

School Board of the City of Virginia Beach
Policy 5-21

STUDENTS

Student Suspensions and Expulsions

A. Generally

Students may forfeit their right to educational opportunities when their conduct is such that it substantially and materially disrupts the educational process and/or deprives others of their rights to educational opportunities. (For suspension and expulsion of students with disabilities, see Regulation 5-21.3).

Students may be disciplined as set forth in the appropriate Code of Student Conduct, Discipline Guidelines promulgated by the Office of Student Leadership, the policies and administrative regulations of the School Board for any disturbance to the learning environment, and for other good and just cause. The frequency, duration and reasons for student suspensions shall be monitored by the Office of Student Leadership on a regular basis. The Discipline Guidelines promulgated by the Office of Student Leadership shall be consistent with law, School Board policies and regulations.

For the purpose of this Regulation the term "parent" will be defined to mean: a natural or biological parent; a legal or adoptive parent; a foster parent or legal guardian; or step parent or other person standing in locos parentis to a student. Any requirement for notice to or meeting with a parent will be satisfied by providing notice to or meeting with any one person meeting the definition of parent.

B. In-School Suspension

See Regulation 5-21.2.

C. Out-of-School Suspensions of Ten (10) Days or Less

1. Each school principal, assistant principal, acting principal or ~~his/her~~ designee-s may suspend a student when, in ~~their judgment~~his/her judgment, this action is required. In the exercise of this authority, the principal or ~~his/her~~ designee is subject to all provisions of law, of this ~~P~~Policy, School Board regulations, the Code of Student Conduct, and the Discipline Guidelines.
2. Students may be suspended from school for up to five (5) school days by the school principal, assistant principal, acting principal, or designees and for up to an additional five (5) school days by a principal with the concurrence of the Director of the Office of Student Leadership, acting as the Superintendent's designee.
3. Prior to imposing a suspension, the principal, assistant principal or acting principal or designees must inform the student of the charges against ~~the student~~him/her.

If the student denies the charges, ~~the student~~ he/she must be given an explanation of the facts as known to school personnel and an opportunity to present ~~the student's~~ his/her version of the facts. If ~~the student~~ he/she deems it necessary, the principal, assistant principal or acting principal or designees may conduct a further investigation into the matter. The Superintendent ~~or designees~~ shall promulgate regulations governing procedures for such suspensions which are in accordance with this ~~P~~Policy and all provisions of law.

4. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disruption may be removed from school immediately. The notice of charges, explanation of facts and opportunity to present

the student's~~his/her version~~ of what occurred shall be provided as soon as practicable thereafter.

5. Upon suspension from school of any student, the principal, assistant principal or acting principal shall report the facts of the case in writing to the Superintendent or ~~his/her~~ designee, the minor student's parent/legal guardian, and the student as soon as practicable.
6. Appeals of disciplinary actions resulting in out-of-school suspensions of ten (10) days or less shall be governed by the procedures set forth in Policy 5-6 and Regulation 5-6.1.
7. Notice to an adult student or ~~a~~ minor student's parent /legal guardian will include: notification of the length of suspension; information regarding the availability of community based educational programs, alternative education programs or other educational options; and of the student's right to return to regular school attendance upon expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not part of the educational program offered by the School Division, shall be borne by the adult student or the minor student's parent/legal guardian.

D. Out-of-School Suspensions for Eleven to Forty-five Days (Long-Term Suspensions)

1. The Superintendent or ~~his/her~~ designee(s) through a hearing officer may suspend students from school for eleven to forty-five school days after providing the minor student and ~~his/her~~ the minor student's parent/legal guardian or the adult student with written notice of the proposed action, the reasons therefore, the right to a hearing before the School Board or a discipline

committee thereof, and a copy of the School Division's long-term suspension procedures.

