

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 899

*An Act to amend and reenact §§ 22.1-279.3:1, 22.1-279.6 and 22.1-279.7 of the Code of Virginia, relating to drug testing in public schools.*

[H 2091]

Approved March 22, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-279.3:1, 22.1-279.6 and 22.1-279.7 of the Code of Virginia are amended and reenacted as follows:**

§ 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, including the theft or attempted theft of student prescription medications; (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. *Except as may otherwise be required by federal law, regulation, or jurisprudence*, the principal shall immediately report to the local law-enforcement agency any act enumerated in 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 Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate~~

and provide policy direction on official communications between the Commonwealth and the United States government.

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

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

*In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.*

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

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

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

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

*Nothing herein shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.*

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

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

§ 22.1-279.7. Guidelines for student searches.

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

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

**2. That, in order to avoid the costs of printing and mailing, the Board of Education shall issue the revisions to its guidelines and model student conduct policies relating to school board policies on alcohol and drugs and search and seizure pursuant to § 22.1-179.6 and its guidelines for student searches pursuant to § 22.1-179.7 in electronic format only. Such revisions may be transmitted to the division superintendents and the public via any electronic media, including by posting the revisions to the Department of Education's website.**