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HOUSE BILL NO. 837

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 22.1-276.01 and 22.1-279.6 of the Code of Virginia, relating to the Board of Education; school boards; dress or grooming codes.*

Patron—Carroll Foy

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-276.01 and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-276.01. Definitions.

A. For the purposes of this article, unless the context requires a different meaning:

"Alternative education program" includes night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

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

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

"Dress or grooming code" means any practice, policy, or portion of a code of student conduct adopted by a school board that governs or restricts the attire, appearance, or grooming, including hairstyle, of any enrolled student.

"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 30 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days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.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 11 to 45 school days.

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

B. For the purposes of §§ 22.1-277.04, 22.1-277.05, 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.

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

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies 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, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, 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; (iv) *standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.*

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of

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59 the United States of America, the Board's standards for school board policies on alcohol and drugs and
60 search and seizure shall include guidance for procedures relating to voluntary and mandatory drug
61 testing in schools, including; ~~but not limited to~~, which groups may be tested, use of test results,
62 confidentiality of test information, privacy considerations, consent to the testing, need to know, and
63 release of the test results to the appropriate school authority.

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

66 B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the
67 requirements of this section, regulations on codes of student conduct that are consistent with, but may be
68 more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes
69 of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially
70 review the model student conduct code to incorporate discipline options and alternatives to preserve a
71 safe, nondisruptive environment for effective teaching and learning.

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

77 D. Each school board shall include in its code of student conduct policies and procedures that
78 include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the
79 standards for school board policies on bullying and the use of electronic means for purposes of bullying
80 developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any
81 student involved in an alleged incident of bullying of the status of any investigation within five school
82 days of the allegation of bullying.

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

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

90 F. Nothing in this section shall be construed to require any school board to adopt policies requiring
91 or encouraging any drug testing in schools. However, a school board may, in its discretion, require or
92 encourage drug testing in accordance with the Board of Education's guidelines and model student
93 conduct policies required by subsection A and the Board's guidelines for student searches required by
94 § 22.1-279.7.

95 G. The Board of Education shall establish standards to ensure compliance with the federal Improving
96 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
97 § 22.1-277.07.

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

101 H. Each school board shall include in its code of student conduct a prohibition on possessing any
102 tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus,
103 on school property, or at an on-site or off-site school-sponsored activity.

104 *I. Any school board may include in its code of student conduct a dress or grooming code. No school*
105 *board that does not include in its code of student a dress or grooming code shall subject a student to*
106 *discipline for reasons typically assigned to a dress or grooming code. Any dress or grooming code*
107 *included in a school board's code of student conduct or otherwise adopted by a school board shall (i)*
108 *permit any student to wear any religiously, ethnically, or culturally specific or significant head covering*
109 *or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender*
110 *neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii)*
111 *not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective and*
112 *avoid any subjective term or standard such as "distracting," "provocative," or "inappropriate"; (v)*
113 *prohibit any school board employee from enforcing the dress or grooming code by direct physical*
114 *contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring*
115 *a student to undress in front of any other individual, including the enforcing school board employee, to*
116 *comply with the dress or grooming code.*