2. The Superintendent or designees shall promulgate regulations in accordance with the law to carry out this Policy. In any case in which a student has been suspended by the Superintendent or ~~his/her~~ designee(s) after a hearing, the adult student or the minor student and the minor student's ~~his~~ parent/legal guardian may appeal the decision to a discipline committee of the School Board. The parent/legal guardian of the minor student or the adult student must be notified in writing of ~~the~~ his/her right to appeal. Such appeal must be in writing and must be filed with the Superintendent or ~~his/her~~ designee(s) within five (5) school days of the minor parent/legal guardian 's or the adult student's receipt of the suspension decision. Failure to file a written appeal within the specified time will constitute a waiver of the right to an appeal.
3. The discipline committee shall be composed of at least three (3) voting School Board Members and ~~take the~~ the school counselor, who will serve as a nonvoting member. In the event that only two School Board Members are present, the discipline committee may proceed to hear and decide the appeal with the school counselor, or designee, providing the third vote. The discipline committee, however constituted, will consider the appeal within thirty (30) days and transmit its decision to the adult student, the parent/legal guardian of a minor student, the principal and the Superintendent or designee.
4. If the decision of the full discipline committee is unanimous, the adult student or ~~the parent/legal guardian of a minor student~~ is/her parent if the student is

~~a minor~~ have no right of appeal to the full School Board. If the full discipline committee's decision is not unanimous, or the decision is made by a discipline committee consisting of less than three School Board Members, the adult student or the parent/legal guardian of a minor student~~this/her parent if the student is a minor~~ may appeal the discipline committee's decision to the full School Board. The parent/legal guardian of a minor student or or an adult student must be notified in writing of ~~the is/her~~ right to appeal. The appeal must be in writing and must be filed with the Director of the Office of Student Leadership within five (5) school days of the minor student's parent/legal guardian's or the adult student's receipt of the discipline committee's decision. Failure to file a written appeal within the specified time will constitute a waiver of the right to appeal. The School Board shall consider the appeal within thirty (30) days of the request for an appeal. A copy of the record which the School Board may consider as part of the appeal shall be furnished to the adult student or the minor student's parent/legal guardian prior to or contemporaneous with it being furnished to the School Board. The School Board, at its election, may hear oral argument on the appeal.

5. The written notice required by this section shall include notification of the length of the suspension, shall provide information to the adult student or the parent/legal guardian of ~~the~~ minor 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 ~~S~~School-~~B~~Board, or an adult education program offered by the ~~S~~School ~~D~~Division, during or upon the expiration of the

suspension, 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 the his suspension shall be borne by the minor student's parent/legal guardian or the adult student.

E. Violation of Out-of-School Suspension

While a student is under out-of-school suspension, the student he/she is denied access to the school premises except with the permission of the principal or his/her designee. If a student under out-of-school suspension is found on the school premises without the permission of the principal or his/her designee, the student he/she shall be referred to the juvenile court authorities and/or shall be deemed a trespasser and prosecuted as such.

Any student who is under out-of-school suspension and also enrolled in a work cooperative program and/or extracurricular activities shall be restricted from employment and/or excluded as a participant or spectator from extracurricular activities until reinstated in his/her school. This also applies to students with disabilities.

Students who are subject to suspensions held in abeyance or probation periods will be subject to the terms set forth by the discipline decision. Violation of any of those terms may result in activation of the suspension and/or further discipline action being taken.

F. Reinstatement of Suspended Students

Any student who has been suspended from a school of this School Division is not eligible to attend any other school within the School Division until eligible to return to the assigned or home his/her

~~regular~~-school. The manner in which a student is received on returning from ~~his/her~~-suspension is of utmost importance. The following steps should be used when applicable.

