

# Possession/Use/Sale of Alcohol, Drugs, Drug Paraphernalia, Tobacco, Tobacco Products or Nicotine Vapor or Alternative Nicotine Products 5-45.1

School Board of the City of Virginia Beach  
Regulation 5-45.1

## STUDENTS

### Possession/Use/Sale of Alcohol, Drugs, Drug Paraphernalia, Tobacco, Tobacco Products or Nicotine Vapor or Alternative Nicotine Products

#### A. Offenses

##### 1. Possession / Use of Alcohol, Drugs, or Drug Paraphernalia

Students shall not use, have in their possession, or be under the influence of alcohol, marijuana, drug paraphernalia (defined in § 18.2-265.1 of the Code of Virginia), controlled substances (defined in § 54-1-3400 *et seq.*, of the Code of Virginia), or imitation controlled substances (defined in § 18.2-247(B) of the Code of Virginia), on School Board owned or leased property, at on or offsite school-sponsored or school-related activities, or while going to or coming from school. In accordance with School Board Policy 5-21 and School Board Regulation 5-21.1, students violating this subsection will be recommended for expulsion and will be suspended pending action on the recommendation. A student accused of a first offense under this subsection may, in the principal's discretion, be offered the opportunity to participate in the Substance Abuse Intervention Program.

##### 2. Sale of Alcohol, Drugs, or Drug Paraphernalia

Students shall not sell, offer to sell, bring, give, distribute, or pass to another individual or possess with intent to sell, give or distribute alcohol, marijuana, drug paraphernalia (defined in § 18.2-265.1 of the Code of Virginia), controlled substances (defined in § 54.1-3400 *et seq.*, of the Code of Virginia), or imitation controlled substances (defined in § 18.2-247(B) and (C) of the Code of Virginia), on School Board owned or leased property, at on or offsite school-sponsored or school-related activities, or while going to or coming from school. Students violating this subsection will be recommended for expulsion and will be suspended pending action on the recommendation, in accordance with School Board Policy 5-21 and School Board Regulation 5-21.1.

##### 3. Possession/Use/Distribution of Medication and Prescription or Non-Prescription Drugs

So that school authorities will know what medicine a student is taking in case of an emergency, and in order to prevent trafficking in drugs, students shall not possess any non-prescription medication or prescription drugs, even if recommended or prescribed for the student's use. All such items

shall be taken to the clinic by the parent(s), legal guardian(s), eligible student or other responsible adult, or to an office designated by the principal, at the start of the school day for safekeeping. Extenuating circumstances may require special consideration which will be determined by the principal on an individual basis. Non-prescription medication will mean any drug or other substances used in treating diseases, healing, or relieving pain, including, but not limited to, all over-the-counter drugs such as aspirin, acetaminophen, naproxen, ibuprofen, cough syrups, gargles, caffeine pills, homeopathic treatments and the like. Students who violate this subsection will be disciplined, including suspension and expulsion in appropriate situations. When a principal recommends a suspension or expulsion, the student will be suspended pending action on the recommendation. Students authorized to have prescribed medications, prescribed or non-prescribed drugs or homeopathic treatments and who follow procedures for having and using such medications while on School Board owned or leased property, vehicles or attending on or offsite school-sponsored events will not be in violation of this Regulation.

4. Possession/Use/Distribution of Tobacco, Tobacco Products, or Nicotine Vapor or Alternative Nicotine Products -disciplineThird-Offense

a. Students are prohibited from possessing, selling, trading, or offering to do so. Selling, trading, distributing smoking, and/or using tobacco products, or nicotine vapor or alternative nicotine products ~~(sometimes referred to as electronic cigarettes)~~ at all times while on School Board owned or leased property, in School Board vehicles, in any vehicle parked on School Board property, at on or off site school-sponsored or school-related activities, and when going to or coming from school.

b. The Superintendent or designee will notify the Virginia Beach Police Department when a student under the age of 1821 years old (effective July 1, 2019 this age restriction will increase to students under age 21 years old) is disciplined for a tobacco or nicotine related infraction.

c. Discipline for tobacco and nicotine related violations for purposes of determining whether the infraction is a first, second or third offense, infractions related to tobacco, tobacco related products, nicotine vapor or alternative nicotine products will be considered on a school year basis not on a cumulative basis.

d. First offense- the student will receive a Level 5 Discipline Action (1-5 days OSS or CHOICES) and a referral to school nurse for health relatedhealth-related concerns. Student will meet with principal or designee to discuss the infraction and consequences of future infractions. Parents/legal guardians of minor students will be contacted to explain the tobacco and nicotine related prohibitions and consequences for subsequent infractions.

e. Second offense- the student will be assigned to the Substance Abuse Intervention Program (SAIP). The student may only attend SAIP

once while enrolled in the School Division. Nothing herein shall prevent a student or parent/legal guardian from presenting evidence of alternative treatment to the Director of Student Leadership, a Hearing Officer or the School Board Discipline Committee for consideration.

f. **Third or more offense** – the student will be referred to the Office of Student Leadership for long-term suspension of up to one year. Students will remain on suspension pending final outcome of the disciplinary recommendation. At the Hearing Officer’s or School Board Disciplinary Committee’s discretion, the student may be allowed to attend an alternative educational placement during the suspension.

