truancy center and personnel
473 thereof without charging the parent or guardian of such child with a violation of any provision of law.

474 B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages
475 for any acts or omissions resulting from picking up or delivering a public school child as provided in
476 subsection A when such acts or omissions are within the scope of the employment of such
477 law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions
478 were the result of gross negligence or willful misconduct. This subsection shall not be construed to
479 limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to
480 affect any claim occurring prior to the effective date of this law.

481 C. For the purposes of this section, "truancy center" means a facility or site operated by a school
482 division, sometimes jointly with the local law-enforcement agency, and designated for receiving children
483 who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

484 § 22.1-276.01. Definitions.

485 A. For the purposes of this article, unless the context clearly indicates otherwise:

486 "Alternative education program" shall include, but shall not be limited to, night school, adult
487 education, or any other education program designed to offer instruction to students for whom the
488 regular program of instruction may be inappropriate.

489 "Disruptive behavior" means a violation of school board regulations governing student conduct that
490 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.

"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.

"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.

B. For the purposes of §§ 22.1-277, 22.1-277.04, 22.2-277.05, 22.1-277.06, 22.1-277.2, and 22.1-277.2:1, "superintendent's designee" means a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

§ 22.1-276.2. Removal of students from classes.

A. Teachers shall have the initial authority to remove a student for disruptive behavior from a class. For the purposes of this section, "disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.

B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-278.2:1-279.6:

1. Criteria for teachers to remove disruptive students from their classes;

2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;

3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;

4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and

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 he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.

C. The principal shall, unless a student who has been removed from class is suspended or expelled from school attendance, ensure that such student continues to receive an education.

D. Any teacher whose evaluation indicates deficiencies in the management of student conduct may be required by the school board to attend professional development activities designed to improve classroom management and disciplinary skills.

E. Application of this section to students with disabilities shall be in accordance with state and federal law and regulations.

F. This section shall not be construed to limit or restrict other school board policies and regulations for maintaining order in the classroom.

§ 22.1-277. Suspensions and expulsions of pupils generally.

A. Pupils may be suspended or expelled from attendance at school for sufficient cause.

B. 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.

C. A pupil may be suspended from attendance at school for more than ten 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 thirty 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 thirty days.

D. Pupils may be expelled from attendance at school after 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 in accordance with regulations of the school board. 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 expulsion 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 thirty days.

E. For the purposes of this section, the superintendent's designee shall be 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.

F. 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 may be suspended or expelled from school attendance pursuant to this article.

C. 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 this section §§ 22.1-277.04, 22.1-277.05, or 22.1-277.06.

§ 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.

§ 22.1-277.05. Long-term suspensions; procedures; readmission.

A. A pupil may be suspended from attendance at school for more than ten 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 thirty 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 thirty days.

B. A school board shall include in the written notice of a suspension for more than ten days required by this section, notification of the length of the suspension. In the case of a suspension for more than ten 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.

§ 22.1-277.06. Expulsions; procedures; readmission.

A. Pupils may be expelled from attendance at school after 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 in accordance with regulations of the school board.

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 expulsion 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 thirty days.

The regulations shall also provide for subsequent confirmation or disapproval of the proposed expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of whether the pupil exercised the right to a hearing.

B. The written notice required by this section 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. Such notice shall state further 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 re-admission. 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 section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section 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 re-admission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which re-admission may be granted.

School boards 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 the hearing and 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.

C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08, shall be based on consideration of the following factors:

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

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 these factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.

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

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

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

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

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

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

703 D. As used in this section:

704 "Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket
705 having a propellant charge of more than four ounces, missile having an explosive or incendiary charge
706 of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a
707 shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name
708 known that will, or may be readily converted to, expel a projectile by the action of an explosive or other
709 propellant, and that has any barrel with a bore of more than one-half inch in diameter; and (iii) any
710 combination of parts either designed or intended for use in converting any device into any destructive
711 device described in this subsection and from which a destructive device may be readily assembled.
712 "Destructive device" shall not include any device that is not designed or redesigned for use as a
713 weapon, or any device originally designed for use as a weapon and that is redesigned for use as a
714 signaling, pyrotechnic, line-throwing, safety, or other similar device.

715 "Firearm" means any weapon prohibited on school property or at a school-sponsored activity
716 pursuant to § 18.2-308.1, or (i) any weapon, including a starter gun, that will, or is designed or may
717 readily be converted to, expel a projectile by the action of an explosive; (ii) the frame or receiver of any
718 such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device.

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

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

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

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

732 § 22.1-277.08. Expulsion of students for certain drug offenses.

733 A. School boards shall expel from school attendance any student whom such school board has
734 determined, in accordance with the procedures set forth in this article, to have brought a controlled
735 substance, imitation controlled substance, or marijuana as defined in § 18.2-247 onto school property or
736 to a school-sponsored activity. A school board may, however, determine, based on the facts of the

particular case, that special circumstances exist and another disciplinary action is appropriate. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. 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.