1. Accompanied by the parent/~~legal guardian~~ (if the student is a minor), the student shall report to the principal or other designated staff member upon return to school. The principal ~~or designee, adult student or~~ with the parent/~~legal guardian of a minor student~~ and ~~the minor~~ student, will discuss the need for the student to correct inappropriate behavior and conform to the expected behavior outlined in the Code of Student Conduct.
2. If there is a cause for an adjustment in the student's class schedule, the principal or another staff member shall consider the best class placement and confer with the teacher and/or counselor in preparation for the student's return, and shall explain the class schedule adjustment, if applicable.
3. The student shall be allowed to resume classroom activities subject to any terms as set forth by the principal ~~or designee~~.
4. If the ~~adult student or~~ parent/~~legal guardian of a minor student and the minor student~~ fail(s) to comply with this ~~P~~policy, the School Board may ask the Juvenile and Domestic Relations Court to proceed against ~~the student or parent~~ ~~him/her~~ for willful and unreasonable refusal to participate in efforts to improve the student's behavior.

G. Expulsions

1. The principal or ~~designee~~~~acting principal~~ may recommend to the Superintendent that a student be expelled. The principal shall notify the ~~adult student or the minor~~

student and ~~the his/her~~ parent/legal guardian if the student is a minor in writing of the following:

- a. The proposed action and the reasons therefor;
 - b. The right of the student and/~~or the his/her~~ parent/legal guardian of a minor student to a hearing before a hearing officer or a discipline committee of the School Board as determined by the Superintendent, or ~~his/her~~ designee, if the recommendation to expel is upheld by the Superintendent, or ~~his/her~~ designee;
 - c. The right to inspect the student's school records;
 - d. The right to appeal the decision of a non-unanimous, full discipline committee or a decision made by a discipline committee consisting of less than three School Board Members to the full School Board;
 - e. The student and ~~his/her the~~ parent/legal guardian if the student is a minor shall also be provided a copy of the School Division's expulsion procedures.
2. In making a recommendation to expel a student for misconduct, other than misconduct involving firearms or drugs, the principal or ~~his~~ designee shall consider and document, in writing, the following factors:
- a. The nature and seriousness of the violation;
 - b. the degree of danger to the school community;

- c. the student's disciplinary history, including the seriousness and number of previous infractions;
- d. the appropriateness and availability of an alternative education placement or program;
- e. the student's age and grade level;
- f. the results of any mental health, substance abuse, or special education assessments;
- g. the student's attendance and academic records; and
- h. such other matters as deemed appropriated

The written documentation of the principal regarding the his/her consideration of these factors shall be transmitted to the Superintendent/designee, Hearing Officer/ Discipline Committee/School Board, with the student's case and each shall consider these factors in recommending expulsion of the student. However, no decision to discipline a student shall be reversed on the grounds such factors were not considered.

3. The Superintendent, or his/her designee(s), shall review the principal's recommendation for expulsion and may either uphold or modify it. If the principal's recommendation of expulsion is upheld by the Superintendent or his/her designee(s), the Superintendent or his/her designee shall notify the adult student or the and his/her parent /legal guardian of a minor student of the time and place of a hearing before a discipline committee of the School Board. If the expulsion recommendation is reduced to a long-term suspension recommendation by the Superintendent's designee and is

referred to a hearing officer, the adult student or the parent/legal guardian of a minor student may appeal the decision rendered by the hearing officer to a discipline committee of the School Board. The discipline committee of the School Board is composed of at least three (3) voting members of the School Board and the school counselor, who will serve as a nonvoting member. In the event that only two School Board members are present, the committee can proceed to hear and decide the appeal with the school counselor, providing the third vote.

4. The procedure for a hearing before a discipline committee of the School Board shall be as follows:
 - a. The discipline committee shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. The hearing shall be private unless otherwise specified by the discipline committee.
 - b. The discipline committee may ask for opening statements from the principal or his/her representative and the student or his/her/the parent/legal guardian of a minor student, (or their representative) and, at the discretion of the discipline committee, may allow closing statements.
 - c. The parties shall then present their evidence. Because the principal or designee has the ultimate burden of proof, the principal or designee he/she shall present the his/her evidence first. Witnesses may be questioned by the discipline committee members and by the parties (or their representatives). The discipline

committee may, at its discretion, vary this procedure, but it shall afford full opportunity to both parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination; provided, however, that the discipline committee may take the testimony of student witnesses outside the presence of the student, the his/her parent/legal guardian of a minor student and their representative if the School Board determines, in its discretion, that such action is necessary to protect the student witnesses.