~~Students violating this Regulation for the third time will be recommended for long-term suspension and, in accordance with School Board Policy 5-21 and School Board Regulation 5-21.1, will be suspended pending action on the recommendation. A student accused of an offense under this subsection may, in the principal’s discretion, be offered the opportunity to participate in the Substance Abuse Intervention Program.~~

## **B. Substance Abuse Intervention Program**

### **1. Eligibility for Program**

Any student accused of violating Section A(1) of this Regulation while enrolled in the School Division shall be recommended for expulsion and a student accused of violating Section A(4) of this Regulation for the ~~third~~ **second** time shall be recommended for long-term suspension of up to one year. ~~At the principal’s discretion, A principal may offer~~ a student in violation of Section A(1) for the first time ~~or Section A(4) for the third time~~ **may be offered** the opportunity to participate in the School Division’s Substance Abuse Intervention Program in lieu of expulsion or long-term suspension, in which case the recommendation for expulsion/long-term suspension will be held in abeyance for one (1) calendar year (the “Probation Period”), provided the student does not engage in other infractions of school disciplinary rules or criminal activity, and maintains satisfactory attendance and academic performance.

In order to be eligible for the School Division’s Substance Abuse Intervention Program, the minor student and his/her parent(s) or legal guardian(s) or the eligible student must sign a contract (“Contract”) with the School Division and fulfill the terms of the Contract.

Prior to offering the Contract, the principal will meet with the student. At the meeting, the minor student and his/her parent(s) or legal guardian(s) or the eligible student will be given written notice of the charges against the student. If the student denies the charges, the principal will give an explanation of the evidence and the student will have an opportunity to present his/her side of the incident.

If the minor student and parent(s) or legal guardian(s) or the eligible student do not agree to the Contract at the initial meeting with the principal, the principal shall suspend the student and continue with the recommendation for expulsion or long-term suspension, depending upon the offense. Nothing herein shall prevent parents and students from presenting an alternative treatment program to the Hearing Officer or School Board Discipline Committee.

In determining whether to refer a student to the Substance Abuse Intervention Program, the principal shall consider a student's past disciplinary record, attendance record, academic performance and the severity of the infraction.

A principal shall suspend a student and recommend his/her expulsion for a second offense under Section A (1) of this Regulation or for a first offense under Section A (2) of this Regulation.

## 2. Requirements of SAIP Program

In order to attend the School Division's Substance Abuse Intervention Program, the minor students and his/her parent~~(s)~~ or/ legal guardian~~(s)~~ or the eligible student must sign a Contract which shall contain, but is not limited to, the following terms and requirements:

- a. The minor student and his/her parent~~(s)~~ or/ legal guardian~~(s)~~ or the eligible student acknowledge they have reviewed the charges and the evidence of the principal and following that review desire that the student enter the Substance Abuse Intervention Program.
- b. The minor student and his/her parent~~(s)~~ or/ legal guardian~~(s)~~ or the eligible student understand that if they do not participate in this program they have the right to a review by the Superintendent, or his designee, a hearing before a Hearing Officer or a School Board Discipline Committee, and an appeal to the School Board on the recommendation for expulsion, as provided under § 22.1-277 of the Code of Virginia (1950), as amended, and School Board Policy 5-21.
- c. The minor student and parent(s) or legal guardian(s) or the eligible student agree that the student will complete the substance abuse assessment. All costs for the substance abuse assessment are solely the responsibility of the eligible student, parent~~(s)~~ and/ or /legal guardian~~(s)~~ of the minor student.
- d. The parent~~(s)~~ or/ legal guardian~~(s)~~ of a minor student will attend and participate in the parent portion of the program.

- e. The student agrees to participate in the aftercare support group meetings and activities as recommended by the assessment.
- f. The minor student's parent(s) or legal guardian(s) or eligible student agrees to meet with the Substance Abuse Intervention Program staff to discuss counseling/aftercare support as recommended in the assessment.

~~g. The recommendation for expulsion or long term suspension will be held in abeyance for a period of one (1) calendar year (the Probationary Period) with the student on strict probation as defined in the Contract, which shall be violated if the student commits any other significant disciplinary infraction or criminal offense.~~

~~h.g.~~ The minor student's parent(s) or legal guardian(s) or the eligible student agree that the student will be subject to random drug or alcohol tests during the one (1) calendar year Probationary Period as required by the assessment. Such tests will be done at private facilities by the eligible student or the parent/legal guardian of the minor student. All costs of this testing are solely the responsibility of the eligible adult student, parent/(s) and/or legal guardian(s) of the minor student.

