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HOUSE BILL NO. 1871

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on January 28, 2013)

(Patron Prior to Substitute—Delegate McClellan)

A BILL to amend and reenact §§ 8.01-220.1:2, 22.1-208.01, 22.1-276.01, and 22.1-279.6 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-291.4, relating to student conduct; bullying.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-220.1:2, 22.1-208.01, 22.1-276.01, and 22.1-279.6 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-291.4 as follows:

§ 8.01-220.1:2. Civil immunity for teachers under certain circumstances.

A. Any teacher employed by a local school board in the Commonwealth shall not be liable for any civil damages for any acts or omissions resulting from the supervision, care or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of supervision, care or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct.

B. No school employee or school volunteer shall be liable for any civil damages arising from the prompt good faith reporting of alleged acts of bullying or crimes against others to the appropriate school official in compliance with §§ 22.1-279.6 and 22.1-291.4 and specified procedures.

C. This section shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or, to affect any claim occurring prior to the effective date of this law, or to prohibit any person subject to bullying or a criminal act from seeking redress under any other provision of law.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs or as a separate program, a character education program in its schools, which may occur during the regular school year, during the summer in a youth development academy offered by the school division, or both. The Department of Education shall develop curricular guidelines for school divisions to use in establishing a character education program through a summer youth development academy. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning. The program shall also address the inappropriateness of bullying, as defined in the Student Conduct Policy Guidelines adopted by the Board of Education pursuant to § 22.1-279.6 § 22.1-276.01.

This provision is intended to educate students regarding those core civic values and virtues which that are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § 1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs, consistent with the provisions of this section. The Department of Education shall assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools. With such funds as are made available for this purpose,

60 the Department of Education shall provide resources and technical assistance to school divisions
61 regarding successful character education programs and shall (i) identify and analyze effective character
62 education programs and practices and (ii) collect and disseminate among school divisions information
63 regarding such programs and practices and potential funding and support sources. The Department of
64 Education may also provide resources supporting professional development for administrators and
65 teachers in the delivery of any character education programs.

66 C. The Department of Education shall award, with such funds as are appropriated for this purpose,
67 grants to school boards for the implementation of innovative character education programs, including a
68 summer youth development academy.

69 **§ 22.1-276.01. Definitions.**

70 A. For the purposes of this article, unless the context ~~clearly indicates otherwise~~ *requires a different*
71 *meaning:*

72 "Alternative education program" ~~shall include, but shall not be limited to,~~ *includes* night school, adult
73 education, or any other education program designed to offer instruction to students for whom the regular
74 program of instruction may be inappropriate.

75 "*Bullying*" means any aggressive and unwanted behavior that is intended to harm, intimidate, or
76 humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors
77 and victim; and is repeated over time or causes severe emotional trauma. "*Bullying*" includes cyber
78 bullying. "*Bullying*" does not include ordinary teasing, horseplay, argument, or peer conflict.

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

81 "Exclusion" means a Virginia school board's denial of school admission to a student who has been
82 expelled or has been placed on a long-term suspension of more than ~~thirty~~ 30 calendar days by another
83 school board or a private school, either in Virginia or another state, or for whom admission has been
84 withdrawn by a private school in Virginia or another state.

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

88 "Long-term suspension" means any disciplinary action whereby a student is not permitted to attend
89 school for more than ~~ten~~ 10 school days but less than 365 calendar days.

90 "Short-term suspension" means any disciplinary action whereby a student is not permitted to attend
91 school for a period not to exceed ~~ten~~ 10 school days.

92 B. For the purposes of §§ ~~22.1-277~~, 22.1-277.04, 22.1-277.05, ~~22.1-277.06~~, 22.1-277.2, and
93 22.1-277.2:1, "superintendent's designee" means a (i) trained hearing officer or (ii) professional employee
94 within the administrative offices of the school division who reports directly to the division
95 superintendent and who is not a school-based instructional or administrative employee.

96 **§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct;**
97 **school board regulations.**

98 A. The Board of Education shall establish guidelines and develop model policies for codes of student
99 conduct to aid local school boards in the implementation of such policies. The guidelines and model
100 policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use
101 of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and
102 expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for
103 such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards,
104 consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related
105 activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with
106 disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes
107 of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents,
108 and school personnel; and (iii) standards for in-service training of school personnel in and examples of
109 the appropriate management of student conduct and student offenses in violation of school board
110 policies.

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

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

119 B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the
120 requirements of this section, regulations on codes of student conduct that are consistent with, but may be
121 more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes

of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include, in its code of student conduct, prohibitions against bullying, hazing, and profane or obscene language or conduct. School boards shall also cite, in their codes of student conduct, the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, ~~i.e.~~ *that is*, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

D. Each school board shall include in its code of student conduct, by July 1, 2014, policies and procedures that include a prohibition against bullying. Such policies and procedures shall be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

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

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

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-291.4. Bullying prohibited.

Each school board shall implement, by July 1, 2014, policies and procedures to educate school board employees about the need to create a bully-free environment.

2. That the Board of Education shall develop, by January 1, 2014, model policies and procedures for use by each school board to educate school board employees about the need to create a bully-free environment.