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**HOUSE BILL NO. 726**

Offered January 8, 2014

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*A BILL to amend and reenact §§ 22.1-276.2, 22.1-277, 22.1-277.04, 22.1-277.05, and 22.1-277.06 of the Code of Virginia, relating to suspension and expulsion of students; continuation in the curriculum.*

Patrons—McClellan, Brink, Filler-Corn, Hester, Morrissey and Pogge

Referred to Committee on Education

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

**1. That §§ 22.1-276.2, 22.1-277, 22.1-277.04, 22.1-277.05, and 22.1-277.06 of the Code of Virginia are amended and reenacted as follows:**

**§ 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.

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

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 each student removed from class for disruptive behavior* 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 students generally.**

A. ~~Pupils~~ *Students* may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. 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 for an offense listed in subsection G of § 16.1-260 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 § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

D. *Any student who is suspended or expelled from attendance pursuant to this section, § 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, or 22.1-277.08 shall be afforded the opportunity to continue to progress in the curriculum of the school division during the suspension or expulsion.*

E. *Each committee of the school board, division superintendent, school principal, assistant principal, and teacher considering disciplinary action for a student shall exercise discretion, consider ways to reengage the student in the learning process, and consider all alternatives to suspension or expulsion before suspending or expelling a student.*

F. *Any student who is suspended for more than 10 days cumulatively in a school year shall receive a plan of positive behavioral interventions, strategies, and supports to address the student's behavior so that it does not continue to impede the student's learning or other students' learning.*

**§ 22.1-277.04. Short-term suspension; procedures; readmission.**

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59 A ~~pupil~~ student may be suspended for not more than ten school days by either the school principal,  
60 any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher  
61 may suspend the ~~pupil~~ student after giving the ~~pupil~~ student oral or written notice of the charges against  
62 him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity  
63 to present his version of what occurred. In the case of any ~~pupil~~ student whose presence poses a  
64 continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the ~~pupil~~  
65 student may be removed from school immediately and the notice, explanation of facts, and opportunity  
66 to present his version shall be given as soon as practicable thereafter.

67 Upon suspension of any ~~pupil~~ student, the principal, assistant principal, or teacher responsible for  
68 such suspension shall report the facts of the case in writing to the division superintendent or his  
69 designee and the parent of the ~~pupil~~ student suspended. The division superintendent or his designee shall  
70 review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such  
71 review by any party in interest and confirm or disapprove such action based on an examination of the  
72 record of the ~~pupil's~~ student's behavior.

73 The decision of the division superintendent or his designee may be appealed to the school board or a  
74 committee thereof in accordance with regulations of the school board; however, the decision of the  
75 division superintendent or his designee shall be final if so prescribed by school board regulations.

76 *The principal or designee shall ensure that any student who receives a short-term suspension has an*  
77 *opportunity to progress in the curriculum during the period of suspension, make up assignments, and*  
78 *earn credits missed, including the opportunity to complete homework, papers, and projects and take*  
79 *quizzes and exams.*

80 The school board shall require that any oral or written notice to the parent of a student who is  
81 suspended from school attendance for not more than ~~ten~~ 10 days include notification of the length of the  
82 suspension, information regarding the availability of community-based educational programs, alternative  
83 education programs or other educational options, and of the student's right to return to regular school  
84 attendance upon the expiration of the suspension. The costs of any community-based educational  
85 program, or alternative education program or educational option, which is not a part of the educational  
86 program offered by the school division, shall be borne by the parent of the student. *the provision of*  
87 *make-up assignments, and the opportunity to earn credits missed.*

88 **§ 22.1-277.05. Long-term suspensions; procedures; readmission.**

89 A. A ~~pupil~~ student may be suspended from attendance at school for more than ~~ten~~ 10 days after  
90 providing written notice to the ~~pupil~~ student and his parent of the proposed action and the reasons  
91 therefor and of the right to a hearing before the school board, or a committee thereof, or the  
92 superintendent or his designee, in accordance with regulations of the school board. If the regulations  
93 provide for a hearing by the superintendent or his designee, the regulations shall also provide for an  
94 appeal of the decision to the full school board. Such appeal shall be decided by the school board within  
95 ~~thirty~~ 30 days of the incident leading to the long-term suspension.

96 If the regulations provide for a hearing by a committee of the school board, the regulations shall also  
97 provide that such committee may confirm or disapprove the suspension of a student. Any such  
98 committee of the school board shall be composed of at least three members. If the committee's decision  
99 is not unanimous, the ~~pupil~~ student or his parent may appeal the committee's decision to the full school  
100 board. Such appeal shall be decided by the school board within ~~thirty~~ 30 days of the incident leading to  
101 the long-term suspension.

102 B. A school board shall include in the written notice of a suspension for more than ~~ten~~ 10 days  
103 required by this section, notification of the length of the suspension. ~~In the case of a suspension for~~  
104 ~~more than ten days, such written notice shall provide information concerning the availability of~~  
105 ~~community-based educational, alternative education, or intervention programs. Such notice shall also~~  
106 ~~state that the student is eligible to return to regular school attendance upon the expiration of the~~  
107 ~~suspension or to attend an appropriate alternative education program approved by the school board~~  
108 ~~during or upon the expiration of the suspension. The costs of any community-based educational,~~  
109 ~~alternative education, or intervention program that is not a part of the educational program offered by~~  
110 ~~the school division that the student may attend during his suspension shall be borne by the parent of the~~  
111 ~~student, and the date on which the student is eligible to return to regular school attendance upon the~~  
112 ~~expiration of the suspension. The division superintendent or designee shall ensure that each student~~  
113 ~~suspended pursuant to this section receives educational services that allow him to progress in the~~  
114 ~~curriculum. Educational services include homebound instruction, an alternative education program,~~  
115 ~~online learning, and distance learning. Students enrolled in homebound instruction, an alternative~~  
116 ~~education program, online learning, or distance learning pursuant to this section shall be counted in the~~  
117 ~~average daily membership of the local school division.~~

118 Nothing in this section shall be construed to prohibit the school board from ~~permitting or~~ requiring  
119 students suspended pursuant to this section to attend an alternative education program provided by the  
120 school board for the term of such suspension.

**§ 22.1-277.06. Expulsions; procedures; readmission.**

A. ~~Pupils~~ *Students* may be expelled from attendance at school after written notice to the ~~pupil student~~ 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 student~~ or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within 30 days *of the incident leading to the expulsion.*

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 student~~ 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 readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student; the conditions, if any, of readmission; and the date on which the student is eligible to return to regular school attendance upon the expiration of the expulsion. The division superintendent or his designee shall ensure that each student expelled pursuant to this section, § 22.1-277.07, or § 22.1-277.08 receives educational services that allow him to progress in the curriculum. Educational services include homebound instruction, tutoring, an alternative education program, online learning, and distance learning. Students enrolled in homebound instruction, tutoring, an alternative education program, online learning, or distance learning shall be counted in the average daily membership of the local school division.~~

Nothing in this section shall be construed to prohibit the school board from ~~permitting or~~ requiring students expelled pursuant to this section, § 22.1-277.07, or § 22.1-277.08 to attend an alternative education program provided by the school board for the term of such expulsion.

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

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 any initial petition for readmission will be reviewed by the school board or a committee thereof, or the division superintendent, and, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. If the division superintendent or a committee of the school board denies such petition, the student may petition the school board for review of such denial.

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.