

CHAPTER 15.1-19 STUDENTS AND SAFETY

15.1-19-01. Legal surname - Use. Personnel in a public school district, a nonpublic school, a preschool program, and a child care facility shall use a student's legal surname for registration, for the maintenance of all records regarding the student, and in all communications requiring the use of a surname.

15.1-19-02. Corporal punishment - Prohibition - Consistent policies.

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.
2. This section does not prohibit a school district employee from using the degree of force necessary:
 - a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
 - b. To quell a verbal disturbance;
 - c. For self-defense;
 - d. For the preservation of order; or
 - e. To obtain possession of a weapon or other dangerous object within the control of a student.
3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment. A school board may not expand through policy the definition of corporal punishment beyond that provided by this subsection.
4.
 - a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.
 - b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

15.1-19-03. Period of silence. Repealed by S.L. 2001, ch. 187, § 2.

15.1-19-03.1. Recitation of prayer - Period of silence - Pledge of allegiance.

1. A student may voluntarily pray aloud or participate in religious speech at any time before, during, or after the schoolday to the same extent a student may voluntarily speak or participate in secular speech.
2. A school board, school administrator, or teacher may not impose any restriction on the time, place, manner, or location of any student-initiated religious speech or prayer which exceeds the restriction imposed on students' secular speech.

3. A school board may, by resolution, allow a classroom teacher to impose up to one minute of silence for meditation, reflection, or prayer at the beginning of each schoolday.
4. A school board may authorize the voluntary recitation of the pledge of allegiance by a teacher or one or more students at the beginning of each schoolday. A student may not be required to recite the pledge of allegiance, stand during the recitation of the pledge of allegiance, or salute the American flag.

15.1-19-04. Religious instruction - Excuse of student. At the request of a student's parent or guardian, the student's school principal shall permit a student to be excused for up to one hour each week in order to obtain religious instruction.

15.1-19-05. Birth control device - Distribution - Restriction. No person while acting in an official capacity as an employee or agent of a school district may distribute a birth control device to a student. This section does not apply to the distribution of a birth control device by an employee or agent to a child of that employee or agent.

15.1-19-06. Abortion referrals. No person while acting in an official capacity as an employee or agent of a school district may refer a student to another person, agency, or entity for the purpose of obtaining an abortion. This provision does not extend to private communications between the employee or agent and a child of the employee or agent.

15.1-19-07. Communicable parasites - Detection and eradication. The board of a school district may contract with licensed health care personnel to assist in the detection and eradication of communicable parasites.

15.1-19-08. Homeless child - Education.

1. A homeless child is entitled to a free public school education, in the same manner as that provided to other public school students, in accordance with the Stewart B. McKinney Homeless Assistance Act [Pub. L. 100-77; 101 Stat. 525; 42 U.S.C. 11431 et seq.].
2. A school district shall allow a nonresident homeless child to attend school.
3. For the purposes of this section, "homeless child" means a homeless individual as described in the Stewart B. McKinney Homeless Assistance Act [Pub. L. 100-77, section 103(a); 101 Stat. 485; 42 U.S.C. 11302] and as defined in rules adopted by the superintendent of public instruction.
4. The superintendent of public instruction shall adopt rules to implement this section. The rules must provide for the educational placement of homeless children according to the child's best interest.

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10, before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.
2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.
3. A student enrolled in an alternative education program for which state per student payments are available may be suspended for up to twenty days for insubordination,

habitual indolence, disorderly conduct, or for violating a school district weapons policy.

4. A student, including one enrolled in an alternative education program, may be expelled from school for insubordination, habitual indolence, or disorderly conduct; provided the expulsion does not last beyond the termination of the current school year. A student who violates the school district's weapons policy may be expelled for up to twelve months.

15.1-19-10. Possession of a weapon - Policy - Expulsion from school.