§ 22.1-277.2. Authority to exclude students under certain circumstances.

A. A 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 for an offense in violation of school board policies related to destruction of school property or privately-owned property while located on school property, weapons, alcohol or drugs, or for the willful infliction of injury to another person, may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission; for no more than one year in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, for no longer than the duration of such suspension, upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

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 § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

C. For the purposes of this section, the superintendent's designee shall be 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.

D. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall not be more than one year established by the school board, committee thereof, or superintendent or his designee, as the case may be at the relevant hearing, the student may petition re-petition the school board for admission. For the purposes of this section, "one year" shall mean 365 calendar days 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.

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

§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances.

A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) 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; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons,

798 alcohol or drugs or a crime that resulted in or could have resulted in injury to others, or for which the
799 disposition ordered by a court is required to be disclosed to the superintendent of the school division
800 pursuant to § 16.1-305.1; (iii) found to have committed a serious offense or repeated offenses in
801 violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to
802 §§ 22.1-277.06, 22.1-277.07 or 22.1-277.08 or subsection B of § 22.1-277, to attend an alternative
803 education program. A school board may require such student to attend such programs regardless of
804 where the crime occurred. School boards may require any student who has been found, in accordance
805 with the procedures set forth in this article, to have been in possession of, or under the influence of,
806 drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of
807 school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended
808 by the evaluator and with the consent of the student's parent, to participate in a treatment program.

809 As used in this section, the term "charged" means that a petition or warrant has been filed or is
810 pending against a pupil.

811 B. A school board may adopt regulations authorizing the division superintendent or his designee to
812 require students to attend an alternative education program consistent with the provisions of subsection
813 A after (i) written notice to the student and his parent that the student will be required to attend an
814 alternative education program and (ii) notice of the opportunity for the student or his parent to
815 participate in a hearing to be conducted by the division superintendent or his designee regarding such
816 placement. The decision of the superintendent or his designee regarding such alternative education
817 placement shall be final unless altered by the school board, upon timely written petition, as established
818 in regulation, by the student or his parent, for a review of the record by the school board.

819 § 22.1-279.3. Parental responsibility and involvement requirements.

820 A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing
821 the standards of student conduct and attendance in order that education may be conducted in an
822 atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

823 B. A school board shall provide opportunities for parental and community involvement in every
824 school in the school division.

825 C. Within one calendar month of the opening of school, each school board shall, simultaneously with
826 any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a
827 notice of the requirements of this section and (ii) a copy of the school board's standards of student
828 conduct. These materials shall include a notice to the parents that by signing the statement of receipt,
829 parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions
830 or laws of the United States or the Commonwealth and that a parent shall have the right to express
831 disagreement with a school's or school division's policies or decisions.

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

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

840 E. In accordance with ~~§ 22.1-277~~ the due process procedures set forth in this article and the
841 guidelines required by ~~§ 22.1-278~~ 22.1-279.6, the school principal may notify the parents of any student
842 who violates a school board policy when such violation could result in the student's suspension, whether
843 or not the school administration has imposed such disciplinary action. The notice shall state (i) the date
844 and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in
845 improving the student's behavior; and (iii) that, if the student is suspended, the parent may be required
846 to accompany the student to meet with school officials.

847 F. No suspended student shall be admitted to the regular school program until such student and his
848 parent have met with school officials to discuss improvement of the student's behavior, unless the school
849 principal or his designee determines that readmission, without parent conference, is appropriate for the
850 student.

851 G. Upon the failure of a parent to comply with the provisions of this section, the school board may,
852 by petition to the juvenile and domestic relations court, proceed against such parent for willful and
853 unreasonable refusal to participate in efforts to improve the student's behavior, as follows:

854 1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a
855 request of the principal as set forth in subsection D of this section, to review the school board's
856 standards of student conduct and the parent's responsibility to assist the school in disciplining the student
857 and maintaining order, and to discuss improvement of the child's behavior and educational progress, it
858 may order the parent to so meet; or

859 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 (i) the student or his parent, or both, to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, including participation in parenting counseling or a mentoring program, as appropriate or (ii) the student or his parent, or both, to 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 G 2. 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.

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

A. Reports shall be made to the principal or his designee on all incidents involving (i) the assault, assault and battery, sexual assault, death, shooting, stabbing, cutting, or wounding of any person on a school bus, on school property, or at a school-sponsored activity; (ii) 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; (iii) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (iv) the illegal carrying of a firearm onto school property; (v) 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; or (vi) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities may report, and the principal or his designee may 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 (v) of subsection A.