~~i.h.~~ After the successful completion of the Substance Abuse Intervention Program and the passage of one (1) calendar year, in accordance with the terms of the Contract, the recommendation for expulsion or long term suspension will expire. A record of successful completion of the program shall be made a part of the student's record.

~~j.i.~~ The minor student and his/her parent/(s) ~~or/~~ legal guardian(s) or the eligible student agree that upon the failure to complete the requirements of this Contract, the student will be suspended and recommended for expulsion or long-term suspension from the School Division in accordance with this Regulation. At that time the student will be given a review of the principals' recommendation by the Superintendent or ~~his~~ designee, a hearing before a Hearing Officer, a School Board Discipline Committee and the right to an appeal to the School Board under § 22.1-277 of the Code of Virginia and School Board Policy 5-21.

~~k.j.~~ In the event the student fails to complete the Substance Abuse Intervention Program, evidence of the student's participation and failure to complete the Substance Abuse Intervention Program may be presented during review by the Superintendent or his designee, at a hearing before a Hearing Officer or the School Board Discipline Committee and at

any subsequent appeal before the School Board under § 22.1-277 of the Code of Virginia and School Board Policy 5-21.

### **C. Voluntary Disclosure of a Substance Abuse Problem**

Any student who voluntarily admits, in the absence of reasonable suspicion or other conduct which alone would subject the student to discipline, that he/she has a substance abuse problem shall not be disciplined in accordance with this Regulation. Such student shall be permitted to remain in school as long as the student demonstrates a continuing effort to remain drug/alcohol-free and participates in an approved substance abuse or counseling program and by complying with School Board Policies and Regulations, and may participate in the School Division's Substance Abuse Intervention Program (if the student has not already participated) on a voluntary basis.

Costs associated with a substance abuse counseling program, including assessment, follow-up treatment, and alcohol and drug testing, under this section, are solely the responsibility of the eligible student, or parent(s) and/or legal guardian(s) of the minor student.

### **D. Readmission to School Division Following Expulsion**

A student who has been expelled from the School Division under this Regulation may seek readmission after one (1) calendar year from the date of expulsion. A student seeking readmission must provide documentation from an approved substance abuse counselor that the student has successfully completed a substance abuse counseling program or is actively enrolled in a substance abuse counseling program. Further, the student must present evidence of a negative drug/alcohol screening conducted no more than fifteen (15) days prior to the hearing for readmission.

#### ***Editor's Note:***

*For student medication guidelines see the School Division's Health Services Manual.  
For discipline of students with disabilities see School Board Policy 5-21, paragraph I and School Board Regulation 5-21.3.*

#### **Legal Reference:**

Code of Virginia § 4.1-309, as amended, Drinking or possessing alcoholic beverages in or on public school grounds; penalty.

Code of Virginia § 16.1-278.9, as amended. Delinquent children; loss of driving privileges for alcohol, firearm and drug offenses; truancy.

Code of Virginia § 18.2-247, as amended, Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

Code of Virginia § 18.2-255, as amended. Distribution of certain drugs to persons under 18 prohibited; penalty.

Code of Virginia § 18.2-255.2, as amended. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

Code of Virginia § 18.2-265.1., as amended. Definition.

Code of Virginia § 18.2-371.2, as amended. Prohibiting purchase or possession of tobacco product, nicotine vapor products, and alternative nicotine products, by a person under 21 year of age s by minors or sale of tobacco products, nicotine vapor products, and alternative nicotine products to a person under 21 years of age minors.

Code of Virginia § 22.1-79.5, as amended. Policy regarding tobacco and nicotine vapor products.

Code of Virginia § 22.1-277, as amended. Suspensions and expulsions of pupils generally.

Code of Virginia § 22.1-277.08, as amended. Expulsion of students for certain drug offenses.

Code of Virginia § 54-1-3401, *et seq.*, as amended. Definitions.

Virginia Board of Education Regulation 8 VAC 20-310-10-, as amended. Health education program.

Code of Virginia § 22.1-206, as amended. Instruction concerning drugs, alcohol and substance abuse.

Code of Virginia § 22.1-277.08, as amended. Expulsion of students for certain drug offenses.

#### **Related Links:**

School Board [Policy 5-21](#)  
School Board [Regulation 5-21.1](#)  
School Board [Regulation 5-21.3](#).  
[Substance Abuse Intervention Program Contract](#)  
[Tobacco Education Program Contract](#)

Approved by Superintendent: July 16, 1991

Revised by Superintendent: August 18, 1992

Revised by Superintendent: September 21, 1993 (Effective August 14, 1993)

Revised by Superintendent: January 21, 1997

Approved by School Board: September 16, 1997

Amended by School Board: December 1, 1998

Amended by School Board: June 6, 2000

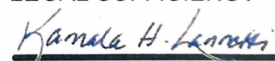
Amended by School Board: April 4, 2006

Revised by Superintendent: May 5, 2009

Amended by School Board: August 19, 2014

Amended by School Board: June 25, 2019

APPROVED AS TO  
LEGAL SUFFICIENCY

  
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