- d. The parties shall produce such additional evidence as the discipline committee may deem necessary. The discipline committee shall be the judge of the relevancy and materiality of the evidence.
- e. The discipline committee will receive a copy of the student disciplinary package and any exhibits offered by the student prior to the hearing. Additional exhibits offered by the parties may be received into evidence by the discipline committee and, when so received, shall be marked and made part of the record.
- f. The discipline committee may, by majority vote, confirm, disapprove or alter the recommendation.
- g. The discipline committee shall transmit its decision to the adult student, his/her the parent/legal guardian of a minor student, their representative, the principal and the Superintendent or designee.

5. If the decision of the full discipline committee is unanimous, the student or his/her parent if the student is a minor has no right of appeal to the full School Board. If the discipline committee's decision is not unanimous or the decision is made by a committee consisting of less than three School Board Members, the adult student or the his/her parent/legal guardian if the student is a minor may appeal the discipline committee's decision to the full School Board. The appeal must be in writing and must be filed with the Superintendent within five (5) school days of the discipline committee's decision or receipt of the discipline committee's decision by the adult student or the parent/legal guardian of a minor student. Failure to file a written appeal within the specified time will constitute a waiver of the right to appeal. The School Board shall consider the appeal upon the record within thirty (30) days of the request for an appeal and shall transmit its decision to the adult student, the his/her parent/legal guardian of a minor student, their representative, the principal and the Superintendent or designee. A copy of the record which the School Board may consider as part of the appeal shall be furnished to the adult student or the parent/legal guardian of the minor student, their representative prior to or contemporaneous with it being furnished to the School Board. The School Board, at its election, may hear oral argument on the appeal.
6. The written notice required by this section shall include notification of the length of the expulsion, shall provide information to the parent/legal guardian of the minor student or to the adult 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 Sschool Bboard, or an adult education program offered by the Sschool Ddivision, 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 the his-expulsion period shall be borne by the parent/legal guardian of the minor student or by the adult student.

Nothing in this section shall be construed to prohibit the School Board from permitting or requiring students expelled pursuant to this section 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 adult student or parent/legal guardian of the minor student that the student may petition the School Board for readmission to be effective one calendar year from the date of the expulsion, and of the conditions, if any, under which readmission may be granted.

The School Board shall establish a schedule pursuant to which the student may apply and reapply for readmission to school. Such schedule shall be designed to ensure that the hearing and ruling on any petition for readmission, if granted, would enable the student to resume school

attendance one calendar year from the date of the expulsion.

H. Readmission of Expelled Students

Students who have been expelled by the School Board may be readmitted to school by the School Board following a full calendar year from the date of expulsion and a hearing before the School Board or a discipline committee thereof or under the terms for readmission established by the discipline committee or the School Board for the student at the time of the expulsion.

I. Violation of Expulsion

An expelled student who is found on school premises at any time without the permission of the School Board or Superintendent may be referred to law enforcement authorities as a trespasser.

Editor's Note

See for procedures for admission of students expelled or suspended from attendance at school by another school board or private school

For In-School Suspension see Regulation 5-21.2.

For appeal of In-School Suspension, see Regulation 5-6.1.

Legal Reference

Code of Virginia §22.1-276.01 through 22.1-277.2:1, as amended.

Related Links

School Board [Policy 5-6](#)

School Board [Regulation 5-6.1](#)

School Board [Regulation 5-21.2](#)

School Board [Regulation 5-21.3](#)

Adopted by School Board: July 13, 1993 (Effective August 14, 1993)

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APPROVED AS TO
LEGAL SUFFICIENCY