C. The principal or his designee shall submit a report of all incidents required or authorized 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. 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 by subsection A or authorized by subsection B 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. The principal shall immediately report to the local law-enforcement agency any act enumerated in subsection A that may constitute a criminal offense.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in the policy manual of all school divisions.

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 the

921 Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the
922 federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate
923 and provide policy direction on official communications between the Commonwealth and the United
924 States government.

925 § 22.1-279.6. Guidelines for school board policies; school board regulations governing student
926 conduct.

927 A. The Board of Education shall establish guidelines and develop model student conduct policies to
928 aid local school boards in the implementation of such policies. The guidelines shall include, but not be
929 limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and
930 exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the
931 procedures to be followed in such cases, including proceedings for such suspension, expulsion, and
932 exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal
933 and case laws, for school board policies on alcohol and drugs, vandalism, trespassing, threats, search
934 and seizure, disciplining of students with disabilities, intentional injury of others and dissemination of
935 such policies to students, their parents, and school personnel; and (iii) standards for in-service training
936 of school personnel in and examples of the appropriate management of student conduct and student
937 offenses in violation of school board policies. In the case of suspension and expulsion, the procedures
938 set forth in this article shall be the minimum procedures that the school board may prescribe.

939 B. School boards shall adopt and revise, in accordance with the requirements of this section,
940 regulations governing student conduct that are consistent with, but may be more stringent than, the
941 guidelines of the Board. School boards shall include, in the regulations governing student conduct,
942 procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model
943 student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive
944 environment for effective teaching and learning.

945 Each school board shall include, in its standards of student conduct, prohibitions against profane or
946 obscene language or conduct.

947 A school board may regulate the use or possession of beepers or other portable communications
948 devices and laser pointers by students on school property or attending school functions or activities and
949 establish disciplinary procedures pursuant to this article to which students violating such regulations
950 will be subject.

951 C. The Board of Education shall establish standards to ensure compliance with the federal Improving
952 America's Schools Act of 1994 (Part F-"Gun-Free Schools Act of 1994"), in accordance with
953 § 22.1-277.07, to be effective on July 1, 1995.

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

959 § 22.1-279.7. Guidelines for student searches.

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

963 Effective for the 2001-2002 school year, school boards shall adopt and revise, in accordance with
964 the requirements of this section, regulations governing student searches that are consistent with the
965 guidelines of the Board.

966 § 22.1-279.8. School safety audits and school crisis and emergency management plans required.

967 A. For the purposes of this section, unless the context requires otherwise:

968 "School crisis and emergency management plan" means the essential procedures, operations, and
969 assignments required to prevent, manage, and respond to a critical event or emergency, including
970 natural disasters involving fire, flood, or severe weather; loss or disruption of power, water,
971 communications or shelter; bus or other accidents; medical emergencies; student or staff member
972 deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous
973 substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping
974 of a student; hostage situations; violence on school property or at school activities; and other incidents
975 posing a serious threat of harm to students, personnel, or facilities.

976 "School safety audit" means a written assessment of the safety conditions in each public school to (i)
977 identify and, if necessary, develop solutions for physical safety concerns, including building security
978 issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school
979 property or at school-sponsored events. Solutions and responses may include recommendations for
980 structural adjustments, changes in school safety procedures, and revisions to the school board's
981 standards for student conduct.

982 B. The Superintendent of Public Instruction shall develop a list of items to be reviewed and

evaluated in the school safety audits required by this section. Each local school board shall require all schools under its supervisory control to conduct school safety audits as defined in this section and consistent with such list. Each school shall maintain a copy of the school safety audit within the office of the school principal and shall make a copy of such report available for review upon written request.

C. The school board may establish a school safety audit committee to consist of representatives of parents, teachers, local law-enforcement agencies, judicial and public safety personnel, and the community at large. The school safety audit committee shall evaluate, in accordance with the directions of the local school board, the safety of each school and submit a plan for improving school safety at a public meeting of the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis and emergency management plan, consistent with the definition provided in this section. The Department of Education shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis and emergency management plans.

Upon consultation with local school boards and division superintendents, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis and emergency management plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis and emergency management plans.

§ 22.1-279.9. Development of programs to prevent crime and violence.

All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events. Activities designed to prevent the recurrence of violence and crime may include such interventions as school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime. School boards are encouraged to develop and use a network of volunteer services in implementing these prevention activities.

§ 22.1-280.4. School board action regarding destruction of property.

A school board may take action against a pupil for any actual 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.

2. That §§ 22.1-276, 22.1-277.01, 22.1-277.01:1, 22.1-277.01:2, 22.1-277.02, 22.1-277.02:1, 22.1-277.03, 22.1-277.1, 22.1-278, 22.1-278.1, 22.1-278.2, 22.1-278.3, 22.1-279.5, 22.1-280.1, and 22.1-280.3 of the Code of Virginia are repealed.