1. The board of each school district shall adopt a policy governing the possession of weapons and firearms on school property or at a school function and provide for the punishment of any student found to be in violation of the policy.
2. The policy must prohibit the possession of a weapon or a firearm by a student on school property and at school functions and provide for the punishment of any student found to be in violation. Punishment must include immediate suspension from school and expulsion. A student who possesses a firearm in violation of this section must be expelled for at least one year. The school district firearms policy must authorize the school district superintendent or the school principal, if the school district does not have a superintendent, to modify an expulsion for firearms possession under this section on a case-by-case basis in accordance with criteria established by the board. Before expelling a student, a school board or its designated hearing officer, within ten days of the student's suspension, shall provide the student with a hearing at which time the school board or its designated hearing officer shall take testimony and consider evidence, including the existence of mitigating circumstances. If a designated hearing officer orders that a student be expelled, the student may seek a review of the decision by the school board, based on the record of the expulsion hearing.
3. If a school district expels a student under this section, the district may authorize the provision of educational services to the student in an alternative setting.
4. Actions under this section may not conflict with state special education laws or with the Individuals With Disabilities Education Act [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.].
5. This section does not apply to any student participating in a school-sponsored shooting sport, provided the student informs the school principal of the student's participation and the student complies with all requirements set by the principal regarding the safe handling and storage of the firearm.
6. For purposes of this section:
 - a. "Firearm" has the meaning provided in Public Law No. 90-351 [82 Stat. 197; 18 U.S.C. 921].
 - b. "School property" includes all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school district, and the site of any school-sponsored event or activity.

15.1-19-11. School safety patrols - Establishment - Adoption of rules. The board of a school district or the governing body of a nonpublic school may authorize a school principal or administrator to establish a safety patrol and to appoint students to the safety patrol. Any student enrolled in grade five or higher is eligible for appointment to a safety patrol, provided the student's parent has filed written permission with the school principal or administrator. The superintendent of public instruction shall adopt rules to guide safety patrol members in the

conduct of their duties and shall specify the identification to be worn and the signals to be used by safety patrol members while on duty.

15.1-19-12. School safety patrols - Immunity from liability. The superintendent of public instruction, schools, school boards and individual school board members, governing boards and individual governing board members, administrators, principals, teachers, safety patrol members whether students or adults, and parents of safety patrol student members are immune from any liability that might otherwise be incurred as a result of an injury to a safety patrol member or as a result of an injury caused by an act or omission on the part of a safety patrol member while on duty, provided that the persons substantially complied with the rules to guide safety patrol members, as adopted by the superintendent of public instruction.

15.1-19-13. Alcohol or controlled substance - Use or possession by student - Notification of principal. If a teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while the student is on school property, involved in a school-related activity, or in attendance at a school-sponsored event, the teacher shall notify the student's principal. This section does not prevent a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school property, at a school-related activity, or at a school-sponsored event.

15.1-19-14. School law enforcement unit.

1. A school may create or designate a school law enforcement unit as defined in the Family Educational Rights and Privacy Act [20 U.S.C. 1232(g)] and rules adopted under the Act. Records of a school law enforcement unit regarding a student at a school are confidential but may be released to:
 - a. A juvenile court having the student before it in any proceeding;
 - b. Counsel for a party to the proceeding;
 - c. Officers of public entities to whom the student is committed;
 - d. Officers of a state or local law enforcement agency for use in the discharge of their official duties;
 - e. A superintendent or principal of another school in which the student wishes to enroll; and
 - f. The student's parent, legal guardian, or legal custodian.
2. Nothing in this section restricts the release of general information that does not identify the student.
3. This section does not apply to education records that are confidential under federal law.

15.1-19-15. Record retention. Records regarding a student obtained by a school under section 15.1-19-14, section 27-20-51, or section 27-20-52 must be destroyed when the student reaches the age of eighteen or no longer attends the school, whichever occurs later.

15.1-19-16. Asthma - Anaphylaxis - Self-administration of medication by student - Liability.

1. A student who has been diagnosed with asthma or anaphylaxis may possess and self-administer emergency medication for the treatment of such conditions provided the student's parent files with the school a document that is signed by the student's health care provider and which:

- a. Indicates that the student has been instructed in the self-administration of emergency medication for the treatment of asthma or anaphylaxis;
 - b. Lists the name, dosage, and frequency of all medication prescribed to the student for use in the treatment of the student's asthma or anaphylaxis; and
 - c. Includes guidelines for the treatment of the student in the case of an asthmatic episode or anaphylaxis.
2. Neither a private school or a school district nor any employee of the private school or district is liable for civil damages incurred by:
 - a. A student who administers emergency medication to himself or herself in accordance with subsection 1.
 - b. An individual because a student was permitted to possess emergency medication in accordance with subsection 1.
3. For purposes of this section, "emergency medication" includes a prescription drug delivered by inhalation to alleviate asthmatic symptoms and an epinephrine autoinjectable pen.