

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 608

An Act to amend and reenact §§ 22.1-277, 22.1-277.2, and 22.1-278 of the Code of Virginia, relating to suspensions, expulsions, and exclusions of pupils from the public schools.

[H 2169]

Approved March 20, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-277, 22.1-277.2, and 22.1-278 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-277. Suspension and expulsion 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; provided that in the case of any pupil whose presence poses a continuing danger to persons or property or 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 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 ~~or person in loco parentis~~ 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 act so as to 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.*

A pupil may be suspended from attendance at school for more than ten days after providing written notice to the pupil and his ~~parent(s) or guardian~~ 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, if permitted by the regulations of the school board, the superintendent or his ~~designee(s)~~ designee. If the regulations provide for a hearing by a committee of the school board or by the superintendent or his ~~designee(s)~~ designee, the regulations shall also provide for an appeal of the decision to the full school board, which appeal, if requested, shall be decided by the school board within thirty days.

C. Pupils may be expelled from attendance at school after written notice to the pupil and his parent or guardian 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 for an appeal of the committee's decision to the full school board, which appeal, if requested, shall be decided by the school board within thirty days.

D. *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.*

§ 22.1-277.2. Admission of expelled students; authority to exclude under certain circumstances.

A. A student, who has been expelled from attendance at school by a school board or 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, for no more than one year 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, ~~guardian, or other person having control or charge~~ 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. If the decision by the superintendent or his designee has been appealed to a committee of the school board, the student or his parent, ~~guardian or other person having control or charge~~ 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, notify in writing, the student or his parent, ~~guardian or other person having control or charge~~ 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, which shall not be more than one year, the student may petition the school board for admission. For the purposes of this section, "one year" shall mean 365 calendar days.

§ 22.1-278. Guidelines for school board policies; school board regulations governing student conduct; Board standards for compliance with federal law requiring expulsion under certain circumstances by school board.

*A. By July 1, 1995, 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 use of suspension, ~~and~~ expulsion, ~~and exclusion~~ as disciplinary measures, the grounds for suspension and expulsion ~~and exclusion~~, and the ~~procedure~~ *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 the case of suspension and expulsion, the procedures set forth in § 22.1-277 shall be the minimum procedures that the school board may prescribe. ~~By October 31, 1995, School boards shall adopt regulations governing student conduct which are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations governing student conduct, proceedings for suspension, expulsion, and exclusion decisions.~~*

B. 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"), in accordance with § 22.1-277.01, 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.